

# TOWN OF EAST HAMPTON AGENDA REPORT

Town Manager Approval: JK

Item to be presented by: Keith Hayden

DATE: February 23, 2010  
SUBJECT: Draft Sidewalk Ordinances  
DEPARTMENT: Public Works

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## RECOMMENDED ACTION

It is recommended that the Town Council adopt a sidewalk ordinance eliminating the town's liability for personal injury or property damage caused by snow or ice on all future public sidewalks in town constructed within the Town's right-of-way and selected existing sidewalks such as the Council determines.

## BACKGROUND

At the February 9, 2010 meeting of the Town Council, the Council directed the Director of Public Works to amend the proposed sidewalk ordinance as follows: include a listing of all sidewalks currently cleared of snow and ice and all sidewalks not currently cleared. The Town Council indicated that they would review the list and determine which sidewalks would be cleared and included in an ordinance to that effect.

## ALTERNATIVE ACTIONS

If no action is taken, and the ordinance is not adopted, we will have to clear all 10.3 miles of sidewalks in town plus any new sidewalks added with new subdivisions. This figure includes the 1.9 miles we recently began clearing

## FISCAL IMPACT

If the Town approves a sidewalk ordinance, the Town would no longer be liable for any injuries or property damage caused by the presence of ice or snow on public sidewalks that are not on the list that will be cleared of ice and snow.

If the Town Council decides to continue removing ice and snow from selected sidewalks the Town will be liable for personal injury and property damage caused by snow or ice on those sidewalks. The annual cost to East Hampton taxpayers (currently approximately \$10,000) will vary depending on the length and location of sidewalks the Town Council determines will be cleared. The Town currently owns one machine that is suitable and capable of clearing the sidewalks. Currently, there is no machine that is suitable for use in the event of an extended breakdown of the existing 14 year old machine. If no backup machine is available, the Town may incur additional costs to rent or purchase machines in order to be able to comply with this ordinance. Therefore, the Town should consider the immediate purchase of a new machine designed for sidewalk snow removal and use the existing machine as a backup.

EH: Clerks Office

AGENDA ITEM: 6A

## Article IV - Snow and Ice on Sidewalks

### 273.8 Definitions

As used in this article, a sidewalk is defined as any gravel, brick, cement, asphalt, or other material constructed or paved as a path or walkway for the use, convenience and safety of the general public and which adjoins public streets.

### 273.9 Standards Adopted

The provisions of C.G.S. Sec. 7-163a are hereby adopted effective \_\_\_\_\_.

### 273.10 Liability of Town

Notwithstanding the provisions of C.G.S. 13a-149 or any other general statute or special act, the Town of East Hampton shall not be liable for personal injury or property damage caused by the presence of ice or snow on a public sidewalk unless the Town of East Hampton is the owner or person in possession and control of land abutting such sidewalk or unless the sidewalk is included within the following section. Nothing in this Section shall insulate the Town of East Hampton from liability for its affirmative acts with respect to public sidewalks.

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### 273.11 List of sidewalks which the Town will maintain:

Tarragon Drive, beginning at 2 Tarragon Drive and ending at Nutmeg Lane;

Curry Drive, beginning at Tarragon Drive and ending at cul-de-sac;

Saffron Drive, beginning at Tarragon Drive and ending at 6 Saffron Drive;

North Maple Street, beginning at West High Street (Route 66) and ending at High School;

Hills Avenue, beginning at North Maple Street and ending at North Main Street;

North Main Street, beginning at 11 North Main Street (Theater Square) and ending at Hills Avenue;

North Main Street, beginning at East High Street (Route 66) and ending at Lake Drive;

Lake Drive, beginning at North Main Street and ending at Mott Hill Road;

East High Street, beginning at North Main Street and ending at Carrier Road;

East High Street, beginning at Main Street and ending at Lake View Street (Route 196);

Lake View Street (Route 196), beginning at East High Street (Route 66) and ending at Summit Street (Route 196);

Summit Street (Route 196), beginning at Lake View Street (Route 196) and ending at Sign Post in walk at 25 Summit Street;

Summit Street (Route 196), beginning at 23 Summit Street (Route 196) and ending at Main Street;

Starr Place, beginning at Summit Street (Route 196) and ending at 3 Starr Place;

Bevin Boulevard, beginning at Summit Street (Route 196) and ending at Rear School Entrance;

Summit Street (Route 196), beginning at 4 Summit Street (Route 196) and ending at Main Street;  
Walnut Avenue, beginning at Main Street and ending at 25 Walnut Avenue;  
South Main Street, beginning 27 South Main Street and ending at Colchester Avenue (Route 16);  
Main Street, beginning at Colchester Avenue (Route 16) and ending at 56 Main Street;  
Main Street, beginning at 105 Main Street (Senior Center/Library) and ending at 97 Main Street;  
Main Street, beginning at 93 Main Street and ending at East High Street (Route 66);  
Barton Hill Road, beginning at Main Street and ending at West property line of 26 Barton Hill Road;  
Barton Hill Road, beginning at East property line of 42 Barton Hill Road and ending at Maple Street;  
Maple Street, beginning at Barton Hill Road and ending at West High Street;  
West High Street, beginning at Maple Street and ending at Main Street;  
Governor Bill O'Neill Drive, beginning at West High Street (Route 66) and ending at Driveway loop;  
Edgerton Street, beginning at Main Street and ending at Smith Street;  
Chatham Fields Road, beginning at Edgerton Street and ending at cul-de-sac;  
Smith Street, beginning at Edgerton Street and ending at Walnut Avenue;  
Viola Drive, beginning at Smith Street and ending at Viola Drive (loop);  
Valli Drive, beginning at Viola Drive and ending at cul-de-sac;  
Royal Oaks Avenue, beginning at Smith Street and ending at cul-de-sac;  
Joseph Court, beginning at Royal Oaks Avenue and ending at cul-de-sac;  
Nicholas Court, beginning at Royal Oaks Avenue and ending at cul-de-sac; and  
Skinner Street (Route 196), beginning at 25 Skinner Street (Route 196) and ending at Main Street.

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**273.12. Duty and liabilities of adjacent property owners**

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With the exception of the sidewalks referenced in Section 273.11, the owner or person in possession and control of land abutting a public sidewalk shall have the same duty of care with respect to the presence of ice or snow on such sidewalk toward the portion of the sidewalk abutting his property as the municipality had prior to the effective date of this article adopted pursuant to the provisions of C.G.S. 7-163a and shall be liable for personal injury or property damage caused by a breach of said duty.

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**273.13. Limitation on actions**

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No action to recover damages for injury to the person or to property caused by the presence of ice or snow on a public sidewalk against a person who owns or is in possession and control of land abutting a public sidewalk shall be brought but within two years from the date when the injury is first sustained.

Article V - Snow Removal from Sidewalks

**273.14** Removal of snow from sidewalks required

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**A.**

All owners, entities, or persons in possession and control of property that adjoins any public sidewalk, except for the sidewalks referenced in Section 273.11, shall remove the snow and ice accumulated on it within 24 hours after the cessation of a snow or ice storm. Ice that has formed on a public sidewalk due to refreezing of standing water or moisture shall be removed or the slippery condition abated within 24 hours of such refreezing of water or moisture.

**B.**

The Public Works Department shall ensure that snow and ice is removed from all sidewalks abutting Town-owned property, except for such sidewalks as are the responsibility of the Board of Education of the Town of East Hampton. Where the property owner, entity, or person in control of property abutting a public sidewalk (except sidewalks referenced in Section 273.11) has failed to remove snow and/or ice within twenty-four hours after the cessation of a snow or ice storm, the Director of Public Works may cause to have such snow and/or ice removed from said sidewalks, with the cost of such removal being charged to the property owner, person, or entity in possession and control of property abutting said public sidewalk. The cost of such removal to be charged to the property owner, person, or entity in possession and control may include the cost of department manpower and equipment and/or the cost of private contractors hired by the Town to facilitate the removal of snow and ice as aforesaid.

**TOWN OF EAST HAMPTON  
AGENDA REPORT**

Town Manager Approval: \_\_\_\_\_



Item to be presented by: Jeffery J. O'Keefe

DATE: February 23, 2010

SUBJECT: Discussion on possible "nuisance" ordinance

DEPARTMENT: Town Managers Office

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**RECOMMENDED ACTION:**

Receive report and discuss possible considerations for adopting a public "nuisance" ordinance.

**BACKGROUND**

At the June 9, 2009 Council meeting a lengthy discussion took place about a possible noise ordinance and noise control or abatement options. This discussion has been ongoing and has now carried into 2010.

As an alternative to a noise ordinance, which would be somewhat complex in enforcement of it, staff has done some research on how other towns may have dealt with such "nuisances." Some of these findings are attached to this report.

Connecticut State Statues: Sec. 7-148 (Scope of Municipal Powers) not only allows for such ordinance but even defines how a municipality might draft one: (E) Nuisance. Define, prohibit and abate within the municipality all nuisances and causes thereof, and all things detrimental to the health, morals, safety, convenience and welfare of its inhabitants and cause the abatement of any nuisance at the expense of the owner or owners of the premises on which such nuisance exists;

The concept of introducing a "nuisance" ordinance would allow the Town and enforcement officers to address other types of "nuisances" aside from noise alone.

Model examples of such nuisance ordinances are attached for discussion purposes.

**ALTERNATIVE ACTIONS**

None requested at this time

**FISCAL IMPACT**

TBD

EH: Clerks Office

AGENDA ITEM: \_\_\_\_\_

6C



## Key Points of the Public Nuisance Ordinance

### 1. Purpose

To remedy chronic problems at properties where City Code violations occur that annoy or disturb others. To hold property owners accountable for the use of their properties.

### 2. Definition of "Public Nuisance"

Three or more separate City Code violations at the same property within 12 months or 5 or more within 24 months. Written notice must have been sent to the property owner and tenants within 30 days of each violation, except the last one. The last violation must have occurred at least 45 days after the last notice. Each complaint about a separate violation must result in the issuance of a municipal court citation.

### 3. Commencement of Nuisance Action

Another notice must be posted at the property and mailed to the property owner at least 10 days before filing the action. After that ten-day period, the City may then file the action in municipal court and serve the summons and complaint on any person(s) that the City believes is responsible for the nuisance.

### 4. Voluntary Agreement

At any time after a notice has been sent out, a property owner can enter into a voluntary abatement plan with the City. If the property owner and the City reach such an agreement and the property owner does what he or she has agreed to do, no public nuisance action will be filed. Even without an agreement, a notice of violation will be stricken (not counted) if a landlord goes to court to evict a tenant that has caused the problem and does everything reasonably possible to avoid more of the same kinds of problems.

### 5. City's Remedies

If no voluntary abatement agreement is reached, the City can ask the Municipal Court to order the parties causing the nuisance to do whatever is necessary to put an end to the nuisance. Only in an emergency can the City get such an order without a court hearing. If the City gets such an order, the persons affected by the order can ask the Court to remove it at any time. At no time can the City seek or obtain a court order that would take away or close the property or place the property into "special receivership". A person who knowingly disobeys an abatement order issued by the court could be prosecuted for committing a misdemeanor criminal offense.

### 6. Effect of Sale of the Property

All previous notices of violations will be stricken (will not count) if the property is sold unless the property is sold simply to avoid the public nuisance ordinance.

§5-3-3 ILLUSTRATIVE EXAMPLES OF NUISANCES

The following conditions, whether on occupied or unoccupied lands, public or private property, are hereby declared to be and constitute a public nuisance and shall be abated; although this section shall not be construed to be limiting with regard to its enumeration of public nuisances.

- (a) Weeds or grass allowed to grow to a height greater than 12 inches on the average, or any accumulation of dead weeds, grass, or brush, that may provide safe harborage for rats, mice, snakes and/or other vermin.
- (b) Vegetation that obstructs the safe passage or line-of-sight of motorists or pedestrians at an intersection or driveway connection with a public or private street or alley, or along any street or sidewalk.
- (c) Dead or dying trees or other vegetation which may cause a hazardous situation if they fall.
- (d) Accumulation of rubbish, trash, refuse, junk, construction debris, and other abandoned materials, metals, lumber, or other such items.
- (e) The keeping or maintenance of one or more abandoned vehicles in public view or in a manner inconsistent with this Resolution [Ordinance].
- (f) The carcasses of animals or fowl not disposed of within a reasonable time after death.
- (g) Any building or other structure which is in such a dilapidated condition that it is unfit for human habitation, or kept in such an unsanitary condition that it is a menace to the health of people residing in the vicinity thereof, or presents a fire hazard.
- (h) All noises which may annoy or inhibit others in their enjoyment of the use of their property.
- (i) All disagreeable or obnoxious odors or stenches, as well as the conditions, substances or other causes which give rise to the emission or generation of such odors and stenches, including smoke and fires.
- (j) The pollution of any public well, stream, lake, canal, or body of water by sewage, dead animals, creamery, industrial wastes, agricultural wastes, industrial wastes, or other substances.
- (k) Any building, structure, or other place or location where any activity is conducted, performed or maintained in violation of local, state, or federal law.
- (l) Any accumulation of stagnant water.
- (m) Any method of human excretion disposal which does not conform to the provisions of local ordinances, or state or federal law.

§5-3-4 NUISANCE PROHIBITED

It shall be unlawful for any person, firm, corporation or other entity to cause, permit, maintain, or allow the creation or maintenance of a nuisance, as defined or more specifically described in this Ordinance.

§5-3-5 NOTICE TO ABATE

Whenever a nuisance is found to exist within the jurisdiction of the County [City], the Land Use Officer shall give written notice to the owner or occupant of the property upon which such a nuisance exists or upon the person causing or maintaining the nuisance, to abate the nuisance.

- (b) The sounding of any bell, horn, whistle, mechanical device operated by compressed air, or signal device while not in motion, except as a danger signal, for an unnecessary and unreasonable period of time.
- (c) The use of any siren, other than police, fire, or emergency vehicle.
- (d) The use or operation of any musical instrument, radio, loud speaker, or sound amplifying device so loudly as to disturb persons in the vicinity thereof.
- (e) The erection, excavation, demolition, alteration, or repair of any building or structure in the vicinity of residential dwellings between the hours of 10:00 p.m. and 7:00 a.m., except in the case of urgent necessity in the interest of public safety, and then, only with a permit from the Land Use Officer.
- (f) The creation of excessive noise on any street adjacent to any school, institution of learning, court, or religious congregation while the same are in session, or within 150 feet of a hospital which unreasonably interferes with the working of such institution.
- (g) The shouting or crying of peddlers, vendors, or residents which disturbs the peace and quiet of a residential area.
- (h) The unnecessary creation of loud or excessive noise in connection with unloading or loading vehicles or merchandise.
- (i) The use of any vehicle that is in a state of disrepair as to create loud or unnecessary grinding, rattling, backfiring, or other noise.

Any one of these enumerated nuisances, if violated, would be a misdemeanor and could be prosecuted in the local court just as the violation of any other ordinances.

***[See Commentary]***

***[See References]***

other than the property from which the noise emanates or originates, unless a variance therefore is first obtained from the township supervisor.

- D. *Engines.* Operating or permitting the operation of any steam engine or internal combustion engine, whether stationary or mobile, so as to annoy or disturb the quiet, comfort or repose of a person of normal sensitivities in any office, dwelling or residence. This shall not prohibit the operation of any mechanically powered saw, sander, drill, grinder, lawn or garden tool, or similar device used outdoors in residential areas, between the hours of 7:00am and 9:00pm the same day, nor shall it prohibit the operation of snow removal equipment at any time necessary. This shall not prohibit the operation of a farm implement or state licensed motor vehicle in a manner expressly permitted by state law.
  - E. The emission or creation of any excessive noise which unreasonably interferes with the operations of any school or church is not permitted.
  - F. The keeping of any animal, bird or fowl, which emanates frequent or extended noise which shall unreasonably disturb the quiet, comfort or repose of any person in the vicinity; such as allowing or permitting any dog to bark repeatedly in an area where such barking can be clearly heard from nearby residential property is not permitted.
  - G. The erection, excavation, demolition, alteration or repair of any building or premises in any part of Grass Lake Charter Township, and including the streets and highways, in such a manner as to emanate noise or disturbance unreasonably annoying to other people, other than between the hours of 7:00am and sundown on any day, except in cases of urgent necessity in the interest of public health and safety. In such case, a permit shall be obtained from the Building Inspector or Ordinance Enforcement Officer of the Township, which permit shall limit the periods that the activity may continue.
  - H. The operation of any loudspeaker or other sound amplifying device upon any vehicle on the streets of the Township with the purpose of advertising, where such vehicle, speaker or sound amplifying equipment emits loud and raucous noises easily heard from nearby adjoining residential property.
  - I. The operation of any machinery, equipment or mechanical device so as to emit unreasonably loud noise which is disturbing to the quiet, comfort or repose of any person.
- III. **“Person” defined.**  
In addition to its normal meaning, the term “person,” as used in this ordinance, means a person who causes or makes an unlawful noise, or a person who is in control of property or premises from which an unlawful noise originates or emanates.

whether such effects and emanations are natural or result from human or mechanical alteration or manipulation of materials. A nuisance also includes residue or leaching from deposits of matter which seep into water on the surface or in the ground thereby making it unfit or unpalatable for human consumption, or for use by domestic animals. A nuisance includes a condition which is indecent, obnoxious, or offensive to the senses.

**Note:** The Michigan legislature passed into law the Michigan Right to Farm Act (Act 93 of 1981) which requires the establishment of Generally Accepted Agricultural and Management Practices (GAAMPs). To learn more you can log on to the GAAMPs website at <http://www.michigan.gov/mda> click on "Farming," then "Environment," and then click "GAAMPs" to access.

**IX. Severability**

If any section, subdivision sentence, regulation, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining sections, subdivision, sentences, regulation, clauses and phrases of this ordinance or the regulation as an entirety.

**X. Penalties and Civil Fines/Cost**

Any person, firm or corporation found violating the provisions of this Ordinance, is responsible for a Municipal Civil Infraction as defined by Michigan law and subject to a civil fine determined in accordance with the following schedule: Each day that a violation shall continue, it constitutes a separate offense. The fine starts the day after the deadline date stated on the notice. Checks for fines shall be made payable to Grass Lake Charter Township.

First Violation within a 3-year period*.....	\$50.00/per day
Second violation within a 3-year period*.....	\$100.00/per day
Third violation within a 3-year period*.....	\$200.00/per day
Fourth or subsequent violation within a 3-year period..	\$400.00/per day

(\*determined on the basis of the date of the violation(s))

Additionally, the violator shall pay costs, which may include all direct or indirect expenses to which the township has been put in connection with the violation. In no case, however, shall costs of less than \$9.00 or more than \$500.00 be ordered. A violator of this ordinance shall also be subject to such additional sanctions, remedies and judicial orders as are authorized under Michigan law.

**XI. Supercedes**

This Ordinance shall supercede Grass Lake Township Ordinance No 77-1.

VILLAGE OF YELLOW SPRINGS, OHIO  
ORDINANCE #2006-12

AN ORDINANCE ESTABLISHING CHAPTER 1472 PUBLIC DISTURBANCE NOISE

Whereas, the Village Council seeks to reduce the cost and staff time needed to respond to noise complaints from Village residents by using a reasonable person standard, among other means, and

Whereas, the Village Manager and Village Solicitor have reviewed the body of case law using a reasonable person standard and have determined that there is a sufficient likelihood of successful prosecution using this standard based on past precedents.

NOW, THEREFORE, THE COUNCIL FOR THE VILLAGE OF YELLOW SPRINGS, OHIO HEREBY ORDAINS THAT:

Section 1. Chapter 1472 is established and adopted by reference to Exhibit A.

Section 2. Chapter 1472 shall become effective at the earliest period allowed by law.

\_\_\_\_\_  
Jocelyn Hardman, President of Council

Passed: May 1, 2006

Attest: \_\_\_\_\_  
Deborah Benning, Clerk

ROLL CALL:

Hardman \_\_\_Y\_\_\_

Wintrow \_\_\_Y\_\_\_

Rickenbach \_\_\_Y\_\_\_

Hempfling \_\_\_Y\_\_\_

Chase \_\_\_Y\_\_\_

(i) Sounds originating from residential property relating to temporary projects for the maintenance or repair of dwelling units, grounds and appurtenances, including but not limited to sounds from lawnmowers, power hand tools, snow removal equipment and composters between the hours of 10:00 p.m. and 7:00 a.m. on weekdays and 10:00 p.m. and 9:00 a.m. on weekends.

1472.04 Exclusion. This chapter shall not apply to the following:

(a) Regularly scheduled events at parks, such as public address systems for baseball games or park concerts between the hours of 9:00 a.m. and 10:30 p.m.;

(b) Construction or maintenance activities in the city's right-of-way that have been conditioned by the Village Manager or designee to minimize the impact on adjacent property owners;

(c) Construction noise under subsection 1472.03(h) of this section or other noise generated in response to emergency situations (being occasions when unexpected and uncontrollable events result in an imminent risk of physical harm or property damage).

1472.05 Enforcement.

The Village Manager, or his or her designee, shall have the duty and responsibility of carrying out and enforcing the provisions of this chapter.

1472.06 Violation – Penalty.

Any person who violates the provisions of this chapter shall be guilty of a minor misdemeanor. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

1472.07 Injunctive Relief.

In addition to the penalties provided in this chapter, injunctive relief for enforcement of the provisions of this chapter may be sought by the Solicitor after authorization by Council.

1472.08 Severability

If any provision of this chapter is held to be unconstitutional, preempted by federal law, or otherwise invalid by any court of competent jurisdiction, the remaining provisions of the ordinance shall not be invalidated.

1472.09 Conflict.

No provision of this chapter shall be construed to impair or limit the ability of the Village to enforce provisions of Chapter 634 of the Codified Ordinances, it being determined by the Village that the provisions of Chapter 634 and this chapter shall co-exist and be independently or conjunctively enforced in the discretion of the Village Manager.

(5) When an outdoor dining area is located adjacent to a public pedestrian walkway, it shall be maintained flush with said walkway.

#### B. Operations.

(1) Outdoor dining areas shall be capable of accommodating disabled patrons.

(2) Pass-through or take-out windows are prohibited. Any door used to deliver food from the restaurant to an accessory outdoor dining area shall be self-closing, unless an alternative mechanism is approved by the Bloomfield-West Hartford Health District.

(3) Any applicant seeking approval of an outdoor dining area shall provide the Plan and Zoning Commission with written assurance from the Bloomfield-West Hartford Health District that:

(a) The kitchen facilities in the restaurant are adequate to service the entire restaurant, including the outdoor dining area. Cooking shall not be permitted outside the restaurant.

(b) Any outdoor service areas, including storage areas for both clean and dirty plates and utensils, condiments, drinking water and similar supplies, are appropriately protected.

(c) Refuse receptacles appropriate to the use shall be provided for patrons and/or wait staff.

(4) No heaters may be installed or used without the prior approval of the Plan and Zoning Commission. If an applicant seeking approval of an outdoor dining area proposes to provide any source of heat for the benefit of patrons, it shall so state in its application and shall provide the Plan and Zoning Commission with a plan, approved by the Fire Marshal, for the placement and operation of said heaters as well as for the storage of fuel used by said heaters.

(5) Public address systems or other systems intended to convey verbal messages through the use of amplified sound shall be prohibited. If an applicant seeking approval of an outdoor dining area proposes to provide any form of music for the benefit of patrons, it shall so state in its application and shall provide the Plan and Zoning Commission with specific details regarding the manner in which music to be provided. The Plan and Zoning Commission may impose any restrictions upon the playing of music which it deems to be appropriate given the location of the proposed outdoor dining area or any other circumstances that the Commission deems to be relevant.

(6) Restaurant management shall ensure that the patrons of the outdoor dining area do not disturb persons beyond the premises of the restaurant through loud, boisterous or unreasonable noise, offensive words or disruptive behavior. Patrons must be seated at tables. Bar service, whether patrons are standing or seated at stools, is not permitted. The service of alcoholic beverages must be adjunct to the service of food.

(7) No patrons shall be seated between the hours of 10:00 p.m. and 7:00 a.m.

(8) Animals shall not be permitted within outdoor dining areas, except for service animals.

(9) Lighting shall be limited to that level which is necessary to illuminate the outdoor dining area for patrons and staff. Flashing/blinking lights shall be prohibited.

#### C. Maintenance.

(1) During the season when the outdoor dining area is in operation, it shall be kept clear of litter, food scraps or soiled dishes and utensils at all times. The entire floor/sidewalk surface in and around the outdoor dining area shall be swept as necessary, but not less frequently than daily, and cleaned to remove greases, oils and stains by steam cleaning or a similar process on a monthly basis. Spilled materials shall be cleaned promptly. Sweeping debris or spilled materials into the gutters of public streets shall be prohibited. This requirement shall also apply to any areas beyond the outdoor dining area which are traversed by restaurant staff and/or patrons.

(2) Trash receptacles shall be emptied whenever full and shall be emptied at the end of each business day.

**TOWN OF EAST HAMPTON  
AGENDA REPORT**

Town Manager Approval: \_\_\_\_\_



Item to be presented by: Jeffery J. O'Keefe

DATE: February 23, 2010

SUBJECT: Working Agreement between the Town of East Hampton and Local RI-216 National Association of Municipal Employees (NAME/NAGE)

DEPARTMENT: Town Managers Office

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RECOMMENDED ACTION:

Staff recommends that Town Council approve the attached working agreement as bargained in good faith between union representatives and Town representatives during closed negotiations.

BACKGROUND

The Council, during Executive Session on January 26, 2010, directed the Town Manager to negotiate the above contracts with specific guidelines. Those guidelines have been followed

Benefit Changes:

- | ❖ Wages                 | <u>2009-2010</u> | <u>2010-2011</u> | <u>2011-2012</u> |
|-------------------------|------------------|------------------|------------------|
| Public Works & Clerical | 2.50%            | 1.00%            | 1.50%            |
- ❖ Longevity payments increase beginning at year 15 and years 30 & 35 were added to the schedule.
  - ❖ Medical insurance premium cost shares will remain the same for the duration of the contract
  - ❖ Various language clarifications/changes were made.
  - ❖ The parties agreed that the discussion of (1) incentive days; (2) HSA, Health Savings Account; and (3) restructuring of pay steps shall be opened for negotiation at the request of either party, with the intent of possible implementation of such changes during the term of the 2009-2012 collective bargaining agreement.

February 3, 2010

The Union representatives took this contract to their membership which voted unanimously to approve it.

ALTERNATIVE ACTIONS

Other direction as provided by council

FISCAL IMPACT

For the 2010/2011 budget the total net fiscal impact will be \$5,477

EH: Clerks Office

AGENDA ITEM: \_\_\_\_\_



**TOWN OF EAST HAMPTON  
AGENDA REPORT**

Town Manager Approval: \_\_\_\_\_

*JJK*

Item to be presented by: \_\_\_\_\_

Jeff Jylkka

DATE: February 23, 2010

SUBJECT: Memorial School Roof replacement and Memorial School underground oil tank replacement

DEPARTMENT: Finance

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RECOMMENDED ACTION

Staff recommends that Town Council approve the attached resolution in order to appropriate and bond for the costs associated with the Memorial School roof and oil tank replacement projects. The Board of Finance, by consensus, requests that the project be approved at a town meeting.

BACKGROUND

These projects were discussed at the Town Council's September 22, 2009 and October 13, 2009 meetings.

September 22, 2009

A motion was made by Mr. Devine, seconded by Mr. Goff, to authorize the Finance Director to engage the services of bond counsel to begin drafting the necessary local authorizations for the Memorial School roof and oil tank replacement projects. Voted (6-0).

The Board of Finance at their February 16, 2010 unanimously approved the appropriation and bonding authorization.

ALTERNATIVE ACTIONS

Roof - continue to repair. Oil tank – continue to monitor for leaks.

FISCAL IMPACT

Project	Project Costs	Financing Costs	Issuance Costs	Total
Memorial School Roof	\$ 3,150,000	\$ 60,000	\$ 80,000	\$ 3,290,000
Memorial School Oil Tank	\$ 144,000	\$ 2,800	\$ 3,200	\$ 150,000
			<b>Total</b>	<b>\$ 3,440,000</b>

The Town will be applying for a school construction grant to help offset the costs.

RESOLUTION OF TOWN COUNCIL

Item \_\_\_ (Memorial Elementary School Improvements Project):

M \_\_\_\_\_ introduced the following resolution, which was seconded  
by M \_\_\_\_\_ :

RESOLVED, that the Town Council recommends that the Town of East Hampton appropriate \$3,440,000 for costs in connection with improvements to Memorial Elementary School consisting of the replacement of all or portions of the roof, removal and replacement of a fuel oil tank and related work including but not limited to preparation for future solar energy improvements, and in connection with the financing of the project; and that the Town issue bonds, notes or temporary notes in an amount not to exceed \$3,440,000 to finance the appropriation. The appropriation may be spent for design, construction, materials, equipment, engineering, architect and other consultant fees, legal fees, net interest on borrowings and other financing costs, and other expenses related to the project or its financing. The Town anticipates receiving State Department of Education grants to defray in part the appropriation for the project.

FURTHER RESOLVED, that the Town Council hereby authorizes the Chairman of the Town Council to call a Special Town Meeting to be held \_\_\_ day, \_\_\_\_\_, 2010 at in the \_\_\_\_\_ of \_\_\_\_\_, \_\_\_\_\_ Street, in East Hampton, at 7:00 p.m., to act upon a resolution regarding the foregoing recommendations.

**[OPTIONAL PROVISION – ESTABLISH REFERENDUM VOTE:]** FURTHER RESOLVED,

(a) that the Town Council hereby designates said resolution for submission to the voters at referendum in the manner provided by Section 7-7 of the General Statutes of Connecticut, Revision of 1958, as amended, which vote shall be held on \_\_\_ day, \_\_\_\_\_, 2010, between the hours of 6:00 a.m. and 8:00 p.m.

(b) The aforesaid resolution shall be submitted to the voters under the following heading:

“SHALL THE TOWN OF EAST HAMPTON APPROPRIATE \$3,440,000 FOR THE MEMORIAL ELEMENTARY SCHOOL IMPROVEMENTS PROJECT, AND AUTHORIZE THE ISSUE OF BONDS AND NOTES TO FINANCE THE PORTION OF THE APPROPRIATION NOT DEFRAYED FROM GRANTS?”

Voters approving said resolution will vote “Yes” and those opposing said resolution shall vote “No”. Electors will vote at the following polling places: \_\_\_\_\_. People qualified to vote in town meetings who are not electors will vote at: \_\_\_\_\_. Absentee ballots will be available from the Town Clerk’s office. Notice of the referendum shall be given by the Town Clerk and incorporated into the notice of the Special Town Meeting.

**[OPTIONAL PROVISION – AUTHORIZATION OF REFERENDUM EXPLANATORY MATERIALS:]** FURTHER RESOLVED, that the Town Clerk is authorized, in such official’s discretion, to prepare a concise explanatory text regarding said resolution and the Town Manager is authorized, in such official’s discretion, to prepare additional explanatory materials regarding said resolution, such texts and explanatory materials to be subject to the approval of the Town Attorney and to be prepared and distributed in accordance with Section 9-369b of the General Statutes of Connecticut, Revision of 1958, as amended.

**TOWN OF EAST HAMPTON  
AGENDA REPORT**

Town Manager Approval:

JOC

Item to be presented by:

Jeffery O'Keefe

DATE: February 23, 2010

SUBJECT: Memorial School Roof & Oil Tank Building Committee

DEPARTMENT: Town Manager

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RECOMMENDED ACTION

That Town Council approve the attached resolution establishing a building committee for the Memorial School Roof & Oil Tank Replacement project.

BACKGROUND

Town Council authorized the Finance Director to engage the services of bond counsel to begin drafting the necessary local authorizations for Memorial School Roof and Oil Tank Replacement Project. The Board of Finance at their February 16, 2010 meeting unanimously approved the appropriation and bonding authorization. The Town will be applying for a school construction grant to help offset the costs of the project. It is recommended that a building committee be formed to include those listed in the resolution.

ALTERNATIVE ACTIONS

Not to approve the resolution.

FISCAL IMPACT

None.

## RESOLUTION

BE IT RESOLVED that the East Hampton Town Council does hereby establish a building committee for the "Memorial School Roof and Oil Tank Replacement" project. Be it further resolved that the committee shall consist of the three members; one from the Town Council, one from the Board of Education Facilities and School Grounds Committee and one from the Community at Large. Said project shall be under the coordination, administration and general supervision of the Facilities Manager, Frank Grzyb.

IN WITNESS WHEREOF: The undersigned has executed this certificate this 23<sup>rd</sup> day of February, 2010.

\_\_\_\_\_  
Sandra M. Wieleba, Town Clerk  
Town of East Hampton

**TOWN OF EAST HAMPTON  
AGENDA REPORT**

Town Manager Approval:

JJK

Item to be presented by:

Jeff Jylkka

DATE: February 23, 2010

SUBJECT: 2009-2010 Budget Transfers

DEPARTMENT: General Government

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RECOMMENDED ACTION

Staff recommends that Town Council approve the attached 2009-2010 budget transfers as recommended by the Board of Finance on February 16, 2010.

BACKGROUND

The transfer request is needed to cover payroll shortages in the various departments due to the recent settlement of the Town Hall / Public Works Union contract. The amounts budgeted for salaries in the individual departments for the current year did not include any union wage increases. When the budget is being developed prior to a union contract being settled the anticipated wage increase is budgeted in unallocated payroll.

ALTERNATIVE ACTIONS

Not to approve the appropriation or amend.

FISCAL IMPACT

There is no fiscal impact. This is a budget adjustment only.

**Town of East Hampton  
Additional Appropriation / Transfer Request Form  
Fiscal Year 2009-2010**

**Fund:** General Fund  
**Department:** Board of Education

**Additional Appropriation**       
**Transfer**                                

*The following additional appropriation / transfer is recommended for board approval.*

**Transfer From**

Unallocated payroll	01110000-5270	<b>\$ 32,000</b>
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**Transfer To**

Town Hall Annex Salaries	01050000-5110	1,000
Finance Department Salaries	01060135-5110	3,000
Tax Collector Salaries	01060136-5110	535
Building Department Salaries	01410000-5110	5,200
Public Works Salaries	01510000-5110	15,900
Parks & Recreation Salaries	01610610-5110	1,650
Community Center Salaries	01670000-5110	1,000
Library Salaries	01680681-5110	3,715

**\$32,000**

**Explanation**

The above transfer request is needed to cover payroll shortages in the various departments due to the recent settlement of the Town Hall / Public Works Union contract. The amounts budgeted for salaries in the individual departments for the current year did not include any union wage increases. When the budget is being developed prior to a union contract being settled the anticipated wage increase is budgeted in unallocated payroll.

**Source of Funds**

Unallocated payroll

<b><u>Approved</u></b>	<b><u>Yes</u></b>	<b><u>No</u></b>	<b><u>Date</u></b>
Board of Finance			2-16-2010
Town Council			

**Nancy Hasselman, CCMC  
Collector of Revenue  
Town of East Hampton**

February 19, 2010

To: The East Hampton Town Council

Please find copies of tax refunds for your review. The total refunds equal \$17,459.42.

Thank you for your assistance.

*nancy Hasselman, CCMC*

Nancy Hasselman, CCMC  
Collector of Revenue

68.00 +  
74.88 +  
344.63 +  
162.39 +  
180.72 +  
11.91 +  
292.54 +  
296.80 +  
4,088.91 +  
11.98 +  
1,196.18 +  
202.26 +  
1,945.29 +  
4.26 +  
2,543.74 +  
3,197.77 +  
6.97 +  
189.01 +  
66.95 +  
12.69 +  
2,345.30 +  
53.47 +  
162.77 +  
17,459.42 \*