

and \$2,500 for the new pulp and paper museum. Voters authorized selectmen to transfer \$500,000 to the school department for operational expenses while school officials trim the rejected budget before sending it back to voters. Jay voters also rejected, by a 2-1 margin, an article to raise \$200,250 for emergency dispatch services, which means that the town's dispatching will now be handled by the county.

In **Phippsburg**, voters defeated a proposed ordinance to allow the town rescue service to impose fees to cover rising costs. Town voters were more accommodating to the road crew, which will receive a raise from \$11.35 an hour to \$15.50.

Skowhegan voters might have cost themselves a bit of money when they rejected a plan to allow the county jail to hook into the town's sewer system. The chair of the county commissioners called the 499-497 vote "heart-wrenching". It could mean Skowhegan will have to pay a full third of the cost of a separate system for the jail that would be built by the county.

It was the second rejection of the same request in as many years.

In **Standish**, voters continued a growing trend in Maine by voting to borrow \$654,250 for road reconstruction and public works equipment.

Wells town meeting voters passed a \$13.4 million budget in early May, discharging nearly 50 articles in less than two hours. The item most debated was a request for \$50,000 for mosquito and tick control, which passed after a 30-minute discussion. In secret balloting, voters approved forming a charter commission to draft the town's first charter. They also elected six members to the commission from a field of 11 candidates. The vote was 455-198 in favor of forming a charter commission.

In **Westbrook** in late May, referendum voters decided against changing the town charter to allow selectmen to appoint the city clerk. The city has had just two clerks since 1956.

About 50 residents turned out for the **Winter Harbor** town meeting. An article requesting \$550,000 to improve sidewalks and subsurface draining in the downtown area was lowered to \$400,000 before being approved. Voters also authorized a \$150,000 community development grant to fund streetlights, benches and other amenities in the downtown area. mt

Letter to the Editor

5/29/07

An article, "Ethics for Quasi-Judicial Boards", by freelance writer Douglas Rooks in the May 2007 issue of the *Maine Townsman* discussed bias and the appearance of bias of municipal public officials. Three examples were cited including a situation in Manchester where the chairman of the Planning Board is an abutter to a proposed cell tower that's being reviewed by the Planning Board. The article stated that the "applicant requested that the chairman recuse himself because of potential bias but the chairman refused securing an opinion from town counsel backing his position." The property owner where the tower is proposed and his lawyer met with and urged the Selectmen to request that the chairman recuse himself. A majority of the Selectmen asked the chairman to recuse himself, which he did. Auburn municipal attorney Curtis Webber who was not involved in this case was asked by reporter Rooks to comment. In the article Webber indicated or strongly implied that the chairman should have recused himself early in the process before this project became publicized in the local paper to avoid an appearance of bias.

There was a major omission, which was not shared with readers of the article or with Curtis Webber apparently because Douglas Rooks was unaware of it. Early in the review process the property owner where the tower is proposed mentioned to the Town Manager that he was concerned that the Planning Board chairman was an abutter to his property. His comment was communicated to me and I promptly discussed with the town's attorney the property owner's concern as well as three reasons why I believed I did not have a bias. The reasons I gave were: 1) There is a self-storage facility which I own abutting his property. The business at and the property value of the facility would not be negatively affected by the proposed tower. 2) Our residence is located just west of the storage facility and the side of the house faces where the tower is proposed. The view from this side of the house is effectively screened by nearby mature fir trees. 3) Our residence is 3/10 of a mile from the tower site. The town attorney opined these were good reasons indicating I did not have a bias and recommended that I publicly state that I am an abutter, and present the three reasons at the next Planning Board meeting. He suggested that I ask the Planning Board to vote whether they think there is bias or appearance of bias and then recuse myself while the Board discusses and votes. I followed the town attorney's advice. The Planning Board discussed the issue. No complaints were voiced by the applicant during the Board's deliberation. The Board voted unanimously that I did not have bias or appearance of bias regarding the tower. This was done before there was any publicity on this issue.

After reading the May *Townsman* article I called Attorney Curt Webber and shared what had been omitted in the article. He opined that I "had done exactly the right thing". He further indicated that since the applicant did not negatively comment during the Planning Board's deliberation on this issue their right to complain was "closed" after that. The property owner began formally complaining in a letter to the Board a month later.

So the remedy according to Attorney Curt Webber is not restricted as a public official to simply recuse yourself if you're an abutter. Early in the review process you have the option of publicly stating why you believe you are not biased or have the appearance of bias. Have the Board you're a member of vote whether they perceive a bias and act accordingly. Curt Webber can be reached at (207) 784-4563 or at cwebber@lcwlaw.com.

Sincerely,
Fred Snow
Chairman
Manchester Planning Board
fws319@aol.com