

June 2014

maine townsman

The Magazine of the Maine Municipal Association



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Maine Townsman

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The Magazine of the Maine Municipal Association

COVER STORY | 17 Taking Action



Driven in part by new federal policies and requirements, the State of Maine and many municipalities are dealing with and adjusting to sea-level rises and other signs of climate change.

The 2014 Maine Municipal Association Convention will feature keynote speaker Peter Kageyama, who talks about connecting communities to the hearts of citizens, something that's not that difficult to do. [Page 5](#)

Some say natural gas is the future of energy in Maine, but many leaders will tell you it's the present, too. While aggressive expansion and installation projects generally have gone well, lessons are being learned. [Page 11](#)

Cover photo: Brad Phillips of Verse Three Photography in Calais captured this haunting early sunrise scene in Eastport harbor.

Future of Solid Waste

Vanishing federal subsidies are one reason why Maine officials feel they stand at a crossroads when making decisions about landfills, incinerators, recycling and more. [Page 7](#)

Enforcement Goes to Pot

Now that medical marijuana is the law in Maine and possessing small amounts is OK in our largest city, law-enforcement and fire-rescue personnel must adjust when they respond to calls and find pot present. [Page 20](#)

Collaboration & Animal Control

Retaining qualified animal-control officers has been a challenge for many Lincoln County towns, which hope that a new, county-level effort provides the long-term solution that they need. [Page 23](#)

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A MESSAGE FROM MMA

BY ERIC CONRAD / EDITOR

MMA's 2014 Convention: Using emotion to develop your town

Put down the calculator or adding machine, if you still use them. Shorten up those subcommittee meetings and sober policy discussions. Analyze less. Go outside, take a walk through your community and absorb what's around you – more.

Those pieces of advice are part of what attendees can expect at Maine Municipal Association's 2014 Annual Convention from keynote speaker Peter Kageyama, a sought-after, dynamic presenter who specializes in economic and community development. His presentation and research will encourage city and town leaders to use their hearts, more than powers of logic and analysis, when assessing and building upon community assets.

Kageyama, the author of "For the Love of Cities" and a special adviser to St. Petersburg, Fla. Mayor Bill Foster, maintains that citizens truly want to embrace the communities in which they live, and they often do.

"Gallup polls have produced statistical evidence of the correspondence with the level of attachment that people have to places and their economic vitality," Kageyama said, during a recent interview. "It happens in the same way that when children are loved, they thrive. They do better. Everyone knows that's true."

Here's another example of how the heart works wonders: "They bring sunlight and flowers into hospitals now," he said. "Doctors aren't sure why it works, but it does. So they incorporate these things."

Kageyama, who also will keynote part of the International City/County Management Association's 100th Anniversary Conference in Charlotte, N.C. in September, said it doesn't matter if a town has 1,000 residents or 1 million.

The key to building municipal vitality is identifying the local assets that people love about their communities and exploiting those assets in a positive way. Here's one way to do that: When people from a community move away, then return for a visit or an extended stay, where do they go? What do they want to see?

"A single ice cream stand can be an anchor, an emotional touch point" in your community, Kageyama said. "Every town has what I call 'love notes,' small things with emotional

impact – a fire tower, a local trail or lake."

It may sound gooeey, but this kind of community soul-searching can bring tangible results, Kageyama said. Creativity and new ideas can bring new businesses to your town, adding jobs and expanding the local tax base.

His approach is clearly resonating. Kageyama sort of stumbled into his "For the Love of Cities" concept in early 2010, when he was asked to fill in for a guest speaker at the last minute. In June of that year, Kageyama assumed a leadership position with the Creative Cities Summit event in Lexington, Ky. He wrote and published his book after that and, in the intervening years, he has spoken to 15 municipal leagues, including recently in Wyoming, Georgia and Minnesota.

Kageyama hopes that people who attend MMA's 2014 Convention "leave realizing, 'Wow, that's really loveable, even in my very, very small town.' I'll ask people to be less analytical. We are emotional creatures, after all. Ask yourself: What's at the heart of the matter?" ■

(Note: A detailed listing of the 2014 MMA Convention program will appear in next month's issue of the *Maine Townsman* and will be posted at MMA's website – www.memun.org – after July 1.)



Peter Kageyama, 2014 Convention Keynote Speaker.



Scene from the 2013 MMA Convention.

- 2014 -

Elected Officials Training Opportunities

ELECTED OFFICIALS WORKSHOPS

Who Should Attend:

This workshop is a "must" for newly elected and veteran officials-councilors & selectpersons-as well as a wonderful opportunity to learn key points of your new position while networking with officials from around the state.

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- What are our liabilities and immunities?
- What is a disqualifying conflict of interest?

As part of our ongoing efforts to bring training to our members, MMA is pleased to announce that this course will be offered in two formats: In classroom and remotely at the Sunrise County Economic Council in Machias. Attendees can participate via ITV Technology by viewing the presentation remotely. ITV broadcasting allows for live viewing as well as interactive participation with the attendees. A facilitator will be onsite to assist. Should you wish to attend this session at SCEC, simply fill out the registration form and select the Machias live broadcast.

A perfect opportunity for elected officials to take advantage of the expertise that the Maine Municipal Association has to offer, attain a better understanding of their role as public officials, and stay abreast of ever-changing local government responsibilities and issues.

Course meet state FOAA training requirements (Right to Know)

ROLES OF ELECTED OFFICIALS & MUNICIPAL MANAGERS

Who Should Attend:

Councilors, selectmen, managers and administrators: this workshop will focus on the differing roles and responsibilities of elected officials (selectpersons/councilors) and appointed officials (managers and administrators), including key responsibilities, legal requirements, personnel issues, communication and goal setting. It will help elected and appointed officials run an effective hiring process and understand their respective roles, their differing needs and how to work smoothly together. It will provide insight and understanding as well as specific ideas and tools to bring back to your municipality.

Managing Freedom of Access Requests

Who Should Attend:

This timely workshop is aimed at helping municipal staffs, newly designated "Public Access Officers" and elected and appointed officials understand Maine's Freedom of Access Act, why FOAA requests are filed and how to handle them properly. (Qualifies as Maine-required FOAA Training.)

Elected Officials:

Dates & Locations:

Northport - 6/18/2014
Point Lookout - 67 Atlantic Hwy
Northport, ME 04849

Augusta - 8/28/2014
MMA - 60 Community Dr.,
Augusta, ME 04330

Machias - 8/28/2014
(Live Video Conference)
Sunrise County Economic Council
53 Prescott Dr., Machias, ME 04654

Roles of Elected Officials & Municipal Managers

Date & Location:

Augusta - 12/2/2014
MMA - 60 Community Dr.,
Augusta, ME 04330

Managing Freedom of Access Requests

Dates & Locations:

Pittsfield - 7/23/2014
Town Office - 112 Somerset Ave.,
Pittsfield, ME 04967



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Statewide trash policy elusive as north-south split develops

Part of the problem is vanishing federal subsidies for trash incinerators, upon which many communities rely. The bottom-line cost, as usual, is a key concern.

By Lee Burnett

Remember the trash wars of yore – the citizen blockades, initiative petitions and chorus of “not-in-my-backyard?”

Maine may be headed for another rocky period in state trash policy. The Maine Legislature this past session defeated a plan to impose \$14 per ton surcharge on landfill-bound trash in order to shore up finances at Maine’s three trash incinerators. But some version of the bailout is likely to return because of the continuing plight of incinerators’ weak finances.

Folks in northern and western Maine, which are more dependent on landfilling, vow to oppose any new landfill-to-incinerator bailout plan. The alternatives to such plans have their own shortcomings and pain.

Sen. Thomas Saviello, R-Wilton, an influential voice on trash policy, said some pain is unavoidable and begs for wider education and debate.

“We dodged a \$14 hit in the last legislative session,” he said. “(It’s) going to come back. If we haven’t done anything, we’re in trouble... There hasn’t been, I don’t think, a good education effort of what to do with our waste stream.” Saviello said he welcomes that the topic will be addressed at Maine Municipal Association’s Annual Convention this fall (Oct. 1-2, at the Augusta Civic Center).

In killing the surcharge plan, the legislature instead opted to set in law a priority system for how trash should be handled. It requires all trash to go through an evaluation process, whereby as much trash as possible is reduced, then redirected according to the following hierarchy of most-

desirable-to-least-desirable outcomes: reuse, recycle, compost, incinerate, landfill.

What this means – once cemented in law through a rule-making process – is that any new license for a landfill or incinerator must meet a “public benefits” test. The inaugural case will come this summer in how Maine’s Department of Environment handles a new landfill and recycling facility proposed by the Municipal Review Committee (MRC), which represents more than 180 towns and cities currently dependent on the Penobscot Energy Recovery waste-to-energy plant in Orrington.

Intense debate

Debate over the new facility, proposed to be sited in Greenbush or Argyle, is expected to be intense, since there are many who believe that a huge impediment to a sensible trash system is Maine’s existing excess of

“low-end” trash disposal capacity. One consequence of easy landfill space is that Maine has never achieved a state goal set in 1989 to recycle 50 percent of the state’s municipal trash. The rate has ranged between 35 and 40 percent for the past 15 years.

The closure in 2012 of the MERC incinerator in Biddeford, with its 300,000-ton capacity, might have helped reduce trash outlets. Except that by then, a landfill in Old Town, originally licensed for paper mill sludge, had entered the municipal market under a public-private partnership that allowed a significant expansion.

The state-owned Juniper Ridge Landfill now handles some 500,000 tons of trash a year – much of it from out of state – which is a 10-fold increase from when operational control was assumed by Casella Waste Systems, a major northeast US waste handler.

“Juniper Ridge is sucking trash so

TRASH DISPOSAL PRICES

Disposal facility	Price per ton for municipal trash
Tri-Community Recycling and Sanitary Landfill, Ft. Fairfield	\$87.50
Ecomaine incinerator, Portland	\$70.50
Hatch Hill Landfill, Augusta	\$72-\$77
Juniper Ridge Landfill, Orono	\$73.07*
Penobscot Energy Recovery Co. charter communities, incinerator, Orrington	\$51 for \$77 others
Crossroads Landfill, Norridgewock	Low \$60s
Mid-Maine Waste Action Corp incinerator, Auburn	\$73 average

*This is a ceiling price. Actual price is negotiated with individual suppliers.

Source: Maine Department of Environmental Protection

Lee Burnett is a freelance writer from Sanford and regular contributor to the *Maine Townsman*, leeburnett_maine@hotmail.com.

hard not even light can escape,” said Robert Duchesne of Hudson, a former Democratic state representative.

The current reliance on landfilling represents short-term thinking, says the executive director of ecomaine, a municipally owned organization in Portland with a single-sort recycling facility, incinerator and landfill.

“Anyone can make money on a landfill. It’s the cheapest way out, but only in the short-term,” says ecomaine Executive Director Kevin Roche. “The cheapest thing for us to do would be to shut down our incinerator and start landfilling everything, but we’d quickly run out of room in the landfill.”

Price parity

Driving the crisis atmosphere is the expiration of favorable rates on the sale of electricity produced at incinerators.

The rates were made available under federal law as an incentive to build the plants, but they were time limited. Favorable rates for ecomaine and MMWAC have already expired.

The PERC contract expires in 2018.

Absent another revenue source, PERC said it will have to double its current rates to more than \$100 per ton, which would make incineration prohibitively expensive. Robert Knudsen of USA Energy Group, the majority owner of PERC, calls the proposed \$14 a ton surcharge necessary to maintain “price parity” with landfills and to “level the playing field.” He raises the specter of bankruptcy without an alternative revenue source.

“Without some public policy support structure, rather than being the least preferred destination for waste, landfill storage will likely become the only choice,” according to Knudsen’s written testimony.

In a telephone interview Knudsen said his plant, which burns 300,000 tons of trash a year, can downsize to meet lower demand. Some critics say its technology prevents that from happening.

“That is a false statement. We could go as low as 200,000 or so... We could go lower if we cycle the

unit (turn on and off), but that is less efficient.” USA intends to pursue a surcharge.

“We have not given up,” Knudsen said. “We’d like to structure a program with the idea of creating a system of temporary support... We fully expect to be operating 20 to 30 years from now. We fully intend for PERC to survive and become more efficient and effective.”

Rural revolt?

To understand the depth of opposition, it helps to talk to Mark Draper, executive director of Tri-Community Recycling and Sanitary Landfill in Fort Fairfield, a municipally owned facility serving 35 communities in Aroostook County. Draper said the surcharge would have increased by 16 percent Tri-Community tipping fees, which already are more than \$30 per ton higher than PERC’s.

“How is it ‘leveling the playing field’ when we’re already paying tipping fees higher than they are?” asked Draper. “And now you’re going to

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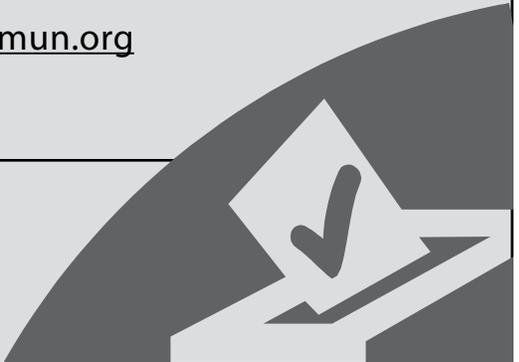


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said.

Louder acknowledged the tight timetable to bring such a facility through “public benefit” determination, permitting, engineering and construction by 2018. “Our objective is to achieve a seamless transition to a new facility. It’s a challenge. There’s significant regulatory risk... There could be a need for some sort of bridge,” he said.

Recycling boost

Support for a surcharge is not limited to incinerator owners. Some believe it would produce higher recycling rates.

“I kind of like it,” said Sarah Lake-man, sustainable policy advocate and outreach coordinator for the Natural Resources Council of Maine. “It provides an incentive to reduce. You could use it for grants to communities. Right now, they don’t have anything.”

She and others say municipalities need to face up to the reality that you need to spend money to save money. Sen. Saviello, who’s also a selectman in Wilton, said his community invested in a \$35,000 Dumpster that allows single sort recycling.

“It was expensive, but we did it because it would save us money,” he said. That point is echoed by ecomaine’s Roche.

“You’ve got to make the investment,” he said. “In 2007, we went to single-sort recycling. We spent \$4 million to go to single sort because you’ve got to make it convenient. Yes, it’s painful, but we paid it off quicker than we thought. The program is so popular.”

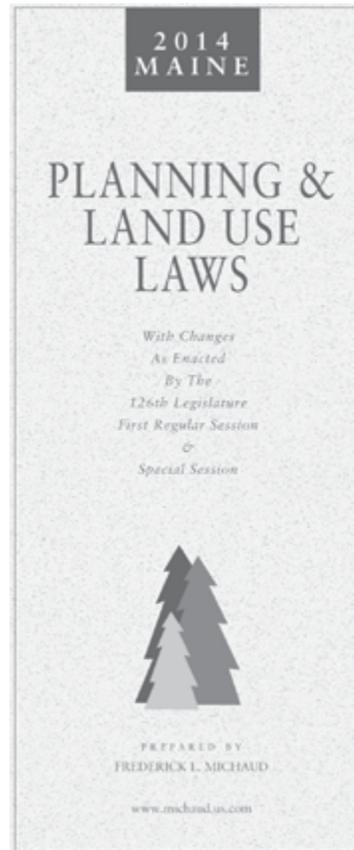
He said there are a variety of tools to encourage recycling, including curbside pickup, mandatory recycling, single sort, pay-as-you-throw and better education.

What works in more populous southern Maine won’t necessarily work in rural Maine, said Louder.

“That’s where the difficulty lies, in trying to develop a policy that applies to the whole state. Perhaps a better model is to plan on regional basis.”

Louder advocates empowering regional planning commissions to set recycling goals. “As opposed to setting arbitrary (state) goals, set regional goals for what’s realistic. Do the best you can.” ■

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Natural gas installation update: All going (mostly) well

Officials advise colleagues to take pro-active steps, such as adopting local ordinances and rules. And, three southern Maine towns try a unique approach.

By Douglas Rooks

At times last year, the installation of natural gas transmission lines in the Kennebec Valley had a gold rush quality to it. State and municipal inspectors had to work hard just to stay ahead of construction crews, who were deployed in large numbers, and later than expected because of tension between two competing utilities, Summit and Maine Natural Gas, over issues such as contracts for state buildings.

In Hallowell, City Manager Mike Starn said the work wasn't finished until the last week of December – far later than usual to be digging below ground in Maine. But Summit has completed the 68-mile steel “backbone” of its transmission system, which stretches from Randolph, where it connects to the existing Maritimes & Northeast trunk line, to Madison, where gas is now flowing to the Madison Paper Industries mill at its terminus.

This spring, the digging resumed with a major focus on distribution lines – smaller gas mains that will connect thousands of homes and businesses to the transmission network, multiplying the number of excavations considerably. Thus far, the process seems to be going more smoothly, thanks in part to frequent meetings between city and municipal utility officials and Summit's engineers.

Nor is the network expansion over.

In May, Summit began construction on facilities that will bring gas to Cumberland, Falmouth and Yarmouth, an unusual project in which the towns



Photo of a Summit Natural Gas compressor and facility. (Submitted photo)

banded together to write a single RFP and adopted matching ordinances in an effort to jump-start the expansion process. It worked, and Summit will spend \$42 million this year in the three towns on the way to an ultimate investment of between \$110 and \$160 million, according to Cumberland Town Manager Bill Shane.

Collaborative idea

The effort began more than four years ago, when Falmouth Town Manager Nathan Poore began talking with Mark Isaacson, a town resident, who at the time was involved with Kennebec Valley Gas, the company eventually acquired by Summit, based in Colorado, before construction began.

Shane then talked with Richard

Silkman, a Cumberland resident, who was another principal in the company, and Silkman helped put together a prospectus for what eventually became the “tri-town project.” Shane said the plan was vetted by the engineering firm Woodward & Curran – “we wanted to be sure, since we had no expertise in this area” – and it checked out.

At the time, Shane expected that Unitil, a Portland-based supplier, might be interested. “The idea was, if we were willing to pay a little more, we might get installations even in places that were less densely populated.”

In the end, Unitil did not submit a proposal but Maine Natural Gas, a subsidiary of Central Maine Power, and Summit did. The Summit proposal offered somewhat lower rates, but Shane

Douglas Rooks is a freelance writer from West Gardiner and regular contributor to the Townsman, drooks@tds.net

Collaboration Corner is a regular feature in the Maine Townsman, highlighting ways that municipalities work together to become more efficient and better serve citizens.

said the main selling point was that it would cover 85 percent of the three towns, rather than the 50 percent promised by Maine Natural Gas.

The results have been better than expected, with a large number of residents signing up right away, he said.

“Summit has been great to work with,” Shane said. “They got Mike Minkos to come out of retirement” – Minkos is president of Summit Maine – “and also hired Mike Duguay” – Augusta’s former economic development director.

There were significantly more bumps in the road in Augusta, said City Manager Bill Bridgeo, a natural gas enthusiast who has long advocated connecting to the Maritimes & Northeast line from Canada, built in 1998, which previously had bypassed the capital.

Augusta’s experience

When gas arrived, the situation verged on the “chaotic” at times, as Augusta became perhaps the first city in the U.S. where competing gas utilities installed lines over the same territory.

The unusual situation stems from a decision by the Maine Public Utilities Commission not to establish franchise territories, but to approve proposals on a case-by-case basis. While existing natural gas hubs in Portland, Lewiston-



Bill Bridgeo

Auburn and Bangor involve only a single utility, Summit and Maine Natural Gas both laid claim to Augusta and worked intensively to sign up customers.

They ended up splitting the state building contracts after a new round of bids. Maine Natural Gas signed up MaineGeneral’s new regional hospital, while Summit landed the Maine Commerce Center nearby.

The City of Augusta’s connection request prompted contention between the two utilities when Maine Natural Gas withdrew its proposal and criticized the process, leaving Summit as the only bidder.

Bridgeo, backed by Sen. Roger Katz (R-Augusta) said CMP then retaliated

by backing a bill in the Legislature it had once opposed. The legislation would have removed a requirement that utilities register their vehicles in their principal place of business – in this case, Augusta – and instead required registration where the vehicles were housed, in a dozen municipalities around the state. The bill would have deprived Augusta of \$200,000 in excise tax

revenue. Katz labeled it “retaliation” for the natural gas bid process dispute, a charge the company denied. The bill ultimately was rejected.

Bridgeo said it was difficult to keep up with both construction projects – Maine Natural Gas built its connection along Route 17, through Windsor, while Summit came up the east side of the Kennebec, through Chelsea – and it did require hiring an employee for inspections.

“But no construction project of this size gets built without some glitches,” Bridgeo said. “The bottom line is that we’re really pleased with the results.”

The city invested \$725,000 to convert or replace its boilers, and ended up with a gas turbine that not only provides heat but puts city hall “off the grid” much of the time through electricity generation. The expected payback is 15 years, and the system should last at least 30 years.

“Some city manager is going to be enjoying the fiscal benefits, though I guarantee it won’t be me,” Bridgeo said.

Chez Bridgeo

The dispute hasn’t affected the operational work of either company, he said. Though lines cross at some points, most neighborhoods are now being served by one supplier or the other. At his house, Bridgeo said, “The city manager was



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pleased to sign up with Maine Natural Gas.”

So far, the savings promised by the suppliers are checking out. In Hallowell, Starn said, city hall has received two monthly bills and they’re 30 percent lower – right in line with projections.

The benefits of natural gas accrue to residential, business and municipal customers, while the increased workload has fallen largely on municipal departments and utilities.

Jeff McNelly, executive director of the Maine Water Utilities Association, said that adding a new layer of pipelines amid existing ones for sewer, water, and electricity – some of them decades old – does present challenges.

“The concerns I’m hearing is whether the road opening standards are really adequate to allow us to do our maintenance work,” he said.

State law requires a one-foot separation between gas lines and other utilities, and three feet on state roads. The former requirement is enforced by the PUC, the latter by Maine DOT.

McNelly said he’s not sure these standards are sufficient when other utilities have to go back in to do maintenance or repairs. “It’s going to be

hard to get a trench box in for some of these locations, that’s for sure.”

The scale of pipeline expansion caught many utilities by surprise. While attention has naturally focused on the

Kennebec Valley area, where gas pipelines are new, it was just as rapid in the Bangor area, where 18 miles of new lines are going in, McNelly said.

“And with two utilities going in the



Another view of a natural gas facility in Maine. (Submitted photo)



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same area,” in Augusta, he added, “it definitely kept everybody busy. Last fall, they had 10 crews going at once.”

How smoothly things go, he said, depends on several factors. “The municipalities are the key players,” he said. “They grant the road opening permits and hold most of the cards. They need to be up to the task and involved.”

Regular planning meetings have proved helpful in most cases, as well as on-site cooperation. “The records aren’t always what they should be,” McNelly said. “It isn’t until they start digging that you always know what’s there.”

Gardiner is another community that was in a quick-time march last fall. Tony LaPlante, public works director, said the city and its utility district did keep up with line inspections, but it was difficult.

LaPlante said pipeline work this year will need to be coordinated with other projects, such as the pending reconstruction of Highland Avenue, a main road where the state and city will share costs.

“Summit has been very good about scheduling,” he said. “We hold weekly

meetings to keep the communication fluid.”

Safety concerns

Safety is always a concern when natural gas lines are being installed. Jeff McNelly points out that it’s not audible leaks that come from depressurized lines that are the big concerns, but smaller leaks, where gas may pool and, for instance, build up in a catch basin.

To prevent such potential explosive conditions, the PUC inspects every crew that’s installing gas lines, according to Derek Davidson, director of the Consumer Assistance and Safety Division.

“We had folks on site many days last summer and fall,” he said. “And we follow up immediately whenever we find a problem.”

PUC inspectors are concerned both with construction techniques – pipe-line wells, valve sizes and connections – and with documentation of what’s being put below ground.

“If it isn’t written down correctly, we’ll require them to dig it up and make the proper notations,” Davidson said. That goes for incorrectly installed components as well.

He can recall only one instance, so far, when the PUC had to sort out a situation that involved a pipe being

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installed closer than the required one foot.

Overall, crews are well-trained and there haven't been any "systemic" safety issues, he said. "There are always problems with this amount of new construction, but they're not more numerous than you'd expect."

Summit predicts it will take five years to build out its Kennebec Valley and tri-town lines, and expansions may well occur after that, depending on such variables as alternative fuel prices and new sources of energy.

Augusta's Bridgeo expects that municipal officials will be fielding complaints about "traffic, dust, noise, nighttime work, and landscaping" for at least that long – even though the benefits, in his view, are more than worth it.

For communities that haven't seen gas pipelines yet, but may, he recommends "getting your ordinances in tip-top shape." Road opening fees should cover the costs municipalities and utilities will have; in Augusta and Gardiner, they have.

Derrick Davidson said that municipalities could, by ordinance, require

wider separations with existing utilities, though depending on the site, there might need to be more flexibility.

Bill Shane said that towns and cities should study up on the issues, and hire consultants where needed. There will always be tradeoffs between the utility's interests and the town's, he said.

In the tri-town project, the towns were willing to negotiate lower road opening fees in exchange for greater coverage. "If we'd enforced what we had, it would have cost Summit \$1 million in each town, and they weren't willing to pay that," Shane said. The negotiated rates are a maximum of \$100,000 per town, with an additional

\$60,000 allowance for emergency repairs if, for instance, a trench collapses over a weekend and a road needs to be fixed, he said.

Bridgeo said Augusta is far from finished in figuring out how to benefit from new energy strategies. The city is looking at a possible TIF for the gas lines, which would help funnel tax dollars toward paving some of the roads the gas crews dig up.

"They do repave over the area," he said, "but it's still a patch, and it's not going to last as long."

Other alternatives, including solar panels at the Augusta Civic Center, may make sense in coming years. ■



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Some of the goals of the organization are as follows:

- Facilitate communication between Association members, recycling markets, equipment suppliers, State and Federal government, and national associations, as well as information exchange among members.
- Assist with the marketing of recyclable and reusable materials.
- Compiling information relevant to the education and technical needs of Maine recycling programs.
- Promoting market development and providing cooperative marketing opportunities.

A number of the presentations from the 2014 Maine Resource Recovery Association Recycling & Solid Waste conference are now available for download:

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The Purpose of Maine Resource Recovery Association is:

- To foster professional solid waste management practices;
- To further the development of recycling and other forms of resource recovery as cost-effective components of environmentally sound solid waste management in Maine communities; and
- To assist with the marketing of recyclable and reusable materials.

The Goals of the Association

- Promoting communication and information exchange between Association members and markets, equipment suppliers, State and Federal Government, and other State and national associations, as well as information exchange among members.
- Compiling and development of other information relevant to the education and technical assistance of Maine solid waste management and recovery programs.
- Promoting market development and providing cooperative marketing opportunities.

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Like it or not, Feds say, climate change is real, inevitable

The question becomes what communities can do about it, and whether coordinated planning will make a difference.

By Glenn Adams

In Ellsworth, city officials know they're seeing more rain, and they're working with the University of Maine to get a handle on just how much. But they don't need to be convinced by numbers.

"The people that garden, the people that farm, the people that fish will tell you there's more water," said Michele Gagnon, planner for the city of more than 7,700 residents.

Like Ellsworth, towns and cities across Maine are taking the added rainfall and surging tides they see seriously, and many have already incorporated the effects into public infrastructure planning.

In Ellsworth, where the 1-in-50 chance of getting 5.4 inches of rain (at a time?) has been surpassed a number of times in recent years, one impact includes water eating away at pavement "everywhere," said Gagnon. Homeowners who say they had never seen water in their basements are now seeing it.

"The frequency of extreme storm events has increased in the coastal Maine region over the last 60 years," says Ellsworth's 2013 Annual Report. The impact is wider than that, as daily reports in the news media point to extreme weather events, melting ice sheets and other effects of a changing climate.

"The science is showing that climate impacts are real, pervasive across the world and of increasing importance," Malcolm Burson of the Maine Conservation Law Foundation recently told a state legislative committee. "Many of the impacts that are being felt, and that will be felt in the near



This photo from a few years ago shows a flooded road with runoff problems near Ellsworth. (Photo courtesy of Bangor Daily News)

future, are irreversible." Burson is the former state Department of Environmental Protection's Climate Change Program Manager.

Ogunquit, where the wastewater treatment plant is said to be at significant risk due to coastal storm surges, has explicitly included threats of sea-level rises and storm surges in its planning, said Burson, noting that the southern Maine town's sewer district was the nation's first to do so.

Portland is closely monitoring sea-level rises and is working changes, where necessary, into its long-term planning for public infrastructure and private development.

'Starting to recognize'

"This is not new," said Bill Needleman, senior planner for the city. Records show incremental increases of about a foot in tides along Portland's harbor, Needleman said. "I have seen seawalls, where they have been raised" to form a better bulwark against rising

seas, Needleman said. "We're starting to recognize it. We're starting to see things."

City Council has passed a resolution directing city staff to plan for the effects of climate change.

A consultant's study says the harbor side Commercial Street in Maine's largest city is vulnerable to sea-level rise and storm-surge damage amounting to nearly \$33 million through 2050 and more than \$111 million through the year 2100. The study, by Catalysis Adaptation Partners LLC of Scarborough, assumes a sea level rise of two feet by 2050 and four feet by 2100.

Adding "significant weight to the kinds of concerns raised by Maine's municipal officials" was the release in May 2014 of the third National Climate Assessment, said Burson. The thrust of the report is that climate change impacts are here, and will increase, so governments at all levels should focus on what can be done to adapt.

Produced by a 60-member advi-

Glenn Adams is a freelance writer from Augusta and new contributor to the Maine Townsman, gadams6786@aol.com

sory panel guided by a team of more than 300 experts, the report <http://nca2014.globalchange.gov/highlights/regions/northeast> gives up-to-date information on climate change effects happening across the country. For the Northeast, it demonstrates that more frequent heavy precipitation events and changes in the seasons, along with sea level rises, will continue and increase in the decades ahead.

Infrastructure, agriculture, fisheries and ecosystems “will be increasingly compromised. Many states and cities are beginning to incorporate climate change into their planning,” the report says.

But the observations and predictions are no cause for panic or knee-jerk responses, officials and experts agree. Instead, they embrace the concepts of adaptation and resilience in going about their work, making changes – whether a larger culvert, a new bridge, or revamped flood plain maps – as they are judged appropriate.

Insurance industry joins in

“It’s also a concept that’s being

embraced by the insurance industry,” said Needleman, noting that a historic building along Portland’s waterfront has made its former first floor into a basement in acknowledgement of a wetter future.

The National Flood Insurance Program, meanwhile, is revising its requirements to account for storm frequency and water runoff, both along the coast and inland. The result could be higher insurance bills for property owners in federal and private markets.

In northern Maine, Fort Kent has no issues stemming from ocean tides, but climate change impacts nevertheless are a concern, said Town Manager Don Guimond.

Changes such as more rain and

more snow, and drought-caused forest fires, “are a concern to us,” Guimond said. “So, yes, we think about (climate change).”

Without money to take giant steps to adapt, officials in the U.S.-Canadian border town of about 4,100 have taken proactive steps to address changes, such as installation of larger culverts and removal of homes from flood plains, said Guimond.

“If you listen to the folks (experts) out there and read the literature, if you take little steps to manage the damage, that’s the thing,” Guimond said.

Elsewhere, Saco Bay communities are being assisted by state and regional officials as they confront sea-level rises.

FEDERAL REPORT OVERVIEW

This is the introduction from the May 2014 National Climate Assessment Report.

“Climate change is already affecting the American people in far-reaching ways. Certain types of extreme weather events with links to climate change have become more frequent and/or intense, including prolonged periods of heat, heavy downpours, and, in some regions, floods and droughts. In addition, warming is causing sea level to rise and glaciers and Arctic sea ice to melt, and oceans are becoming more acidic as they absorb carbon dioxide. These and other aspects of climate change are disrupting people’s lives and damaging some sectors of our economy.”

– Glenn Adams



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York has adopted an amendment to its comprehensive plan that addresses potential impacts of sea level rise and storm surges on the town's resources.

Taking action

The state Department of Agriculture, Conservation and Forestry says many other Maine communities are taking action, citing projects such as upgrading road culverts for heavier rains and modifying local floodplain building standards.

Twenty-two communities from York, Cumberland, Sagadahoc and Lincoln counties are working with state agencies and the Maine Coastal Program to address climate change impacts, especially storm surges and sea level rises.

The Manomet Center for Conservation Sciences, a nonprofit conservation group based in Massachusetts, lists increased temperatures, shifting species distributions, increased drought stress for plants and aquatic systems and amplified pest and disease outbreaks among the potential effects. Manomet's adaptation plan for Maine focuses on adapting to temperature increases, extreme weather events and increased precipitation.

A 2010 report by the state DEP to the Legislature's Natural Resources Committee, written by Burson, also lists as impacts sea level rises which, with chemical composition changes, create: challenges for sea life; an increase in winter precipitation, which will come more often as rain; greater variation in seasons year-to-year; and, changing freshwater flows.

Globally, the United Nations defines climate change adaptation as "adjustments in ecological, social or economic systems in response to actual or expected climatic stimuli structures to moderate potential damages or to benefit from opportunities associated with climate change."

The University of Maine's Climate Change Institute says in its report on climate change that if excess greenhouse gas emissions were eliminated by the end of the century, climate change still would continue because the elevated levels of carbon dioxide can persist in the atmosphere for thousands of years to come. But it also says it's highly unlikely that even a coordinated effort will succeed in eliminating excess emissions. ■



Another view of Eastport harbor. (Photo by Brad Phillips)

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Marijuana forecast: Hazy and a little vague

Handling emergency and crime scenes where pot is present used to be more straightforward.

Now, questions can arise as to whether the marijuana at a crime or emergency scene is there legally.

By Glenn Adams

Whether they like it or not, Maine municipalities are being drawn into the marijuana legalization issue. Their time to take a stand, if they haven't done so already, will come soon.

Local referendums to legalize recreational use of pot are being pushed in three cities and towns, and voters in Portland already have given enthusiastic approval to such a law. Legalization advocates say the Portland ordinance serves as a spring board for a statewide referendum in 2016, in which they hope to see Maine follow in the footsteps of legalization pioneers Colorado and Washington state.

And just to complicate the developing scene, Maine already has a functioning medical marijuana law.

But while local and statewide votes loom and the volume of public debate ratchets up, a considerable haze hangs over the matter of how to enforce marijuana laws that are already on the books.

"There's been a fair amount of confusion with medical marijuana," said Douglas Bracy, police chief in the Town of York, one of the three communities being eyed for possible legalization referendums. The others are Lewiston and South Portland.

The head of the organization that speaks for municipal police chiefs agrees.

"The problem with the medical marijuana law is that nobody, even the policy makers... know much about the program," said Robert Schwartz, executive director of the Maine Chiefs of Police Association. "I believe law enforcement still enforce the laws as they



did in the past, but when a medical marijuana card is produced it becomes complicated."

Maine's medical marijuana law was first enacted by voters in 1999, and voters again endorsed the law with a refined version a decade later. Now, law enforcement officers who encounter someone in possession of, distributing or cultivating marijuana must be knowledgeable about what the state civil marijuana possession laws allow as well as what the medical marijuana law says, said Roy McKinney, director of the Maine Drug Enforcement Agency.

Can't simply seize

"The (police) cannot simply seize the substance and summons the person to court," said McKinney. Police must first investigate to determine whether the person is in compliance with the law addressing the subject.

The Maine Attorney General's office receives inquiries from law enforcement agencies relating to the

effect of the medical marijuana law on pot possession cases.

Questions typically involve traffic stops in which police, or their K-9 dogs, detect the smell of marijuana and someone in the vehicle presents a medical marijuana card, said Tim Feeley, spokesman for Attorney General Janet Mills. Police also inquire about what to do with marijuana that's been seized as apparent contraband but turns out to be legitimately possessed, because the possessor has permission through the medical marijuana law.

"Refusing to give it back translates to keeping someone's legitimate property," said Feeley, adding that the Attorney General's office tries to encourage officers to be cautious in seizing something that may be legal under state law.

"It is safe to say that the medical marijuana law continues to cause some confusion with law enforcement, but with greater experience with the law and greater alignment of state and

Glenn Adams is a freelance writer from Augusta and new contributor to the *Maine Townsman*.
gadams6786@aol.com

federal policies, we are confident that these changes will be ironed out," said Feeley.

To help police officers understand the law better, the Maine Chiefs' Schwartz has arranged for a one-hour block instruction on medical marijuana to be available via computer, as part of its part of its online offering of 100 classes on various topics.

The training offering is a result of a request by the state Department of Health and Human Services, which is collaborating with the chiefs' group and the consulting agency Justice Planning and Management Associates to produce a training class that will be available to all law enforcement agen-

cies.

Despite the confusion on the law enforcement side, the medical marijuana enforcement issue is really "pretty simple," said the pro-legalization Marijuana Policy Project's communications director, Mason Tvert.

"If an officer encounters a person engaged in marijuana-related activity that is legal under the state's medical marijuana law, they should leave that person alone the minute they confirm the individual is a licensed patient or caregiver acting in compliance with the law," said Tvert.

Focus is elsewhere

The district attorney for two Maine

counties said she hasn't encountered confusion among police about medical marijuana enforcement, mainly because their attention has been drawn elsewhere.

"With the increase of heroin and methamphetamine in Maine, we have had to focus our attention on those narcotics," said Maeghan Maloney, the district prosecutor for Kennebec and Somerset counties.

Under Maine's present law, possession of less than 2.5 ounces of marijuana is a civil offense, while possession of more than that amount can bring jail time. Under the Portland ordinance that went into effect last December, an adult may possess up to 2.5 ounce volume legally.

But the law is widely regarded as symbolic only, since state drug possession laws trump local laws. MDEA's McKinney said the Portland ordinance has no effect whatsoever on enforcement of state laws, which officers are sworn to uphold.

Marijuana enforcement is already a low priority in Portland, where Mayor Michael Brennan has said police will continue to use discretion in enforcing the law and police Chief Michael Shauschuck has called the law merely symbolic.

MPP's Tvert said that nothing in state law requires an officer to cite someone under the state marijuana law, and "if they do it, they are actively choosing to ignore the voters who pay their salaries."

South Portland, Lewiston

Next door in South Portland, where the Marijuana Policy Project is pushing for a pot legalization referendum, Police Chief Ed Googins has been outspoken in his opposition to sanctioning what he considers a gateway drug.

MPP is also eyeing Lewiston, where it sees the potential referendum as a test ground for a possible 2016 statewide referendum because of the city's politically diverse population. Lewiston Police were keeping out of the debate as recently as a few months ago, Deputy Chief James Minkowsky said.

"The bottom line with this issue is even if it were to be 'legalized' by ordinance, the ordinance would still be trumped by existing state and federal statutes," Minkowsky said.

York is being looked at for a vote because of the southern Maine town's

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These marijuana plants were found in Kittery . (Submitted photo)

proximity to Massachusetts and New Hampshire, other states the MPP sees as potential referendum locations.

Police Chief Bracy said the ultimate choice will be made by voters, but he urges them to carefully think through the repercussions of legalization. He also said legalization advocates need to take their case to the state and federal levels, where laws preempt local ordinances.

Bracy said voters need to think about impacts such as the health effects of pot smoking, an issue he says has barely been addressed.

“It seems like no one’s asking about the health impacts of this,” said Bracy, who also serves on the board of York Hospital. He also urges voters to look at the larger picture. “Our drug problem is not getting better,” Bracy said. ■

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No rivalries in Lincoln County with new animal-control program

The age-old problem of training and retaining ACOs takes a turn for the better, with a county-level effort to improve service.

By Janine Pineo

“It’s a thankless job and we get into a lot of nasty, nasty things.” Michael Witte has 20 years of experience as a Maine Department of Inland Fisheries & Wildlife licensed animal damage control officer, and 12 years as a Maine-certified animal control officer. He may not have seen it all, but in dealing with upward of 250 animal control calls a year, he has seen a lot.

It includes witnessing the difficulties that Maine municipalities face when it comes to the law regarding animal control and the requirement that each municipality have someone available for animal control at all times.

Witte, who serves as the alternate ACO for the Lincoln County towns of Bristol, Damariscotta and Newcastle, said many municipalities in Maine face a problem in finding people who are interested in the job in the first place. Once someone is appointed, they must be trained at a cost of around \$1,000 “just to get them started.” And after a few months on call, he said, the ACO quits.

“I’ve seen this happen time and time again,” he said.

Kristine Poland witnessed this in Bristol, where she is the town administrator. She said people were appointed who were not able to respond effectively, and the town went through four or five animal control officers in two years.

Residents only want one thing when they call for help. “They want

LINCOLN COUNTY

Municipalities: 18 towns and one plantation

Size: 457 square miles, third smallest county in Maine

Population: 34,457 (2010 Census figures), fourth smallest county in Maine

somebody to be on the other end of the line,” she said.

For municipalities, the question is simple but the answer is not. “Can you find someone who will provide animal control?” asked John O’Connell, Lincoln County administrator.

“There’s a lot more to being an ACO than going out and picking up a stray dog,” said Lincoln County Sheriff Todd Brackett.

According to state law, each municipality in Maine must have at least one animal control officer to enforce a variety of state statutes. The ACO must be certified by completing a basic training program administered by the state, resulting in certification within six months of his or her appointment. ACOs also must attend advance training programs and accomplish a minimum of eight hours of training each year.

There are two types of animal control in the state of Maine. Animal damage control deals with wildlife and is administered by the Department of In-

land Fisheries & Wildlife. Animal control covers all domestic animals and operates under the umbrella of the Department of Agriculture through the Animal Welfare Program.

County-level help

Lincoln County has decided that it can do something to help its municipalities by offering to oversee the animal control officer for towns that join the program, which launched May 6.

“We’re going to be working through the existing network of animal control officers,” O’Connell said. “The sheriff is managing the ACOs we put on the roster.”

“It is a police function,” ACO Witte said. “It belongs in a police organization.” He cited Augusta and Portland as examples of municipalities that have full-time animal control officers in their police departments.

The process in Lincoln County started in the fall of 2012, when the county asked municipalities if there was anything the county could do to help. It wasn’t an unprecedented question, according to O’Connell and Bill Blodgett, Lincoln County commissioner and chairman, who said that the county previously had asked municipalities if they needed assistance with animal control.

“We checked on this many years ago and there was no interest,” O’Connell said.

At that time, Blodgett said, the towns were happy with whomever they

Janine Pineo is a freelance writer from Hudson and relatively new Maine Townsman contributor, jepineo@gmail.com.

Collaboration Corner is a regular feature in the Maine Townsman, highlighting ways that municipalities work together to become more efficient and better serve citizens.

had for animal control.

But this time when asked, the answer was different. "Some towns came back and said, 'We struggle with animal control,' " Sheriff Brackett said.

Blodgett said the problem in many small towns is finding an animal control officer who will stay on the job. The turnover rate is what prompted several of Lincoln County's 19 municipalities to respond to the county's query, which led to a series of meetings over the next year. When the program launched in May, the towns of Bremen, Bristol, Damariscotta, Jefferson and Whitefield had signed on.

Shellfish, harbormaster

The concept of county-administered management has precedent in Lincoln County. Brackett said the sheriff's department has two other programs it oversees for some towns. He cited the shellfish enforcement program and, on a smaller scale, the harbormaster program as the models on which the county has based its new ACO program.

Blodgett said the way the shellfish enforcement program has worked is that towns needing an enforcement officer sign a contract with the county to provide a certain number of hours for each. The commissioner said the program has been running for several years and "works very smoothly." The shellfish enforcement officer is a county deputy sheriff who has had training to handle enforcement issues.

Town Administrator Poland of Bristol said the shellfish enforcement program has worked "very well" for Bristol, which is one of three coastal towns in the county that signed contracts for coverage. The other two are Bremen and South Bristol.

According to Brackett, the concept for the ACO program is straightforward: The current ACO for each participating municipality is hired as a county employee at a certain rate of hourly pay. The sheriff's department will standardize the training for each ACO and use its records-management system for paperwork, as well as for monitoring budgets for each municipality. Equipment – which otherwise would have been purchased separately by each municipality – will now be purchased through the department and shared among all the participating towns.

ANIMAL CONTROL LAW

<http://www.mainelegislature.org/legis/statutes/7/title7sec3947.html>

§3947. Animal control officers

Each municipality shall appoint one or more animal control officers whose duties are enforcement of sections 3911, 3912, 3916, 3921, 3924, 3948, 3950, 3950-A, 3952 and 4041 and Title 17, section 1023, responding to reports of animals suspected of having rabies in accordance with Title 22, sections 1313 and 1313-A and any other duties to control animals as the municipality may require. A municipality may appoint an employee of an animal shelter as an animal control officer as long as the person meets the qualifications and training requirements of this section. [2009, c. 343, §20 (AMD).]

A municipality may not appoint a person to the position of animal control officer who has been convicted of murder, a Class A or Class B offense or a violation of Title 17-A, chapter 9, 11, 12 or 13 or has been convicted of a criminal violation under Title 17, chapter 42 or has been adjudicated of a civil violation for cruelty to animals under chapter 739 or who has been convicted or adjudicated in any other state, provincial or federal court of a violation similar to those specified in this section. [2007, c. 439, §26 (AMD).]

Animal control officers must be certified in accordance with section 3906-B, subsection 4. Upon initial appointment, an animal control officer must complete basic training and be certified by the commissioner within 6 months of appointment. [2007, c. 439, §26 (AMD).]

An animal control officer must attend advanced training programs as described under section 3906-B, subsection 4 to maintain certification. An animal control officer must have a minimum of 8 hours of training each year. [2007, c. 439, §26 (NEW).]

Upon appointment of an animal control officer, municipal clerks shall notify the commissioner of the name, address and telephone number of the animal control officer within 10 business days. In the event the position is vacant upon termination or resignation of the animal control officer, the municipal clerk shall notify the commissioner within 10 business days of the vacancy. [2009, c. 343, §20 (AMD).]

"What we're hoping to accomplish is to increase the quality of professional service," Brackett said.

An on-call schedule will be made, using different ACOs to cover a participating municipality when someone goes on vacation or may be involved in another call.

If there is a vacancy, then each town will be involved in finding a new ACO for its main coverage.

"Our goal wasn't the financial," Brackett said. "It was keeping good, quality people."

The financial aspect seemed to be the least likely reason to join the program for some of the towns that have signed up for the county coverage.

Jefferson was one of the municipalities that could not find or keep an animal control officer. Town Clerk

Lynne Barnikow said this was Jefferson's biggest problem.

"Animal control officer is one of those jobs that no one wants to do," she said.

Jefferson signed up for the program and coverage began on May 6. "It takes a headache off of us," she said. "It takes a worry off us."

The hourly pay for ACO coverage is going up for Jefferson, a town of about 2,400 residents, with the contract amount at \$15 per hour.

"A few extra costs, but if that's the cost..." Barnikow said, before trailing off.

In exchange, the responsibility falls on the county, while the town will have input into who is hired for its primary ACO coverage. Barnikow said Jefferson now has two backup animal

control officers, which never would have happened prior to the program.

Dispatch center role

For residents in the participating towns, the county dispatch center will take the animal control calls, instead of what generally happened in each municipality prior to the program, when residents contacted the ACO directly. If the ACO wasn't available, then residents would call the town office or individual town officials.

"I think it will actually be better for the townspeople," said Poland, Bristol's town administrator. "We strongly believe it will provide better control and responses."

She added, "I don't think it is going to end up costing any more."

One of the major animal control issues in Lincoln County stems from the influx of summer residents and tourists. ACO Witte said that about half of the annual calls on the coast can be attributed to those visitors.

With nine parks including Colonial Pemaquid State Park, Bristol sees its population of 2,800 triple, with the calls ranging from lost dogs to hurt animals, Poland said.

Damariscotta sees its population of 2,200 double in the summer. Town Manager Matt Lutkus said the types of calls "will vary a lot."

"In many cases," he said, "it's more a people problem than an animal problem."

Damariscotta is scheduled to join the program July 1, the start of its fiscal year, Lutkus said.

The sudden departure of the town's ACO prompted the administration to look into the program, Lutkus said. With input from the town's new police chief, officials determined the program would work for Damariscotta.

"We feel we could reduce costs for animal control," he said.

The program will be monitored closely by an advisory committee made up of officials from the towns and the county, including ACO Witte and Sheriff Brackett.

"I'm just elated we've made this much progress," ACO Witte said. "Maine is coming into the 21st Century."

A few days after the program's launch, the sheriff had four words to say: "So far, so good." ■

MARK YOUR CALENDARS!

78th Annual MMA Convention

October 1 & 2, 2014 Augusta Civic Center

The 2014 Annual Convention is shaping up to be one of our best with:

Keynote Speaker:

Peter Kageyama

"FOR THE LOVE OF CITIES"

Featured Speaker:

Roselyn Connor

"MANAGING AT THE SPEED OF CHANGE"

Look for more details in the July and August-September editions of the Maine Townsman magazine and at the MMA website:

www.memun.org

EDUCATION • NETWORKING • EXHIBITS

PEOPLE

James Ashe of Cumberland has been named interim Bar Harbor town manager. Dana Reed resigned in early May after managing the state's No.1 tourism destination since 1986. Ashe is a former interim Kittery manager, Topsham town manager and Brunswick school superintendent. Ashe will serve until a permanent replacement is hired. Town Clerk Patricia Gray, who had announced plans to retire this summer, will continue serving indefinitely to ensure town office stability. Bar Harbor is home to Acadia National Park, which attracts about two million visitors a year. Officials expect to get up to 50 applications for the permanent manager's job.

Certified Public Accountant **John Baiamonte** of Dover-Foxcroft has been named the new Piscataquis County finance director, replacing Phyllis Lyford, who plans to retire soon. Baiamonte holds degrees in accounting and criminal justice and has worked for the State of Alaska. He also has experience in business development.



Diane Barnes

Calais Town Manager **Diane Barnes** has been hired as the new manager of Lisbon. She will begin her new duties on June 30, succeeding Steve Eldridge. Barnes has worked as Calais manager and human resources director since July 2007. Barnes attended Skowhegan schools and completed a municipal leadership program at the Edmund S. Muskie School of Public Service. Barnes is presently chairwoman of the Maine Municipal Employees Health Trust. Longtime former Freeport Manager Dale Olmstead has worked as interim Lisbon manager since Eldridge's departure.

Bethel Town Manager **Jim Doar** was hired as county administrator for Gallatin County, Montana, and will leave Maine in mid-June. He will start his new

job on July 1. Doar likened Bozeman, Mo., the county seat where Doar will work, to the size of Auburn, Maine or "a bigger Bethel," with a similar focus as Bethel on outdoor events and activities. Doar, whose wife's family lives in Wyoming, has managed Bethel since June 2009.

Hundreds of Maine first responders attended the funeral of **Shawn Donahue** after the Washington County chief deputy sheriff died of a heart attack May 17 at the age of 41. A former sergeant and chief of police of the Baileyville Police Department, Donahue suffered the heart attack while traveling to visit family in Bangor. His wife was driving the car. Sheriff Donny Smith told the Bangor Daily News that Donahue's death was "an absolute shock" to both the public and law enforcement community.



Louise Lester

Longtime Raymond Town Clerk **Louise Lester** will leave on a jet plane on June 30, her first day of retirement, and head to a cattle ranch in Montana as part of a 10-day sightseeing trip. At age 69, Lester said it's time to retire. A New Jersey native,

Lester moved to Raymond in 1950 and said she doesn't plan to leave. Lester was hired in January 1989 as the town secretary and was elected deputy clerk in 1996 and then town clerk in 2001.

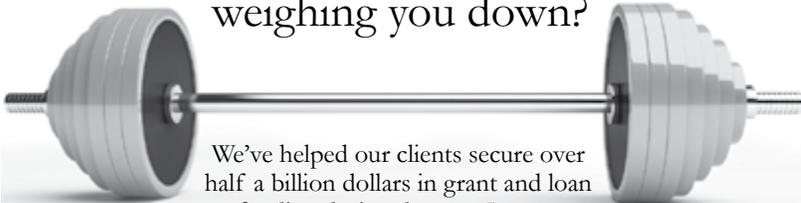
Triss Smith of Madison was hired as Anson administrative assistant, replacing Robert Worthley, whose retirement takes effect June 20. Smith's experience includes 12 years as Madison finance and human resources director and most recently worked as project analyst for Summit Natural Gas of Maine.



William Stokes

Augusta Mayor **William Stokes**, state deputy chief attorney general, has been nominated for a Superior Court judgeship by Gov. Paul LePage. Stokes began working in the Maine Attorney General's Office in 1977 and has served under nine attorneys general. He is the chief of the AG's criminal division, overseeing appellate and corrections lawyers and drug prosecutors, as well as taking the lead on state homicide cases. Stokes said the judgeship would be the crowning achievement in his long law career and he was humbled to be nominated by the governor. ■

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If your municipality submits a news item for the Townsman, consider sending a corresponding photo to: Eric Conrad or Jaime Clark (econrad@memun.org or jclark@memun.org)

STATEWIDE

Seventeen Maine cities and towns will share \$4.7 million in Federal Aviation Administration grants to make airport improvements from Sanford to Presque Isle. The grants were dwarfed by the biggest recipient, Bangor International Airport, which will receive \$1.4 million to help finance major upgrades, including rehabilitating a runway and apron. The money was requested for projects ranging from buying land for expansion to removing obstructions to future planning. The other grantees are: Bar Harbor, \$300,000; Belfast, \$138,000; Biddeford, \$320,000; Brunswick, \$150,000; Caribou, \$150,000; Carrabassett Valley, \$130,000; Eastport, \$150,000; Greenville, \$225,000; Norridgewock, \$150,000; Old Town, \$50,000; Pittsfield, \$150,000; Portland, \$484,000; Presque Isle, \$300,000; Rangeley, \$200,000; Rockland, \$135,000; and Sanford, \$315,000.

ASHLAND

Town officials and area residents are celebrating news that 100 jobs will be created in Ashland and nearby Nashville Plantation as a cedar shingle maker ramps up operations and Irving reopens a shuttered facility. The new jobs are expected to create demand new housing and help boost local merchants' bottom lines. Another possible job creator for the Aroostook County area near Presque Isle is the new owner of the Fraser Paper facility. Jackman-based E.J. Carrier Inc. has not yet decided what it will do with the Fraser property, but town officials are optimistic it will ultimately mean more jobs.

BRUNSWICK

Town officials and their attorney have agreed the town's ordinance regulating political signs is unconstitutional because it impedes candidates' rights to free speech. The planning board made changes to the ordinance and passed it on to the town council, which is expected to endorse the new ordinance. The proposed changes include removing any restriction on when political signs can be erected. The board also wants to extend the time candidates are allowed to remove their signs from five days to 10 days after the election. The town attorney advised that several federal courts have struck down similar local restrictions.

NEW ON THE WEB | www.memun.org

Highlights of what's been added at www.memun.org since the last edition of the *Maine Townsman*.

MMA Executive Committee. The slate of newly nominated members of Maine Municipal Association's 12-person Executive Committee is out and available for our members' review. The 2015 list includes a nominee for Vice President.

International City/County Management Association. The Annual ICMA Conference will celebrate that organization's 100th anniversary, in Charlotte, N.C. The event has a notable Maine theme, in part because Presque Isle City Manager James Bennett will be sworn in as ICMA President.

Doing More on Rail Safety. In a letter to President Barack Obama, MMA President Peter Nielsen challenged the federal government to match Canada's activism on rail safety by taking some dangerous tank cars off the tracks.

HOULTON

Councilors in May decided to support a proposed tax increment financing deal to facilitate a \$1.2 million expansion of an 86-bed nursing home. The deal will help create 15 full-time jobs. Officials said getting through the TIF process will take up to six months.

MILFORD

State fire officials are investigating a suspected arson fire at the town's public works garage storage building late on May 28. Officials said someone forced their way into the facility. A witness went to the fire department to alert them about fire coming from the building. Firefighters were able to contain the fire in within 20 minutes without mutual aid. Damage was estimated at \$1,500 to \$2,000. No trucks were damaged.

POLAND

The planning board in late May approved plans for a McDonald's restaurant at Five Corners, a few miles south of the new casino in abutting Oxford. The board liked the revised design presented last month, which will adhere to town ordinances requiring the restaurant to have a "New England village look." The designers changed the proposed landscaping and roof style in order to gain approval. Construction is expected to begin this month.

SKOWHEGAN

The town received a \$400,000 state Community Development Block Grant to finance the second and final phase of its downtown revitalization efforts. The

pivotal project for the second phase is an attractive municipal parking lot, complete with benches, lots of landscaping and sidewalk islands. The first phase included rehabilitating the downtown grist mill, building a walking trail and other improvements to lure tourists and shoppers into town. The new parking lot will be central to many downtown events, grist mill retail shops and restaurants. Phase 2 of the project is set to begin in mid-July.

SOUTH PORTLAND

The city council endorsed what is believed to be the harshest restrictions in Maine on where sex offenders can live. Those convicted of Class A, B and C crimes against children less than 14 years of age cannot live within 750 feet of schools or any place where children are primary patrons, such as ball fields and playgrounds. The new rules will take effect this month; offenders will be given 30 days to relocate. The new ordinance will apply to 11 schools and 17 parks.

WINSLOW

A 5-year-old boy found himself up a tree without a long ladder last month, but was rescued by town firefighters who brought the boy down 25 feet to the safety of the ground. His mother tried various ways to get the child down safely, including a too-short ladder, before calling the town for help. The boy, who was playing with his three brothers in their backyard woods, had climbed up on a large tree that had fallen and created an easy-up, hard-down, slanted walkway. ■

MUNICIPAL BULLETIN BOARD

JUNE 18

Elected Officials: Northport

Attorneys and staff from MMA's Legal Services and Communications departments will lead a workshop for Elected Officials on June 18 at Point Lookout in Northport. The evening workshop begins with registration at 4 p.m. and ends at 8:30 p.m., including a light dinner.

The workshop is designed for newly elected officials, but veteran councilors and select board members may benefit from the refresher and legal updates as well. Topics include: open meeting and records; roles and responsibilities; effective communication; and, conflicts of interest, among others. Cost for the workshop is \$55 for MMA members and \$110 for non-members.

JUNE 24

New Managers: Augusta

A workshop for new municipal managers will be held on June 24 at the Maine Municipal Association Conference Center in Augusta. The workshop will feature numerous speakers from MMA staff and from the Maine Town, City and County Management Association, including MMA Executive Director Christopher Lockwood and MTCMA President Martin Puckett, Assistant City Manager in Presque Isle.

The workshop will provide information about the roles of municipal managers, the rights and protections offered to public employees in Maine, the International City/County Management Association Code of Ethics and the variety of services offered at MMA. Attendees also will benefit from discussions involving fellow managers. While aimed at new managers, veteran managers may benefit from hearing new information. Municipal administrative assistants are also encouraged to attend.

Managers "new" to Maine since May 2013 are invited on a complimentary basis. For other MMA member attendees the cost is \$45 and for non-members it is \$90. The event begins with registration at 8:30 a.m. Lunch is provided.

JULY 1

Municipal Law for Clerks

Kathy Montejo, City Clerk in Lewiston, and Michael Stultz, Staff Attorney with MMA's Legal Services Department, will lead a session on municipal law at the MMA Conference Center in Augusta on July 1. The session also will be available via video conference at Washington County Community College in Calais.

Sponsored by the Maine Town & City Clerks' Association, the workshop will strengthen clerks' knowledge of major legal subject areas such as: the basics of the clerk's position; records; ordinance authority; conflicts of interest; elections; basic vital records; and, issuance of licenses. The workshop will begin with registration at 8:30 a.m. and the cost is \$55 for MTCCA members and \$75 for non-members. Attendees should bring copies of MMA's Municipal Clerk's Manual.

JULY 15

Payroll and 1099 Rules

The Maine Municipal Tax Collectors' and Treasurers' Association will sponsor a workshop on Payroll and 1099 Rules on July 15 at the MMA Conference Center in Augusta. Robert C. Westhoven, the Internal Revenue Services' North East Area Manager for Federal, State & Local Governments, is the instructor.

The all-day workshop begins with registration at 8:30 a.m. and ends at 3:30 p.m. The discussion will focus on: the Public Employer Tax Guide; form 1099 information and reminders; and, answers to many other questions. Cost for the workshop is \$50 for MMTCTA members and \$60 for non-members.

JULY 22

Special Session! Natural Gas Infrastructure

Staff attorneys from the law firm Bernstein Shur's Energy and Municipal Law practice groups will lead attendees through a low-cost, detailed, half-day workshop explaining the burgeoning

area of natural gas expansion and the legalities surrounding it.

The workshop will be held at the MMA Conference Center in Augusta. It begins with registration at 8 a.m. and will conclude at noon. Cost for the session is \$25 for MMA members and \$50 for non-members.

JULY 23

Managing FOAA Requests: Pittsfield

This timely workshop is aimed at helping municipal staffs, newly designated "Public Access Officers," elected and appointed officials understand Maine's FOA law, why requests are filed and how to deal with them appropriately. The workshop will be held on July 23 at the Pittsfield Town office. Registration begins at 1:30 p.m. and the workshop will conclude at 4:30 p.m.

Presenters include: Amanda Meader, attorney with MMA's Legal Services Department; Jay Feyler, Manager in the Town of Union; and, Eric Conrad, MMA's Director of Communication & Educational Services. Cost for the workshop is \$35 to MMA members.

AUG. 13-15

New England Management Institute: Newry

The Maine Town, City & County Management Association's biggest training event of the year will be held on Aug. 13-15 at the Sunday River Resort in Newry. The program begins with registration at 7:45 a.m. on Wednesday, Aug. 13 and will run through noon on Friday, Aug. 15. Costs vary depending on number of days attending and accommodation requests.

The program will offer a wide range of informative presentations that will challenge attendees, focused on the areas of ethics, employment law and best practices from those in attendance. Networking with fellow managers is also an important and valuable part of the Institute. ■

All of the upcoming workshops can be found on the MMA website. Use the following link:
<http://www.memun.org/TrainingResources/WorkshopsTraining.aspx>

LEGAL NOTES

Veterans' Graves – New Maintenance Standards

The 126th Legislature has revised the laws governing municipal maintenance of veterans' graves (see PL 2013, c. 524, eff. Aug. 1, 2014, amending 13 M.R.S.A. §§ 1101, 1101-A and 1101-B). These revisions actually roll back more onerous maintenance mandates enacted last year.

The new standards vary somewhat, depending on whether the cemetery is an "ancient burying ground" (a private cemetery established before 1880) or a "public burying ground" (a cemetery in which any person may be buried without regard to religious or other affiliation, including a cemetery owned and operated by a municipality, a cemetery corporation or a cemetery association).

Ancient burying grounds. A municipality in which an ancient burying ground is located must, in collaboration with veterans' organizations, cemetery associations, civic and fraternal organization and other interested persons, keep in good condition all graves, headstones, monuments and markers of veterans, and to the best of its ability, given the location and accessibility of the burying ground, keep the grass, weeds and brush suitably cut and trimmed on those graves from May 1 to Sept. 30 of each year. A municipality may designate a caretaker to whom it delegates these duties.

The owner of an ancient burying ground must provide access to a municipality or its caretaker to perform these duties; otherwise, the owner must perform them. The owner must also provide access to a municipality or its caretaker to determine if the owner is performing these duties; if not, the municipality may take over the care or appoint a caretaker to do so.

The new law also allows (but does not require) a municipality to maintain the graves of non-veterans in an ancient burying ground, but this has in fact been authorized for many years (see 30-A M.R.S.A. § 5723(3)).

Public burying grounds. A municipality, cemetery corporation or cemetery association owning and operating a public burying ground must, in collaboration with veterans' organizations, cemetery associations, civic and fraternal organization and other interested persons, keep in good condition and repair all graves,

headstones, monuments and markers of veterans from May 1 to Sept. 30 of each year.

A municipality may, in collaboration with veterans' organizations, et al., adopt standards of good condition and repair for veterans' graves in public burying grounds. At a minimum, these standards must detail how to maintain the graves, grass and headstones. If a municipality does not adopt standards, the municipality, cemetery corporation or cemetery association must keep the grass suitably cut and trimmed, keep flat markers free of grass and debris, and keep burial places free of fallen trees, branches, vines and weeds.

For other duties regarding veterans' graves, e.g., Memorial Day flag decorations, etc., see our "Information Packet" on cemeteries, available free to members at www.memun.org. (By R.P.F.)

Budget Committees & School Budgets

Last month we noted that the duties of a local budget committee are determined solely by the charter, ordinance or town meeting warrant article that created it (see "What Are the Duties of Our Budget Committee?," *Maine Townsman*, "Legal Notes," May 2014). Several readers have since asked us about a budget committee's role in the development of a school budget (which often accounts for about 2/3 of the annual property tax levy). This can be a difficult and sometimes frustrating relationship, for a variety of reasons.

For starters, the amount of a school administrative unit's required "local share" and the format of certain school budget warrant articles are mandated by State law (see 20-A M.R.S.A. §§ 15688, 15690).

For another, proposed school budgets are not usually available until well after the annual town meeting in those towns with a traditional March meeting date. This is because the State's fiscal year for school budget purposes does not begin until July 1 (see 20-A M.R.S.A. § 15003), so school budgets are not typically ready for review and approval until May or June.

Moreover, for municipalities that do not operate their own school system, preparation of the school budget is the exclusive prerogative of the school district's directors or trustees, who have no statutory obligation to consult with municipal

MUNICIPAL CALENDAR

JULY 4 — Independence Day — A legal holiday (4 MRSA §1051).

ON OR BEFORE JULY 15 — Monthly/Quarterly expenditure statement and claim for General Assistance reimbursement to be sent to Department of Human Services, General Assistance Unit, DHS #11, Augusta, ME 04333 (22 MRSA §4311).

ON OR BEFORE JULY 31 — Every employer required to deduct and withhold tax for each calendar quarter shall file a withholding return and remit payment as prescribed by the State Tax Assessor (36 MRSA §5253).

BETWEEN MAY 1 AND OCTOBER 1 — Municipal officers may initiate process to close certain ways during winter months (23 MRSA §2953). For further information, see the MMA Municipal Roads Manual.

BY JULY 31 — Supply certification to the Maine Department of Transportation that Rural Road and Urban Compact Initiative Program funds will be used consistent with the requirements of the law (23 MRSA §1804). ■

officials. Nor is it likely that a municipal charter or ordinance could legally require a school district to do so.

So for a budget committee to have any effective role under these circumstances, there must be transparency and a willingness to cooperate on the part of both the committee and school officials. A responsible committee with a collaborative approach is more likely to be successful at this, though of course there are no guarantees.

As we also noted last month, there's a lot more on budget committees in our "Information Packet" on the subject, available free to members at www.memun.org. (By R.P.F.)

Is Remote Participation In Board Meetings OK?

Question: Is it permissible for a board member to participate in meetings from a remote location?

Answer: Until recently we were fairly

LEGAL NOTES

confident it was, provided the meeting is publicly advertised and publicly accessible, provided a quorum is physically present, provided everyone, including the public, can at least hear everyone else, and provided it is permitted by the board and not prohibited by local charter, ordinance or bylaw.

We held this opinion because Maine's "Right to Know" law does not expressly prohibit remote participation and because, with appropriate safeguards, it offends neither the letter nor the spirit of the law's "open meetings" mandate. What happened in the latest session of the Maine Legislature (adjourned May 2, 2014), however, casts some doubt on this view.

At the urging of Maine's Right to Know Advisory Committee, the Legislature took up a bill (LD 1809) that originally authorized remote participation by any board. But somehow it morphed into a measure applicable only to water and sewer districts (?), and that's the version that was enacted. So the Governor vetoed it because it was too narrow, the Legislature failed to override, and the bill never became law.

Nevertheless, there is now reason to be more circumspect about remote participation. We say this because, even though there was no change in the law due to the Governor's veto, the fact that lawmakers voted to amend the law to authorize remote participation in certain circumstances suggests, by implication, that it may not be permitted at all under current law. (Why else would the bill have been necessary?)

Hopefully the Legislature will revisit this issue in the near future. As the Governor said in his veto message, modern technology can make government more efficient in a rural state like Maine, and as long as public transparency is assured, its use should be promoted, not proscribed. But until then, we advise municipal boards to permit remote participation, if at all, only with the safeguards identified above and only for matters that are routine and non-controversial and that do not involve such things as licenses or permits, appeals, appointments, etc. (By R.P.F.)

PRAYER @ PUBLIC MEETINGS 2.0

Last month we advised that nonsectar-

ian prayer at public meetings is constitutionally permissible but that the U.S. Supreme Court was about to revisit the question (see "Prayer @ Public Meetings," *Maine Townsman*, "Legal Notes," May 2014). Now, as if on cue (in fact on the very day last month's issue went to press), the Court has spoken.

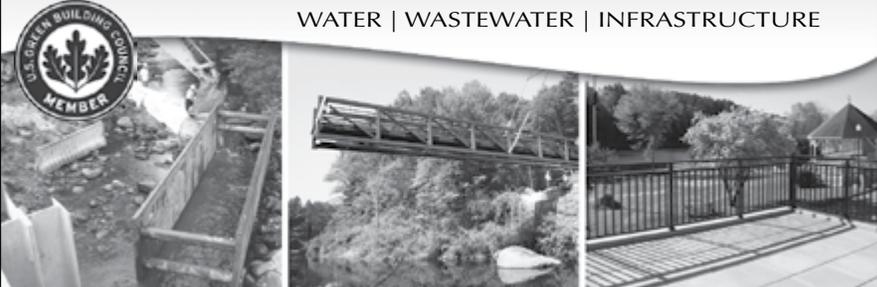
In *Town of Greece v. Galloway* (decided May 5, 2014), the Court by a 5-4 vote upheld a town council's practice of opening its monthly meetings with predominantly Christian prayers lead by local clergy. The challengers argued this violated the First Amendment's "Establishment Clause" and that, to be constitutional, the prayers must be generic and nonsectarian. The Court's majority disagreed, however, cit-

ing the long tradition of overtly religious prayer in Congress and state legislatures and also noting that no one in the town was forced to participate. The dissent had a different view – that public prayer should be neutral and inclusive – but it did not prevail.

It's worth noting that while openly sectarian prayer is now apparently allowed at public meetings of governmental bodies, even nonsectarian prayer is still prohibited in public schools (see *Lee v. Weisman*, 505 U.S. 577 (1992)). The difference, according to Justice Kennedy, who authored both opinions, is the age of the audience and the fact that adults, but not students, can leave if they don't like it. (By R.P.F.) ■

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2014 FALL BOND ISSUE SCHEDULE

Capital financing through the Bond Bank's General Bond Resolution Program allows borrowers to take advantage of the Bond Bank's high investment grade rating, low interest rates and reduced issuance and post issuance costs. Traditionally twice a year, in the Spring and Fall, the Bond Bank will consolidate eligible applicants and engage in a bond sale. From application to receipt of funds the bond issuance process usually lasts three to four months. Below is the schedule for the Bond Bank's Fall Issue.

AUGUST						
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

Friday, August 1st

Application Deadline.

Wednesday, August 27th

Application approval (Board Meeting).

Thursday, September 11th

Preliminary opinions and loan agreements due from bond counsel of each borrower.

SEPTEMBER						
31	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30				

Friday, September 12th

Last date for signing school contracts and rates in place for water districts. PUC approvals due.

Monday, September 29th & Tuesday, September 30th

Maine Municipal Bond Bank Pricing.

Wednesday, October 1st

Maine Municipal Bond Bank Sale Meeting (Board Meeting).

OCTOBER						
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

Wednesday, October 15th

Final documents due from bond counsel.

Wednesday, October 22nd

Pre-Closing.

Thursday, October 23rd

Closing - Bond Proceeds Available (1:00 PM).

If you would like to participate in or have any questions regarding the 2014 Fall Bond Issue, please contact Toni Reed at 1-800-821-1113, (207)622-9386 or tir@mmbb.com.



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