

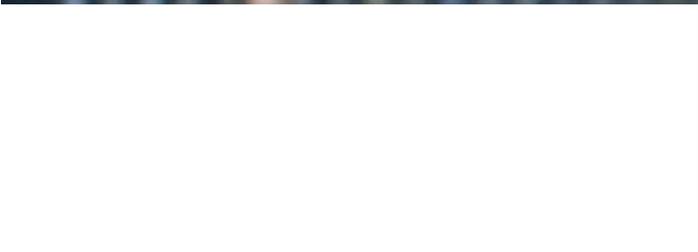
Maine Townsmen

The Magazine
of the Maine Municipal Association

December 2014

Our Legislative Agenda: MMA Looks Ahead

Revenue sharing is
primary concern. Other
changes will be pursued.



ALSO IN THIS ISSUE
State-municipal partnerships
Community broadband networks
Annual reports done right
Election, referendum roundups



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Maine Townsman

December 2014 | Volume 76 | Issue 11

The Magazine of the Maine Municipal Association

FEATURED STORY | 20 Pieces of History



Town of Hope
2014 ANNUAL REPORT

Towns and cities recognized for producing outstanding Annual Reports share a few commonalities: They really care about the process, and view the reports as community legacies.

Local broadband projects are starting to happen in Maine, where some communities are emerging as national leaders. Turn here to learn more about the trend. [Page 15](#)

Substantive action: Voters across the state acted on important local issues last month, from legalizing marijuana to establishing ATV trails to funding library projects. [Page 23](#)

Cover photo: Stockton Springs photographer Barbara West captured this image of the Penobscot Narrows Bridge at night. Printed with permission, on a one-time basis.

Revenue Sharing – And Much More

Local leaders know Local leaders know exactly how the state's mistreatment of municipal revenue sharing has affected local services. During the next legislative session, MMA will make the case for revenue sharing and propose other major realignments. [Page 7](#)

Isn't Partnership a Two-Way Street?

New legislators may not fully appreciate the historic roots – we're talking centuries – of the state's reliance on towns and cities to provide critical services. It's important to change that. [Page 12](#)

The Most Credible Messengers

Don't rely on someone else. That's the message MMA Executive Director Christopher Lockwood sends to municipal leaders, explaining how locally elected officials carry clout with citizens at home. [Page 23](#)

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A MESSAGE FROM MMA

BY CHRISTOPHER LOCKWOOD / EXECUTIVE DIRECTOR

Getting the municipal message out

This issue of the Maine Townsman provides a preview of the upcoming session of the 127th Legislature, set to commence in January. The centerpiece of MMA's legislative agenda will be the preservation and restoration of the Municipal Revenue Sharing Program. As you will note from the lead article ("Our 2015-2016 legislative agenda: Exploring the state-local relationship"), our success in achieving this goal will be tied directly to a campaign to educate Maine's lawmakers and the general public about the value and importance of the Municipal Revenue Sharing Program.

As municipal officials, you will have key roles in this campaign. You are the most effective messengers to convey what's happening in your respective communities. You know firsthand the challenges of trying to maintain and improve services while keeping taxes and fees as reasonable as possible. You know the hidden costs of deferred maintenance on roads and bridges. You know the direct impact of legislative raids on the revenue sharing program.

Why is this important? A new Legislature is set to commence its work. The Legislature will deliberate the Governor's proposed budget as well as consider hundreds of bills which could potentially affect municipal governments. Will members of the Legislature understand the interrelationship between municipal government and state government? Will they know and respect historic partnership arrangements?

There is no doubt that legislators face a challenging task. They will consider proposals that cover a gamut of issues, from education to elections, taxation to transportation, and everything in between. Over the years, the average has stayed constant: One out of every three bills submitted

to the Legislature has a direct or significant indirect impact on municipal government.

Clearly, it is a challenge for individual legislators to keep track of the myriad of proposals they will consider during the upcoming session. Their primary attention will be focused on bills in front of the committees on which they serve. As elected officials, they will be particularly interested in hearing from their constituents.

This provides an opportunity for you, as a municipal official, to establish ongoing lines of communication with your local legislators. We encourage you to talk with your legislators and determine what arrangements might work best – dropping by the town office on the way home from Augusta, a periodic breakfast meeting with town/city officials, phone calls, emails, etc. The most important point is that you, as local officials, are the most effective messengers.

There are other important audiences as well – your citizens and businesses. We encourage you to speak with civic groups, your local chamber of commerce and look for other opportunities. Additionally, it will be important to take advantage of social media to get our municipal message out. We scratched the surface using social media earlier this year in our campaign to avoid another \$40 million raid on municipal revenue sharing.

As MMA develops a campaign strategy, we are hopeful that many more local elected officials will become involved in this effort. As elected officials, you are in strategically important positions to talk with other elected officials at the state level and with citizens in your communities. We appreciate your support and welcome your suggestions on tools you might find useful (clockwood@memun.org). ■

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Our 2015-2016 legislative agenda: Exploring the state-local relationship

MMA's Legislative Policy Committee focuses on revenue sharing. Other initiatives: reversing two state mandates, easing pressure on property taxpayers and appropriate infrastructure.

By Geoffrey Herman, Director State & Federal Relations, MMA

Until recently, the Maine Legislature recognized that although the sales and income taxes were collected at the state level, a small amount of that revenue – just 5 percent – should be shared with the local governments as a matter of fairness. That recognition was codified into state law in 1972 as the Municipal Revenue Sharing Program. That action 40-plus years ago was reinforced by Maine's lawmakers decade after decade; it wasn't just a casual or one-time sense of fairness that laid the groundwork for the program.

Revenue sharing was and remains a substantial piece of public policy grounded in three full dimensions of fair treatment between the two levels of government: supporting the local contribution to economic vitality; acknowledging the heavy demand of state mandates; and, restoring some sense of balance to the state's lopsided tax code.

First, it is indisputable that local governments directly nurture and generally provide services that are vital to local economic activity which, in turn, supports the state treasury.

In addition to recognizing the local contribution to the economic health of the state, the revenue sharing program also formally acknowledges the wide array of duties the state mandates the towns and cities to perform. Elections management, General Assistance, subdivision management and shoreland zoning controls, enforcement of state plumbing, electrical and building codes, solid waste disposal, animal control and rabies management... The list is a long one.

Finally, as a matter of tax policy, the revenue sharing program helps restore some level of balance to the

lopsided tax burdens in Maine. Revenue sharing doesn't entirely balance the system by any means, but it helps soften the grossly disproportionate demand on the property tax relative to the state's "broad-based" taxes. Property taxes currently represent 45 percent of the total revenue generated by the state's three major taxes, and the sales tax just 24 percent.

Revenue sharing is also the policy – the only state policy – that provides some relief to communities with high concentrations of exempt property punching big holes in their tax base.

This policy of sharing has changed since the "Great Recession" of 2008. The last four legislatures and the last two administrations have made it abundantly clear, each more aggressively than the last, that the respect formerly held for the revenue sharing program by previous legislatures no longer exists. Instead of sharing, state government has come to treat the revenue sharing program as a magic ATM machine, the withdrawals from which never have to be repaid. (Please see revenue sharing chart on P. 8 and "Notwithstanding" explainer on P. 9.) For the current fiscal year alone, \$86 million has been appropriated by the state from the Local Government Fund, nearly 60 percent of its value. The Local Government Fund is dedicated by law for the benefit of the property taxpayers in Maine's towns and cities. The legislative raids slap that law in the face.

From the municipal perspective, the revenue sharing program remains the gold standard, chief marker, body temperature, pulse rate or pressure gauge by which to judge the health of the relationship between state and local government. To the extent the

sharing program is converted, slowly and painfully, to a policy of non-sharing, the relationship between the two levels of government will need to be redefined.

Top of the agenda: Preserve, then restore, revenue sharing

MMA's 2015-2016 legislative agenda, as developed and finally adopted in mid-November by the Association's 70-member Legislative Policy Committee (LPC), places at the top of its platform the preservation and restoration of the municipal revenue sharing program. (See list of LPC members on Pages 10 & 11.) The effort to preserve and ultimately restore revenue sharing does not involve a legislative initiative because Maine law already fully embraces the program. The problem is that over the last six years, the governors have proposed and the Legislatures have endorsed overriding the law, cutting the distribution to local governments more deeply each year and using the money to support other state budget priorities.

Although it may not be commonly known, the Legislature can override an existing law by enacting a "notwithstanding" provision. That the Legislature may "notwithstanding" its own laws whenever it wishes is an authority and practice that no legislative initiative can prevent. Therefore, the municipal effort to preserve and ultimately restore the Municipal Revenue Sharing Program will be pursued as an educational campaign rather than a legislative initiative. As we engage in the 2015 legislative session, Maine Municipal Association and its members committed to a strong state-local partnership will do their best to educate Maine's lawmakers and the

general public about the value and importance of the municipal revenue sharing.

Legislative initiatives

Beyond the educational effort, the association will advance nine legislative initiatives, most of which speak to redesigning or redefining the state-local relationship in various ways. Two initiatives back off existing state mandates. Two initiatives provide municipalities some tools to preserve their tax bases and create greater equity in the distribution of local tax burden.

Shaking the mandates

The two mandates that the MMA's Legislative Policy Committee seeks to shake are the municipal administration of the General Assistance program and the mandatory enforcement of the Maine Uniform Building and Energy Code (MUBEC) in all municipalities with populations over 4,000.

The proposal to give the administration of the General Assistance program over to the Department of

Health and Human Services simply recognizes and accepts state government's interest in reforming Maine's public assistance system. A centralized management system could result in an even more efficient and uniform administration of the program. If abuses of the welfare system exist at the unacceptable levels that many believe, it is the state agencies that have the best access to the centralized databases to curb that problem.

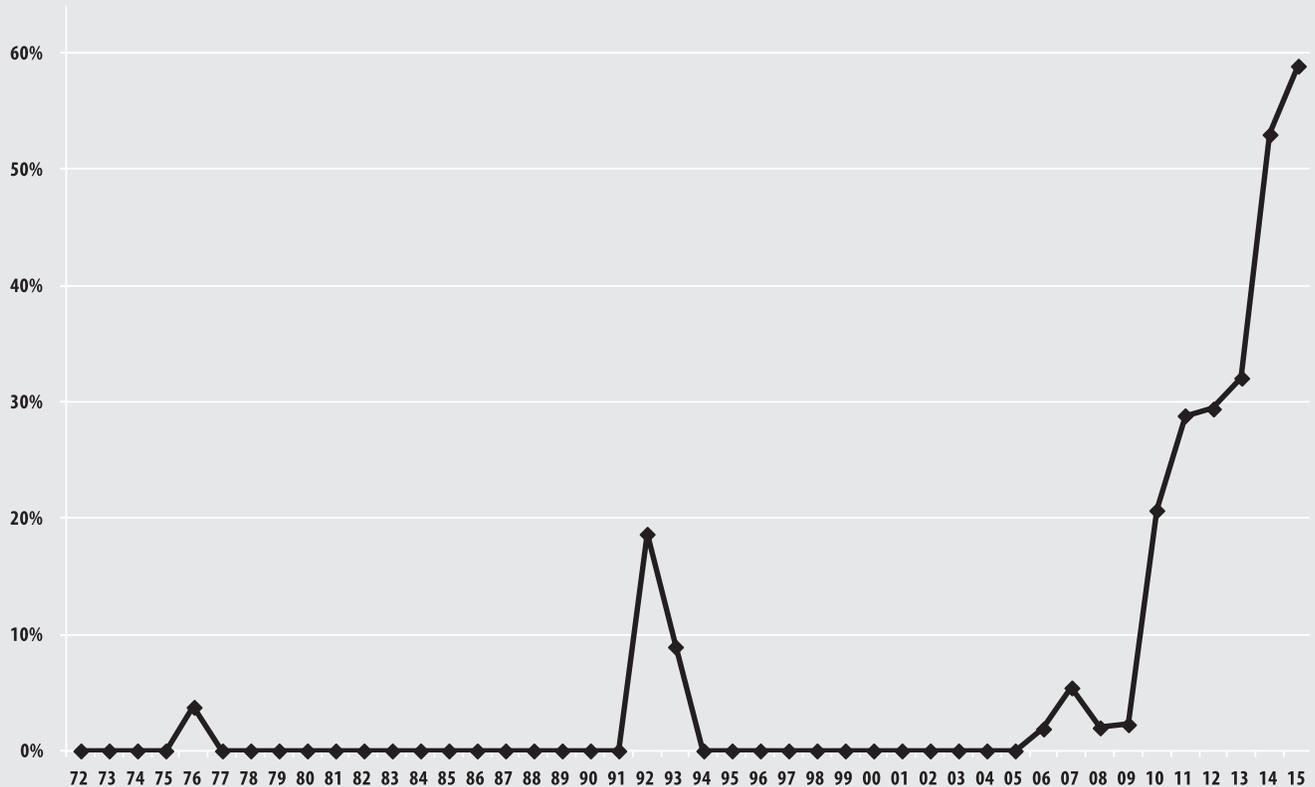
There are multiple sources of municipal concern with the state mandate to enforce the state's building and energy code (MUBEC). For starters, there is the frustration experienced by municipal officials in the communities that must enforce the code when they watch development proposals move to a non-MUBEC community across a nearby border. Although the enforcement of MUBEC is clearly a state mandate for the 89 municipalities in the state with more than 4,000 residents, when the mandate was enacted in 2009 the Legislature did not recognize it as such, appropriated no funding to

support the municipal requirements and did not even vote to override the state's funding requirement as Maine's Constitution requires. As is the case with at least one other state mandate enacted in that period of time, the constitutional requirement was sidestepped and so the law is now a mandate that was not properly enacted as such.

Useful tools

The first bill falling into the "tool" category will expand on existing law that allows for the creation of multi-municipal fire districts. The legislative initiative would allow for the formation of single municipality fire districts. In addition, a district's budget for fire protection could be covered, if the municipality's legislative body enacts the appropriate ordinance, by a structured fee system rather than a property tax system. In this way, all properties within the district would financially support the services provided, including the governmental and nongovernment tax exempt in-

Percent of Revenue Sharing Funds Redirected to State General Fund 1972-2015



Source: Office of Fiscal and Program Review; State Budget Documents.

stitutions, just as those institutions currently have to pay for their water, sewer and, in some cases, storm water utilities.

The other tool-box bill is designed to give communities, particularly towns and cities with significant rental housing, more authority to intervene in the circumstance of property abandonment in an attempt to prevent abandoned properties from becoming dilapidated, dangerous and ultimately condemned. One source of the problem triggering issues of abandoned property are mortgage foreclosures that become stalled, where the landlord or nominal owner of the “underwater” property walks away from it and the financial institution holding the mortgage takes little interest in fully executing the foreclosure or otherwise being responsible for the property’s maintenance.

Re-shifting the tax burden

From the municipal perspective, two systems were changed over the last biennium that either pushed very significant and new financial obligations onto the state’s property taxpayers or re-directed locally levied and collected property tax resources to institutions other than what the local voters thought they were supporting.

The first of MMA’s two legislative initiatives in this category would return the obligation to pay the “normal cost” teacher retirement premium to state government, where those obligations have been located since the state retirement system was created 70 years ago.

The second initiative would have the full charges of the various public charter schools paid out of the state’s General Fund rather than the current “local money follows the student” system, which can have disparate and debilitating impacts on local school systems.

Transportation investments

It’s hardly a secret that a top municipal priority is a high functioning, well-maintained transportation system – highways, bridges, rails and ports – throughout the state. Town and city leaders can be counted on to support robust capital investments in Maine’s transportation system. Against that backdrop, municipal officials believe the stagnation of the state’s Highway

“NOTWITHSTANDING” THE REVENUE SHARING LAW:

An ever-growing state appetite

The law governing the Municipal Revenue Sharing Program is found at 30-A MRSA, Section 5681. What follows is an excerpted version of that statute to demonstrate how a state law can be both on the books and not on the books at the same time when it’s a law the Legislature chooses to “notwithstanding.”

In the case of this statute, the legislative findings that serve as revenue sharing’s foundation remain on the books. The dedication of 5 percent of all state sales and income tax revenue to the Local Government Fund remains on the books. The systems of distributing the shared funds according to formulas using population and each municipality’s relative tax burden remain on the books.

The “notwithstanding” part is found at section 5-C, where all of the findings, purposes and dedications that appear to be part of this law are overridden. Section 5-C overrides all the sections before it so that over the last six years \$307 million in funds dedicated for property tax relief could be “transferred” to the state’s bank account to be used as State Government may wish.

30-A MRSA, Section 5681 (excerpts)

1. Findings and purpose. The Legislature finds that:

A. The principal problem of financing municipal services is the burden on the property tax; and

B. To stabilize the municipal property tax burden and to aid in financing all municipal services, it is necessary to provide funds from the broad-based taxes of State Government.

3. Revenue-sharing funds. To strengthen the state-municipal fiscal relationship pursuant to the findings and objectives of subsection 1, there is established the Local Government Fund. To provide additional support for municipalities experiencing a higher-than-average property tax burden, there is established the Disproportionate Tax Burden Fund.

4-A. Distribution of Local Government Fund. The Treasurer of State shall transfer the balance in the Local Government Fund on the 20th day of each month. Money in the Local Government Fund must be distributed to each municipality in proportion to the product of the population of the municipality multiplied by the property tax burden of the municipality.

4-B. Distribution of Disproportionate Tax Burden Fund. The Treasurer of State shall transfer the balance in the Disproportionate Tax Burden Fund on the 20th day of each month. Money in the Disproportionate Tax Burden Fund must be distributed to each municipality in proportion to the product of the population of the municipality multiplied by the disproportionate tax burden of the municipality....(additional language).

5. Transfers to funds. No later than the 10th day of each month, the State Controller shall transfer to the Local Government Fund 5% of the receipts during the previous month from the taxes imposed under Title 36, Parts 3 and 8, and Title 36, section 2552, subsection 1, paragraphs A to F and L, and credited to the General Fund without any reduction, except that the postage, state cost allocation program and programming costs of administering state-municipal revenue sharing may be paid by the Local Government Fund....(additional language).

5-C. Transfers to General Fund. For the months beginning on or after July 1, 2009,

- \$25,383,491 in fiscal year 2009-10,
- \$38,145,323 in fiscal year 2010-11,
- \$40,350,638 in fiscal year 2011-12,
- \$44,267,343 in fiscal year 2012-13,
- \$73,306,246 in fiscal year 2013-14 and
- \$85,949,391 in fiscal year 2014-15 from the total transfers pursuant to subsection 5 must be transferred to General Fund undedicated revenue. ■

Fund needs to be addressed. The Highway Fund is capitalized largely by motor fuel taxes and its stagnation is occurring as a direct result of the increased fuel efficiency of motor vehicles. Accordingly, MMA's transportation investment package includes three legislative initiatives.

The first bill proposes to send out to voters a meaningful and multi-dimensional transportation bond. The second bill proposes a restoration of a system of indexing the motor fuel tax rates, with the index based not on inflation, as was the case in the past, but rather on the incremental increases in motor vehicle fuel efficiencies as required by federal law. The third bill proposes to reverse the first-time-in-history cut to the Local Road Assistance Program.

Last year, the Legislature cut the Local Road Assistance Program (LRAP) by 10 percent. The LRAP program has taken on many forms over the last 100 years, but its funding level has always been scrupulously honored by the Legislature. LRAP is a sharing program, and the arguments to restore it to its proper level are the same as the reasons to preserve and ultimately restore municipal revenue sharing.

A sharing system should be honored in good times as well as bad as a recognition of collaboration to provide good services to the same constituency. A commitment to sharing is the glue that holds partnerships together. ■

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(cont'd on pg. 11)

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Meet our Attorneys Dan S. Pittman



Dan Pittman is a member of our municipal finance team. He has acted as bond counsel for towns, cities, counties, sanitary districts and other governmental entities to help them find creative and effective ways to build and maintain public infrastructure, including roads, schools, water and sewer systems, municipal buildings and capital equipment. He has also advised tax-exempt educational and charitable institutions about how to partner with their local communities to issue tax-exempt bonds. He also advises tax-exempt bond issuers regarding their ongoing compliance responsibilities, and helps them navigate the complex tax rules surrounding arbitrage and rebate.

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State-municipal partnership programs: Past, present and future

By Geoffrey Herman, Director State & Federal Relations, MMA

Municipal officials believe deeply in the public policy foundation that supports the Municipal Revenue Sharing Program. That is why it is so frustrating to bear witness to state government’s massive raids on the program over the last six years. Each municipality’s fiscal capacity is a function of the value of its tax base in relation to its population and demand for services. The towns and cities have different financial capacities to meet their own needs and also provide the services that state government requires of them. By using a formula that takes their sharp differences in fiscal capacity into account, the distribution of a small percentage of the state-collected, “broad-based” tax revenue to the towns and cities is entirely appropriate given all the functions municipalities are required to perform for the general good.

MMA’s advocacy staff thought that it would be worthwhile to catalogue these state-required programs in a status report. The name of the report, which is just now being finalized, is called “*State-Municipal Partnership Programs: Past, Present and Future.*” For the purposes of this report, a “partnership program” is a state law that compels municipalities to conduct certain activities or provide specific services for the general good, as well as related systems established in law to support or supplement those required activities.

Beginning with programs established in the 19th Century and running through to the present, the report examines the structure and intention of each program when it was first established in law and evaluates how the Legislature has managed and further developed the program over time. From the obligation to manage all elections established even before Maine was a state to the enforcement of the Maine Uniform Building and Energy Code in 2008, 20 programs are included in the report. An attempt is made in each case

to judge whether the program under review was created by the Legislature as a true partnership program and been well maintained as such over time or, instead, was created and maintained as a simple unfunded state mandate. In some cases, the program has evolved over time from a partnership program to more of an unfunded state mandate or broken financial commitment. In

other cases, the reverse is true and a pure unfunded state mandate has been converted into a functioning state-local collaboration.

What follows is the table of contents of the report. Our intention over the next several months is to publish chapters of the report in our weekly Legislative Bulletin, beginning in early January 2015. ■

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Welcome to the Maine Resource Recovery Association

MRRA was formed with the intent to foster professional solid waste management practices in the recycling and solid waste arena.

MRRA is committed to the development of environmentally sound solid waste practices and other forms of resource recovery that will benefit Maine communities.

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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Some municipalities investing in even faster broadband networks

Industry leaders are divided on the mini-trend: Some predict companies will favor these communities; others suggest towns slow down a bit.

By Liz Chapman Mockler

Municipalities are beginning to build high speed internet networks to boost economic development and higher education in Maine – and position themselves for future growth.

The good news is that Maine's 35,000 square miles are already wired with three layers of high speed internet, or broadband, fiber networks; two privately owned and one "open-access" network, built mostly with federal stimulus money.

Government officials at all levels agree that Maine and most other states face two challenges: Expanding high-speed, or "broadband," networks statewide; and, finding a way to wire even the most remote communities to the internet.

Although the Federal Communications Commission tracks the speed of internet service, its primary congressional mandate is to ensure that every American gets access to the internet, regardless of the route or the provider or the initial speed.

Public and private officials in Maine and across the nation, as well as telecom providers of all sizes, agree with the FCC that government must subsidize expansion of internet accessibility to reach the final 6 percent of Americans (19 million) presently without any access. Without private-public partnerships, the FCC concluded, parts of the U.S. will remain in the dark, while other place move steadily into a bright future.

For Maine, the emerging dynamic pits large providers who will not build the "last mile" of dark fiber before lining up customers, against small provid-

Liz Chapman Mockler is a freelance writer from Norway and regular contributor to the Maine Townsman, lizmockler@hotmail.com.



Fletcher Kittredge

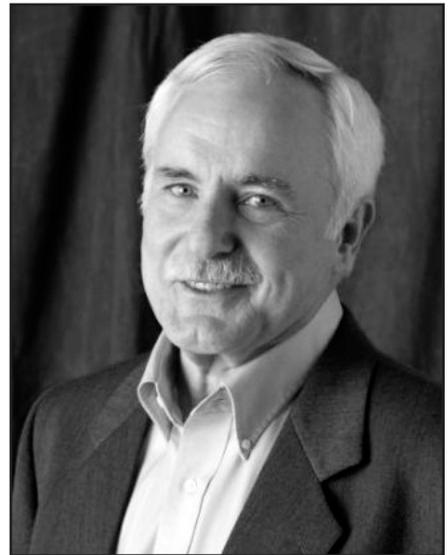
ers who cannot afford to build the last mile without public subsidies.

In Maine, 95 percent of all homes, businesses and institutions have access to the internet and other services through the existing fiber networks and about 75 percent of them already use some form of it – cable, internet and/or cell phone service. Speeds and service options vary around the state.

Internet speeds

Maine's average internet speed was 6.84 megabits per second in early 2013, but in a leading quarterly industry study, that speed had increased to 8.7 megabits per second by the second quarter of 2014. The U.S. state average for the same period was 10.5 megabits per second, according to Massachusetts-based Cloud leader Akamai Technologies.

A growing trend in Maine is to provide speeds as high as one gigabyte to certain areas as a tool to attract new



Mike Reed

big business or expand an existing operation.

Karen Romano, FairPoint Communications vice president of education and government services, said the company can provide spectacularly high internet speeds, but there has been no demand to do so in its primary service area of Maine, New Hampshire and Vermont.

"We can give customers whatever speed they want," she said. "We have made a huge commitment to northern New England. There's no place in (Maine) where you can locate a business where we could not provide service for you."

FairPoint is the largest provider in Maine, with 16,000 miles of fiber wired throughout the three states. It operates Maine's 911 emergency phone service.

The cost of buying access to one gigabyte of fiber is beyond the needs or budget of many businesses, public

and private officials agree. However, supporters of super-speed internet, including some municipalities, desire a gigabyte of access as they plan for the future and hope for more economic development.

Maine communities “are not doomed if they don’t offer one gigabyte” of service, said Jeff McCarthy of Maine Fiber Co., which owns and operates an extensive, high-speed dark fiber network in the Northeastern U.S. “But I think the odds are pretty good that (businesses) will choose to locate where there are more options and speed for their work.”

Companies “will choose towns that make the investment,” McCarthy predicted.

According to the FCC, 10 megabits is becoming the average speed usage by consumers. That is double the power needed to stream different movies in separate rooms while someone else

is internet surfing.

Time Warner Cable’s triple package, for example, offers 10 megabits of service, including phone, internet and cable.

One gigabyte of speed means 1,000 megabits of data can be transmitted per second and is needed by few consumers – mostly hospitals, colleges and government, McCarthy said.

But there are businesses, he added, that want the super-speed, and Maine must position itself to offer it more widely.

Time Warner, like its biggest competitor, owns a private internet network that it built over many years and that runs parallel to FairPoint fiber throughout much of Maine.

Three Ring Binder

The public-private “Three Ring Binder” was built by Maine Fiber ahead of schedule in late 2012 with

\$25 million in federal stimulus money, matched with \$7 million in private investment. Its fiber hangs alongside the two private networks over 30,000 telephone poles.

Excess funds from the project were used to string high-speed fiber cable from Maine through New Hampshire to Boston.

Maine Fiber was organized in 2009 to compete for stimulus money to enhance broadband access. The company leases dark fiber to providers of all sizes.

FairPoint has the largest network “footprint” in Maine, covering all of the Binder and Time Warner network areas, as well as snaking out to rural areas not covered by the other two.

Maine also is home to a plethora of smaller providers who could not compete without the open-access Binder. At the same, time international telecom giants such as Google Fiber are beginning to carve out the most populated and prosperous parts of cities across the globe to lure customers away from existing providers.

According to FairPoint, Google

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is eyeing swaths of Greater Portland as fertile ground to stage an internet battle among providers. FairPoint considers Google's business model an effort to "cherry pick" the biggest customers to the possible demise of small providers – and even large ones such as FairPoint once enough of its Maine customers go elsewhere.

But Fletcher Kittredge, president of Great Works Internet of Biddeford, better known as GWI, argues that internet access is "infrastructure in its purest form," whereby public and private interest team up to share costs and improve service.

"Quite a few other towns are doing this now," he said. Kittredge said some municipalities will choose to own their own networks, while some will avoid the regulatory hassle and lease the access.

"I really don't see a down side" to using the Binder to create small networks to meet a government and other needs, said Kittredge.

Not only small providers are tapping into the Binder. Verizon sold its northern New England landline and internet business to FairPoint in 2008 to focus on selling and servicing

DEFINING THE TERMS

Broadband: High-speed internet.

DSL: Digital subscriber line.

Speed: Megabyte measures computer storage capacity; megabit is a measure of download speed.

Broadband fiber: Made of microscopic pieces of glass

Dark fiber: The "last mile" of line from a network to a specific customer.

Lighting the fiber: A provider uses electrical sensors on each end of the fiber to control the speed and activate service.

Three Ringer Binder: The only "open-access" network where all providers can lease access.

wireless phones. Verizon's wireless service-area dominance in Maine can be traced directly to the Binder, which stretches from Kittery to Fort Kent.

One of the challenges for municipalities is how to connect to the Binder if they don't or can't use existing broadband networks.

A spokesman for Time Warner said that, like FairPoint, Time Warner is prepared to compete on the new super information highway and hopes to be included in any talks – local or state-wide – about expanding internet cov-

erage and increasing speed in Maine.

Rockport: municipal pioneer

After a year of work, the Town of Rockport announced last summer the first municipally owned fiber network in Maine. Under the program, the town paid \$30,000 to wire "dark fiber" from the Binder to municipal buildings, the library and the Maine Media Workshops + College, an organization on Camden Street that "educates and inspires visual artists and storytellers," according to its website.



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INTERNET NUMBERS

Maine has slipped in recent years in its national ranking for internet accessibility, as other states and providers invest in existing networks. According to State Tech magazine, which specializes in government technology and data-breach protection, Maine ranked 28th for average internet speed among the 50 states in 2013. (<http://www.statetechmagazine.com>)

Meanwhile, nationally, 19 million Americans did not have access to internet service in 2013. There are still places in America where residents can't get electricity, but can now get cell phone reception, according to a report by the FCC.

The FCC report says many of the unserved Americans live in areas where no business can offer broadband service or where residents cannot afford it.

The college wanted super-speed, one gigabyte service because its 1,500 students were showing up on campus with three or four technological "devices" each, and their work required uploading and downloading video and film.

Meanwhile, town leaders wanted to offer their business district access to the super-speed service. Believing that neither of Maine's largest providers would be interested in the project, the town and college partnered with GWI to "light" the dark fiber and provide super-speed service to any customer along the municipal network.

"The downtown (property) lots are much more valuable because of high-speed internet," said Rockport Town Manager Rick Bates. "... The town is taking a risk, but Rockport is small and that helps us to be nimble and do things quickly."

Bates is becoming a leader on the issue as part of the Next Generation Cities effort. The manager said town residents voted to change the language in the downtown tax increment financing agreement in order to use \$30,000 of the money to wire the "last mile" dark fiber.

Meg Weston, president of the media college, said in a recent interview

that the new service is operating without a glitch and all the data that was clogged up in the slower network now flows quickly and without frustration.

Weston said the college wanted a gigabyte of speed to serve not only today's needs, but also tomorrow's.

"We are very excited," Weston said. "It's been wonderful. Everything is going swimmingly."

U.S. Sen. Angus King helped unveil the Rockport project in August. In a recent written statement to the Maine Townsman, King likened the need for better internet access and speed to other infrastructure needs.

Broadband service "is a major channel for interconnection and information sharing in today's world," King said. "By broadening its reach across Maine, we can help set the table for an expansion of economic activity in the same sort of way that the construction of roads, bridges, canals and electric

lines did years ago.

"But it's going to take the collaborative efforts and combined funds of local, state, federal and private stakeholders working together to ensure that we can build the 21st century, open-access networks needed to bridge that 'last mile' and bring broadband to our businesses and homes," King added.

Proceed – with caution?

FairPoint President Mike Reed said that municipal and state leaders should involve all providers before carving out the densest areas in their service areas and building their own small networks.

"Gigabyte, open-network, dark fiber," those are the new buzz words, Reed said. "I'm advising municipalities not to believe everything they hear."

He said FairPoint would indeed have been interested in competing for the Rockport project, since it already

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spent money to build a fiber network that runs parallel to the other two networks in downtown Rockport.

Reed said all providers should be able to bid on the telecom business “and go home and bite their nails” as they do whenever they bid on any project.

Reed is upset enough to take action over the growing trend of small providers gaining access to “cherry-picked” areas where they can compete only if the public pays to string the “last mile” of dark fiber from the Binder to the customer.

Despite the recent turmoil around the FairPoint workers’ strike, Reed has started meeting with elected officials about the issue. He met with the Cumberland County Commission in October to explain how much fiber already exists in Maine and to assure them the company would like to compete for any government project.

Reed argues that Maine is well-wired for future growth and hopes municipal leaders will take stock of what is already available and include all providers in their talks and projects.

South Portland lease agreement

A number of towns are starting to follow Rockport’s lead, but are using different models. The City of South Portland this year decided to lease a new broadband network connecting the Binder to municipal buildings and two business districts.

The city will pay \$150,000 to run dark fiber from the Binder and then lease the network rather than own it.

Because GWI secured the city as its “anchor tenant,” the company could then afford to build the dark fiber to create the new network. As with Rockport, Fletcher said GWI will share its revenue with the communities in recognition that it will lose cable TV revenue as consumers drop that service in favor of streaming everything on their computers.

Fletcher said providers must build capacity for the future, predicting new “apps” will require more and more broadband in just a few years.

South Portland City Manager Jim Gailey said the project will increase competition, not constrain it, and all parties will be better off for the effort.

“We are not locking people out,” Gailey said, noting that he has talked to FairPoint officials about their con-

cerns. “Rather, we are expanding competition and giving consumers another choice for internet” speed, accessibility and service.

“It’s all about competition” as the city works to attract more business to the community, Gailey said.

Reed said FairPoint cannot build a “last mile” dark fiber system and then hope “they will come.” He said South Portland is as well wired as its neighbors – including existing FairPoint and others’ fiber already connected to the South Portland business districts. He said the money could have been used

to build an even bigger, stronger network in the city.

In Ellsworth, leaders are just beginning the process of mapping what fiber is already available and where to site a new broadband hub facility to serve its downtown and business areas, according to Micki Sumpter, Ellsworth’s economic development director.

Once the \$250,000 federally funded study is done, Sumpter said, officials will seek bids from all providers, of all sizes, interested in servicing the project. ■

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Annual Reports winners: How they do things and what it costs

Photos, history and remembrances are special touches cited by officials who produce the reports, which are viewed as special snapshots of local history.

By Janine Pineo

"Enthusiastic" sums up the attitude of municipal employees who assembled the winning town reports in the 2014 Maine Municipal Association annual reports competition.

"It's a tremendous, tremendous group effort and I am sort of the ring leader," said Vassalboro Town Manager Mary Sabins. of the work done by contributors in her town, which won in the 2,500 to 4,999 population category.

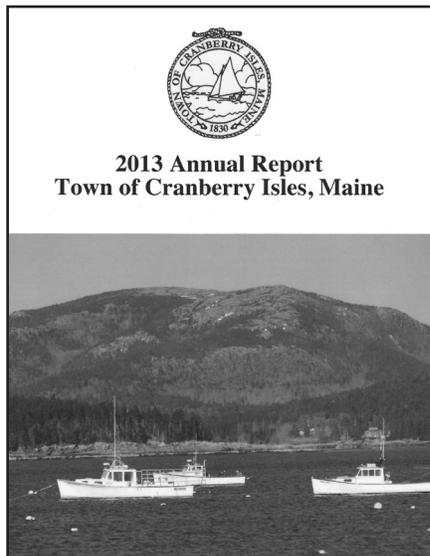
The annual town report in Maine is a longtime tradition – state law notwithstanding – providing residents of each municipality an overview of finances and vital records. Some sections are required by law, such as portions of the audit, a list of delinquent taxpayers, and financial transactions. Other items included are solely at the discretion of each town, from the dedication to the photographs.

"We try to cater to our residents and what they would like to see," said Nanette Daley Hadlock, deputy clerk for Cranberry Isles, a five-island municipality that won in the 0 to 499 population category. "We have a lot of residents who aren't here, like summer residents."

The result is a report that includes financial information but also a wealth of community activities to keep the part-time residents informed.

Perhaps the most surprising fact from amongst the winners is that the municipality in the category for the largest towns and cities in the state prints the fewest copies of its report. Caribou, in the 5,000 and over population category, prints only 100 copies

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



(Submitted photo)

"because we post it online," according to Denise Lausier, administrative assistant to the city manager.

Mostly older residents want physical copies, Lausier said, which are available at City Hall and some public places around Caribou.

What makes a winning report? "You know, we wonder that, too," said Mary Tolles, deputy clerk and bookkeeper for the Town of Hope, which has won MMA's top prize in the 1,000 to 2,499 population category for past two years.

MMA judging standards cover three areas, weighing each differently. Twenty percent is attractiveness, which includes the cover and layout. The table of contents, brevity in reports and graphic presentation are part of the utility area, another 20 percent.

The remaining 60 percent is content. This includes such areas as the arrangement of material, the presentation of fiscal statistics and other

data, and summaries of the year's achievements in municipal reports.

Preserving history

What might be overlooked by many residents is the historical value in each report. However, it is not something that is lost on the municipal employees who put together their municipality's document.

"I try to draw something in that's historical," said Kathleen MacKenzie, Jackman's town manager. Jackman won in the 500 to 999 population category.

MacKenzie cited such things as which fish have been stocked to when the ice is out as items that provide information to today's residents but also will be a snapshot of the town's history in the future.

Maine law requires that municipal reports be filed annually with the Maine State Library. In fact, in 1892, the state librarian wrote to each Maine town and requested a complete record of the town's financial reports, an action that started the library's collection. And in this age of digital, the library is collaborating with Fogler Library at the University of Maine by offering some town reports online through the Maine Town Reports Digital Pilot Project.

The Maine State Library is not the only one to receive printed copies. Some organizations are required to receive them, while others are unique to the municipality. For example, Cranberry Isles sent reports this year to the town auditor as well as the state library, MMA, University of Maine, Maine Revenue Services, Maine Bond Bank, Maine Department of Transportation and several banking institutions.

Cranberry Isles

Made up of Great Cranberry, Islesford (Little Cranberry), Sutton's, Baker's and Bear Islands, this Hancock County municipality has about

125 year-round residents on two of the islands.

Deputy Clerk Hadlock believes it is the sense of community that makes the town report unique. "We're a small community that does big things," she said.

The process for putting together the town report starts with one key piece for all of the winners. "First thing we do is ask for committee reports," Hadlock said.

Photographs from residents also are requested, which then go to the selectmen to choose. The board also proofs the reports.

The Cranberry Isles report goes through the most sets of eyes – the three selectmen, the town clerk, the administrative assistant and the deputy clerk – to meet a print deadline of Feb. 15 in time for town meeting in March. That means the process starts in October of the previous year when budget work kicks off.

The smallest community among the winners seemingly prints an abun-

dance of copies, until you remember the summer population. This past year, Cranberry Isles printed 350 copies at about \$2,900. Reports are available by mail or can be picked up at post offices on Islesford and Great Cranberry. They are not available online.

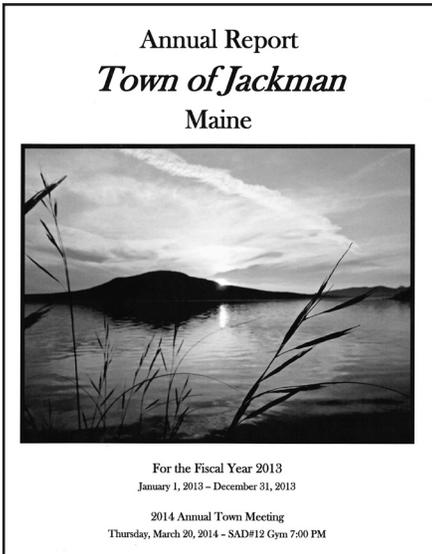
Hadlock said the selectmen were pleased about the win. "Our selectmen love it," she said. "They even sent me down there (to the MMA Convention) to get the award."

Town of Jackman

Town Manager MacKenzie cites the "in remembrance" portion of Jackman's report as what makes it special. "It has meaning to our residents," she said. "I think it's the personal stuff. We go beyond what's required."

It also is one of the more labor-intensive pieces of the report, taking the time to research each resident who has died. "It's personal and it adds history," she said.

With about 860 residents, this



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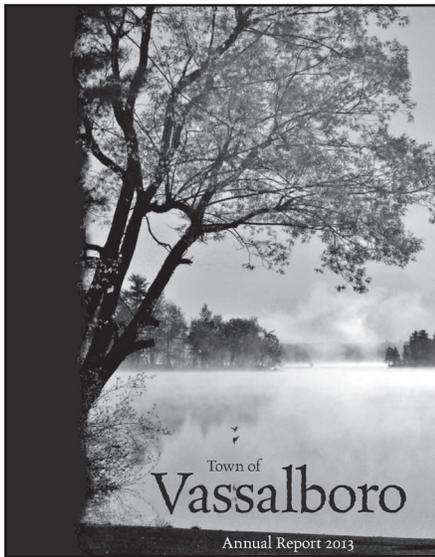
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Somerset County community is a tourist spot for outdoor activities: hunting, fishing, hiking and snowmobiling. MacKenzie sees the report as maintaining the town's history, which includes not only the financial records but also noting new buildings or doing something as simple as taking photos of snowmobiles at a gas station to show the fuel price.

The gathering of the content for the report starts in January, with a deadline of March 1 to get the files to the printer after it goes through the town manager, clerk and deputy clerk. Jackman printed 450 to 475 copies of the town report this past year at a cost of \$1,600 to \$1,700, with people having to pick up a copy instead of mailing them. "It would be nice to have more color," she said, but it costs \$50 more per page.

"I try every year to be better in the town report," MacKenzie said. "It has a lot of meaning to be recognized. I take pride in it."

Town of Hope

Deputy Clerk Tolles starts on town report in February, with an eye on the mid-May deadline. "I try to get bits and pieces of it done during the year," she said.

Tolles has been compiling the Hope report for 11 years, managing to decrease the costs to the town by doing the layout instead of sending it to be done by the printer. "We've more than cut our price in half," she said. This past year, Hope printed 750

copies of its report at a cost of about \$1,100.

The copies are mailed to residents of this Knox County town of about 1,500, and a digital version is also on the town's website.

Other than approval of the dedication by the selectmen, the responsibility of the report rests on Tolles. The selectmen "give me pretty big leeway in doing what I want," she said.

About five years ago, she added a feature that she feels makes the report unique. "We have this snapshot from the website," Tolles said. The graphics scattered through the report show residents where to click to get further information online.

Town of Vassalboro

To get the report done for this Kennebec County town of about 4,300, Town Manager Sabins, who also serves on MMA's Executive Committee, fosters help from outside the municipal office, from graphic design to photography. "I try to reach out to as many people as I can," she said. "And it's working."

Sabins starts on the report in February with final pages completed in

mid-May. The town's budget of \$2,500 includes design work for the 500 copies printed, with reports available for pickup around town or digitally online.

A special piece of the report for Sabins is the historical feature. The concept is approved by the board, but Sabins takes care of the rest. "The board kind of gives me a long leash," she said. "They trust me to get it done."

City of Caribou

"I've been doing this so long, it seems easy," said Administrative Assistant Lausier. The compilation process starts in April for the Aroostook County city of about 8,000, with the report timed to be released with tax bills in July.

Fifteen departments submit reports, she said. "They know what's required on their end."

Including typesetting and cover design, the city's entire budget for printing those 100 copies is \$1,100, down from as much as \$3,500 a few years ago.

Lausier cited the artwork as a comment-worthy aspect of the report. "We have some amazing photos." ■

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Voters decide term limits, ATV trail and deer hunting issues

The issue of legalizing possession of small amounts of marijuana drew split votes in South Portland and Lewiston. A related moratorium effort in Bridgton failed.

By Liz Chapman Mockler

Voters across Maine on Nov. 4 took some pretty decisive action on myriad municipal proposals, while also delving into social and policy issues.

Some of the most interesting and controversial local referendum questions in recent years dotted municipal ballots across the state, including term limits in one town, expensive downtown projects in another and both a pro and a con reaction to legalizing marijuana for recreational use in two of Maine's largest cities.

Fiscally, some large projects, such as a \$4 million upgrade to the Cape Elizabeth library, were endorsed, while voters withheld support for other proposals, such as a \$30 million wind farm development in Frankfort.

Statewide turnout was about 58 percent, although some municipalities with local elections and referendums saw turnouts as high as 70 percent. Nationwide, turnout dipped to 36 percent, compared to 40 percent for the last mid-term election in 2010.

"There were power outages and Election Day challenges, but of course our clerks know how to handle them," said John Myers, president of the Maine Town & City Clerks Association, and clerk in the Town of Buxton.

In Buxton, Myers handled a turnout of 68.5 percent, despite no local referendums or special elections. Myers cited the statewide bear-baiting referendum and the gubernatorial race as reasons for the healthy turnout.

"It was very busy, but very smooth," Myers said.

Making policy decisions

Residents in several municipalities took a stronger interest this year in controlling the behavior and power of elected officials.

In Standish, residents voted 2,562-1,700 to limit town councilors to a maximum of either four straight years or two consecutive, three-year terms. Officials may run again after waiting at least three years. Voters did not set a lifetime limit on public service.

The limits will also affect school board and budget committee members.

Gorham voters defined "moral turpitude" under the town charter in reaction to two councilors being arrested for driving under the influence within the past two years. Under the charter change, DUI convictions are cause to remove a councilor from office, among other crimes. The change passed by a vote of 5,655-1,580.

Selectman Matthew Robinson, who was criticized for bringing the issue forward, said he thought the vote was a clear statement of public support.

"I was just thrilled" by the outcome, Robinson said, in a published report.

Meanwhile, voters in Saco agreed to change the town charter language related to the composition and compensation for school and municipal officials. The language change was prompted by the city's withdrawal from RSU 23, effective July 1, 2014.

In Westport Island, residents voted to eliminate the budget committee for lack of interested volunteers and, in South Portland, voters rejected a charter amendment to appoint rather than elect ward clerks and election wardens.

Bar Harbor voters, while acknowledging a deer-herd problem on Mt.

Desert Island, still defeated a measure to relax hunting rules by a vote of 1,371-1,175. Deer hunting has not been allowed in Bar Harbor, home to the sprawling Acadia National Park, since the Legislature banned it in the early 1930s.

After three years of study and changes, Bridgton residents passed a new comprehensive plan by a vote of 1,584-639. Once endorsed by the state, municipal officials are keen on following through on the plan, including potentially naming a special committee to ensure the plan is implemented.

Frankfort voters nixed a proposed \$30 million wind farm on Mount Waldo by rejecting an effort to repeal a 2011 ordinance that is stricter than state law. The original ordinance passed by just 22 votes, while the Nov. 4 vote not to repeal it was 362-224.

After laborious hearings and studies – and state approval – residents of Freeport voted to remain a member of RSU 5. The vote was 2,228-2,152. The withdrawal effort began a year ago; Freeport, Durham and Pownal were reorganized into a new school district in 2009. Turnout was slightly higher because of the school question.

Rockland voters trashed the city's pay-per-bag recycling effort by a vote of 1,834-748, while Camden voters decided that inns located within 500 feet of a restaurant zone in one part of the town cannot serve meals to their overnight guests. The Camden vote was 1,503-1,259. Residents also voted 1,429-1,360 to keep a former tannery building zoned for commercial use.

Greenville residents voted 689-283 in favor of a permanent designation for an ATV trail that accesses the downtown and other trails. Voters also endorsed two new trails that now

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require state approval before construction. The votes were 522-389 and 457-453, respectively.

Mainers continued their discriminate review of major capital projects, approving many but rejecting others. Some proposals that passed this year were watered down proposals that were defeated in the past.

Among the largest projects considered on Nov. 4 include:

Biddeford: Rejected a \$12.2 million infrastructure bond, specifically to fund paving and other road improvements. The vote was 3,558-3,975. Biddeford voters also rejected a \$3.6 million sewer bond. The vote was 3,566-3,942.

Cape Elizabeth: Approved a \$4 million bond over 20 years to increase the town library's usable space by 40 percent. Project was downsized from a \$6 million plan defeated in 2012. Construction should be done on the upgrades and expansion by the end of 2015. Vote was 3,587-1,798.

Cumberland: Approved \$3 million to buy a waterfront parcel for public use. Public beach access has been a four-decade goal of the town, but neighbors and others oppose the proposal. The vote was 2,372-2,126.

Falmouth: Approved \$2.8 million, or half the cost of renovating and expanding the town library. The library trustees will raise the other half in a capital campaign. The vote was 4,005-2,559.

Gorham: Approved a \$5 million upgrade to the public safety headquarters. The plan calls for construction of a 10,000-square-foot police station and renovation and expansion of the existing police station for the fire department. Vote was 3,588-3,490.

Gray-New Gloucester: Rejected \$6.6 million for a new high school and artificial turf athletic complex for SAD 15. The proposal had been redesigned to lower the original cost of \$7.4 million. The high school vote was a combined 2,928-3,832; the athletic complex vote was a combined 1,377-5,340.

Scarborough: Approved \$585,000 for a new fire truck, but rejected \$439,000 for a town-wide property revaluation. The votes were 6,129-3,771 and 3,088-6,715, respectively.

South Portland: Approved \$3.5 million for sewer and storm water separation improvements as the last of four phases of a modernization project

that will total \$12 million.

Standish: Rejected two sidewalk projects totaling \$180,000, one that offered matching funds for the proposed downtown improvements.

Legalizing marijuana – or not

Just as the Maine chapter of the national Marijuana Policy Project announced plans in late November to seek a statewide vote to legalize pot for recreational use in 2016, Mainers had their say in three communities. The project succeeded in South Portland, where voters passed a citizen petition by a vote of 6,326-5,755, or 52.4 percent to 47.6 percent.

Unlike in neighboring Portland, where officials said little about the choice last year, South Portland Police Chief Edward Googins led a passionate group of opponents.

Under South Portland's new law, residents age 21 and older may pos-

sess up to 2.5 ounces of pot. Although Portland police have said they won't spend much time enforcing the new ordinance, Googins in South Portland intends to strictly enforce the local law.

Meanwhile, Lewiston voters rejected legalizing recreational use of marijuana by a margin of 55 percent to 45 percent. The results received national attention as an Election-Day stumble for a movement seen to have great momentum across the country.

In Bridgton, confusion, fear of potential lawsuits, combined with some residents' feeling the issue had been rushed, led to the defeat of a moratorium on commercial medical marijuana operations.

Selectmen still plan to name an advisory committee to explore legal restrictions contained in state law and how they can use them.

The proposed moratorium language did not jibe with state law, ac-

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ording to detractors, and advocates of the ban worried about possible lawsuits should the moratorium pass.

Wrap-up of municipal elections, from Houlton to South Berwick

Following is a listing of newly elected and re-elected selectmen and councilors in Nov. 4 voting. The results are based primarily on published reports and do not include unopposed candidates unless they are returning to service or filling a vacancy.

Bangor: Ben Sprague was the top vote-getter in this year's five-way race for three city council seats. Sprague, council chairman, received 7,092 votes. Fellow incumbent Joseph Baldacci garnered 7,063 votes, followed by former state legislator Sean Faircloth, who collected 5,234 votes. Former long-time Councilor Gerry Palmer received 3,465, while newcomer Justin Freeman received 3,671 votes.

Bath: Former Councilor James Omo defeated incumbent Councilor Sean Paulhus by a vote of 1,614 to 1,522 for an at-large seat being vacated by Councilor Andrew Winglass. Meanwhile, former Councilor Kyle Rogers collected 231 votes, while his challenger received 154.

Brunswick: Longtime Councilor Gerald Favreau was defeated by newcomer Dan Harris by a vote of 654 to 551. Favreau was seeking his fourth straight term.

Freeport: Incumbent Councilor Rich DeGrandpre was defeated by five votes in his bid for re-election by newcomer Bill Rixon. The vote was 2,076-2,071 and surprised DeGrandpre, who sought a recount after serving for 12 years. He said he would miss the work, and did not rule out a run for council in the future. Rixon has lived in Freeport for 30 years and is a retired teacher and present tutor.

Hampden: Two incumbents were unseated by newcomers, one incumbent survived the balloting and a third newcomer will join the town council. Councilor Ivan McPike was defeated by Stephen Wilde by a vote of 411-319. Councilor Jean Lawlis lost to Terry McAvoy by a vote of 399-357. Meanwhile, Dennis Marble, a newcomer, defeated his challenger, 398-345, while incumbent David Ryder defeated his challenger by a vote of 498-213.

Houlton: Voters seated three new town councilors in a five-way race for

three seats. Incumbent Paul Cleary placed fourth after Jane Torres, Brent Dickison and Matt Carr, while the fifth candidate trailed far behind the pack. Torres received 1,511 votes, while Dickison pulled in 1,356 and Carr received 1,209 votes. Cleary received 809 votes.

Portland: Justin Costa was elected to the city council after serving on the school board. He defeated two challengers to replace Councilor Cheryl Leeman, who retires this year after serving 30 years. Costa received 2,859 votes, while challenger Ray Ruby, a former city police officer, received 1,544 votes. A third candidate collected 1,188 votes. Meanwhile, former Councilor and Mayor David Brenerman was unopposed to replace retiring Councilor John Coyne. He received 4,986 votes. Brenerman served one term on the Portland council 30 years ago.

Rockland: William Clayton and Vallie Geiger collected 1,503 and 1,208 votes, respectively, to win two open seats on the town council. They replace Elizabeth Dickerson and Eric Hebert, who did not seek re-election. A third candidate received 1,173 votes.

Topsham: Longtime former Town Clerk Ruth Lyons unseated incumbent Selectman Ronald Riendeau to win a seat on the board. Lyons, who worked for the town from 1990 until she retired earlier this year, received 3,281 votes to Riendeau's 1,766. Lyons, clerk for 22 years, was named Clerk of the Year in 2013, one of many awards during her career.

Scarborough: Voters replaced incumbent councilors Richard Sullivan and James Benedict and elected newcomer Peter Hayes and former Councilor Shawn Babine in a seven-way

race for three seats. Voters returned incumbent Councilor Katherine St. Clair. Babine collected the most votes with 4,340, followed by Hayes with 4,280 and St. Clair with 4,026. Sullivan received 3,678 votes and Benedict garnered 1,630 votes. Two other candidates trailed significantly.

South Berwick: Laura Leber received 2,209 votes to win a seat on the town council, while write-in candidate John James defeated another write-in challenger by a vote of 274-156. Town officials had encouraged residents to run as write-in candidates given the dearth of candidates. There were 235 other write-in candidates, including some that were fictitious. Leber and James will replace Gerry McPherson and David Webster, who did not seek re-election.

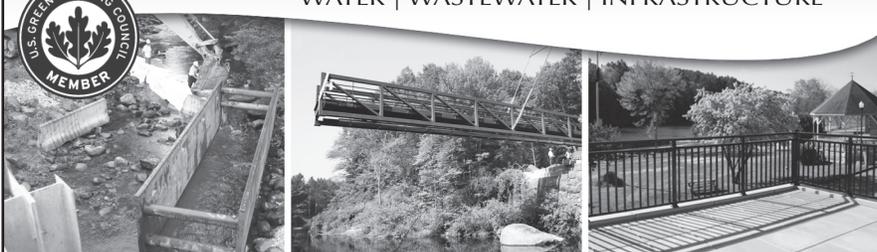
South Portland: Former Councilor and Mayor Claude Morgan defeated incumbent Michael Pock by a vote of 6,182 to 3,634. Newcomer Brad Fox bested former Councilor Alan Livingston, 4,988 to 4,680, to win the second contested seat.

Yarmouth: Rob Waeldner defeated Joan Dollarhite, 2,557 to 1,484, to replace former chairman Steve Woods. Woods resigned from the board after losing his bid in the June Democratic primary for a State Senate seat. Both candidates were newcomers who had never been elected to public office. Waeldner said he was excited to win the election and Dollarhite predicted he would do a "great job."

Windham: Incumbent Councilor Tommy Gleason defeated a challenger by a vote of 3,960 to 2,222 to win another three-year term. Gleason was elected chairman of the council last month. ■

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PEOPLE



Jim Bennett

James A. "Jim" Bennett, City Manager in Presque Isle, was recently inducted as president-elect of ICMA, the International City/County Management Association. Bennett was chosen by the ICMA Executive Board at its June 2 meeting in Annapolis, Md. He will serve as president-elect of ICMA for a one-year term that commenced in September, as the organization began celebrating its 100th anniversary.

Westbrook City Clerk **Lynda Adams** announced in November that she will resign to work full-time at a business she has developed over the past several years. Adams has served as Westbrook clerk since January 2008.

Bangor City Councilor and lawyer **Joseph Baldacci** received the Katahdin Counsel Recognition Award in late October for his free services to poor clients and his dedication to the law. Baldacci, a former mayor, has served two stints on the council, the first in the late 1990s. Baldacci has practiced law in his native Bangor since 1991.



Lucas Butler

The Town of Monson has a new manager, **Lucas Butler**, who has worked as a state senate staffer, among other jobs. Butler, 25, is a Caribou native, where he worked as an intern for the city manager from 2006 to 2010.

He has worked a number of jobs and started a guide business in 2012.

Jay selectmen have confirmed acting Police Chief **Richard Caton IV** as permanent chief. Caton, of Wilton, replaces **Larry White Sr.**, who had been on medical leave but died in October. White served as chief since 2002.

Angela Cote has been named the new East Millinocket administrative assistant,

replacing Shirley Tapley, who recently resigned. Cote, who has served as acting selectmen assistant for several months, will incorporate her work as the water department utility clerk into her new position.

After two years on the job and a new popular ice rink to show for his time in Auburn, City Manager **Clinton Deschene** resigned in November to take the job as assistant superintendent and business manager for SAD 1 in Presque Isle. Deschene worked as manager of Herman for 10 years before accepting the Auburn position. The council has named Assistant City Manager **Howard Kroll** as interim manager.

Newcomer **Victor DiGregorio** defeated incumbent Sanford Councilor **Dianne Connolly** by four votes in a November 20 recount. DiGregorio initially bested Connolly by just one vote on election night. The recount showed a final vote tally of 1,778-1,774. Connolly had been appointed earlier this year to fill an unexpired term until the next election.

Veteran Dexter Police Det. **Alan Grinnell** died Nov. 17 of natural causes at the age of 61. Grinnell joined the department in June 1990 as a patrol officer.



John Holden

John Holden resigned as Rockland economic development director to lead the quasi-governmental Lewiston-Auburn Economic Growth Council. Holden, a former member of the Eaton Peabody Consulting Group, will begin his new duties as president of the growth council early next year. Holden is a former economic development adviser for the towns of Howland and Old Orchard Beach.

Karle Edward Learned of Windham, who retired from the Portland Police Department as a lieutenant after 21 years, died Nov. 13 at the age of 83.

Jamel Martin Torres has been hired as Wiscasset town planner, replacing Misty



Jamel Martin Torres

Parker, who took a planning job with the City of Lewiston. Torres, 27, is the former health promotion coordinator for Healthy Androscoggin, also in Lewiston. A native of Denmark, Torres earned a bachelor's degree in environmental studies from the University of Vermont and a master's degree in community planning and development from the Muskie School of Public Service.

Scores of police officers from throughout southern Maine gathered to honor Gorham Police Chief **Ronald Shepard**, who resigned recently after serving the town for 42 years – the past 19 as chief. Police closed off a street and officers stood next to their cruisers to marked Shepard's public service. He was given a police escort home with his wife. Shepard, 66, retired on Election Day, when he was elected without a challenger to a three-year term on the town council. Lt. **Christopher Sanborn** has been named acting chief.

Lincoln councilors named acting Town Manager **Ron Weatherbee** to the job permanently in November after reviewing 20 applicants for the job. Weatherbee, the town's parks and recreation director, has worked as interim manager since July, when William Lawrence resigned to take a job in Florida. His first major undertaking is to find a site for a new town office.

Freeport Finance Director **Abbe Yacoben** has accepted the job of director of budget and finance for the Arizona City of Avondale. Yacoben was one of only three Maine municipal finance directors to qualify as a certified public finance officer – a feat that requires answering nearly 1,000 questions in five disciplines. She has mentored others for years while leading the city to several public finance awards. She will work in Maine until mid-January. Yacoben is a former selectman in West Bath, where she lives with her husband and two children. ■

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

Recent fatal fires made 2014 one of the worst years for fire deaths in 20 years, according to Maine fire officials. In November alone, a Portland fire killed six people and a blaze in Caribou claimed another four lives – a mother and her three children. In Biddeford, about 100 firefighters battled a massive apartment-house fire which displaced 15 to 20 people but was not fatal. Fire Marshal Joseph Thomas has alerted the public to double-check all smoke detectors – likely the cheapest safeguard against a fatal fire. The Portland council has named a task force to recommend changes in local laws and rules following the November deadly fire.

CARIBOU

British manufacturer Porvair is set to begin a \$1 million expansion of its northern Maine plant this month, adding 7,000 square feet to the former Chand Eisenmann Metallurgical plant. Porvair bought Chand last year for \$5.5 million with a promise of expansion. The firm is unsure whether it will hire more than the 40 employees already on staff, but it's a possibility depending on continued sales growth. Porvair's infiltration system division, of which the Caribou plant is a part, has grown its sales by 46 percent in the past year in the North American and South America markets. Porvair operates five facilities in the U.S. and plans to build facilities in Chicago and North Carolina.

BANGOR

Councilors in November continued their commitment to rid the city of dangerous or eye-sore properties that have been abandoned. The council is working to pare a list of nearly 90 home and business properties that are vacant and holding down neighborhood values and looks. Officials have a second list of 50 properties they believe are vacant but not yet registered as empty with the city. Councilors and city staff hope to convert the dilapidated residences into new single-family homes. Code enforcement officers get multiple calls daily asking why a certain building hasn't yet been razed, so officials are asking the public for continued patience. Many of the properties have been foreclosed, slowing down the redevelopment effort.

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*.

Revenue Sharing: By the Numbers. MMA's State & Federal Relations staff created several sets of numbers showing how the state Legislature and past two Administrations are using funds dedicated by law to the Municipal Revenue Sharing Program to pay for other state spending priorities.

Constitution Speakers. The Liberty Day Institute, a non-profit organization founded in 1996, encourages Maine municipal officials to visit fifth-grade classrooms in their communities to review and discuss the U.S. Constitution. The organization also strives to get pocket-sized copies of the Constitution into Maine students' hands.

BEALS

As the federal government reduces or cuts off certain fishing grounds throughout the Gulf of Maine, the nonprofit Downeast Institute for Applied Marine Research and Education has won a \$2 million grant to expand its efforts to help create more aquamarine incubation businesses. The grant was called a "blessing" for the area that wants more opportunities to raise marine products, as is done in more southern areas of the coast. Beals is located in Washington County and is home to 500 people.

CAPE ELIZABETH

The town council, in an annual goals meeting in November, decided improved communication should be among its highest priorities for the new year. The council agreed better communication was needed on several fronts: among councilors; residents to the council; and residents to residents. One councilor suggested seeking volunteer mediators to help resolve neighbors' complaints to avoid them piling up on the council's desk. Improving meeting minutes and notes also were identified as a way to get more accurate information to residents who have online access, since few people attend public meetings.

HARPSWELL

Town officials are joining their peers in other coastal municipalities in beginning to plan for rising sea levels and their anticipated effects on waterfronts and infrastructure. Harpswell is a peninsula town comprised of Bailey's and Orr's islands. It includes 216 miles of oceanfront – the most of any Maine municipality.

An estimated 20 percent of its land lies within 250 feet of the water. Harpswell joins Bath, Portland, South Portland, Sanford and Stonington, among others, in starting to seriously study the possible local effects of climate change.

KITTERY

Cianbro Corp. of Pittsfield won a \$159 million contract to replace the Sarah Mildred Long Bridge, which connects Maine to Portsmouth, N.H. The precast segmental construction, years in the planning, will increase the lift of the deck by 68 percent to accommodate larger ships. Construction is set to start this month with "in-water" work. The existing bridge will close for six to eight months. Traffic will be detoured to the Piscataqua River Bridge on Interstate 95.

OLD TOWN

Town officials learned in November that Wisconsin-based Expera Specialty Solution will buy the newly shuttered Old Town Fuel & Fiber and restore all 180 jobs lost when the firm went bankrupt this fall. According to published reports, Expera plans to invest "significant" resources and money to ensure the highest-quality product. A bankruptcy judge must approve the sale.

SANFORD

Struggling to keep its own emergency responders available for Sanford calls, the city council voted in November to begin charging neighboring Lebanon \$2,000 for each time the Sanford rescue unit is the first team on site. Councilors also asked Lebanon selectmen to find ways to improve its coverage, other than relying on surrounding towns. ■

2015 MMA HOLIDAY SCHEDULE

HOLIDAYS

Christmas Day (2014)
New Year's Day
Martin Luther King, Jr. Day
Washington's Birthday/Presidents' Day
Patriots Day
Memorial Day
Independence Day
Labor Day
Columbus Day
Veterans Day
Thanksgiving Day
Thanksgiving Friday
Christmas Day

DAY/DATE TO BE OBSERVED

Thursday– December 25, 2014
Thursday – January 1, 2015
Monday – January 19, 2015
Monday – February 16, 2015
Monday – April 20, 2015
Monday – May 25, 2015
Friday – July 3, 2015
Monday – September 7, 2015
Monday – October 12, 2015
Wednesday – November 11, 2015
Thursday - November 26, 2015
Friday – November 27, 2015
Friday – December 25, 2015

Please note: For MMA, holidays that fall on Saturday are observed on the preceding Friday, and holidays that fall on Sunday are observed on the following Monday.

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For more information visit the MMA website: www.memun.org



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LEGAL NOTES

Recording Board Meetings

We routinely get questions about recording municipal board meetings. Here are five of the most common ones, and our answers:

Are boards required to record their meetings? No, but many do. A recording may be the best evidence of what actually transpired at the meeting. Plus, an audio, video or other electronic recording is deemed to satisfy the Freedom of Access Act's requirement for a minimal record of public proceedings (see "FOAA Now Requires Record of Meeting," *Maine Townsman*, "Legal Notes," October 2011).

Is the public permitted to record board meetings? Yes. According to Maine's FOAA or "Right to Know" law, anyone may record a public proceeding provided it does not interfere with the orderly conduct of business (see 1 M.R.S.A. § 404). No disclosure or permission is required. However, a board may adopt reasonable rules governing recording (such as designating a place for recording equipment) as long as the rules do not defeat the public's right to record.

Is a recording of a board meeting a public record? Yes, if it was made by or on behalf of a board. As such, under Maine's FOAA a recording is subject to public inspection and copying upon request (see 1 M.R.S.A. § 408-A). It is also subject to the record retention requirements of the Maine State Archives. According to the Archives' rules, a recording must be retained for at least five years unless a verbatim (word for word) transcript is made, in which case the recording need not be retained.

Is a recording of a board meeting a sufficient record in all cases? Not necessarily. For example, Maine's FOAA requires a written record, with findings and reasons, whenever a permit of any kind is denied or conditionally approved (see 1 M.R.S.A. § 407(1)). For other instances in which a written record is required, see "Board Meeting Minutes," *Maine Townsman*, "Legal Notes," July 2009.

Should we be recording executive sessions? Generally speaking, no. While there is no law prohibiting a board from recording an executive session, the recording would be confidential and would need to be safeguarded against unauthorized release. If there is no recording, the risk of inadvertent disclosure and

potential violation of privacy or damage to reputation is minimized. If some sort of record is needed for an executive session, written notes might be a better option.

For more on Maine's FOAA, see our "Information Packet" on the "Right to Know" law, available free to members at www.memun.org. (By R.P.F.)

Tax Anticipation Notes

Question: Our auditor has recommended using tax anticipation notes to fund current municipal operations pending our receipt of property taxes. What are tax anticipation notes?

Answer: Tax anticipation notes or TANs are promissory notes issued by municipalities to secure financing, usually for current operational expenses, in anticipation of future tax payments. As such, TANs represent temporary borrowing to bridge the gaps in the municipal revenue cycle caused by the fact that taxes are payable only once or twice a year. Because they are short-term loans secured by tax revenues, TANs are readily available from lending institutions, typically at low interest rates.

Unlike other forms of borrowing, TANs do not require authorization by the municipal legislative body – a vote by the municipal officers (selectmen or councilors) is sufficient (see 30-A M.R.S.A. § 5771). The amount borrowed, however, cannot exceed the total tax levy for the preceding fiscal year. Also, TANs must be repaid within one month after the end of the fiscal year in which they were issued and out of money raised by taxation. (The limits on the amount borrowed and the time for repayment extend to 18 months if a municipality is transitioning to a new fiscal year.)

Maine law authorizes similar "anticipation" notes or borrowing for revenue-sharing and state or federal aid (see 30-A M.R.S.A. §§ 5771, 5773, respectively).

For the record, Maine's statutory limits on municipal debt do not apply to anticipation notes (see 30-A M.R.S.A. § 5703(1)). (By R.P.F.)

Humane Society Not Subject to 'Right to Know' Request

A local humane society under contract with area municipalities to provide services for stray animals is nevertheless a private entity and not a public agency

MUNICIPAL CALENDAR

JANUARY 1 — New Year's Day 2014 – A legal holiday. (4 M.R.S.A. §1051)

ON OR BEFORE JANUARY 15 — Monthly/Quarterly expenditure statement and claim for General Assistance reimbursement to be sent to Department of Human Services, General Assistance Unit, 11 State House Station, Augusta, ME 04333-0011 [22 MRSA §4311].

JANUARY 19 — Martin Luther King, Jr. Day - a legal holiday (4 MRSA §1051).

BY JANUARY 20 — Treasurer of State to post notice of maximum interest rate which can be charged on delinquent taxes (36 M.R.S.A. §505).

JANUARY 31 — Deadline to submit quarterly withholding taxes to State Tax Assessor(36 MRSA § 5253).

DURING JANUARY — In towns with a March annual meeting, selectmen should begin preparing the town meeting warrant and town report. Obtain reports from all departments: schools, roads, etc. Arrange to have annual audit made before town meeting. ■

subject to record requests under Maine's Freedom of Access (FOAA) or "Right to Know" law. So held the Maine Supreme Court recently.

In *Turcotte v. Humane Society Waterville Area*, 2014 ME 123, the society received a request for records under FOAA based on the claim that, by virtue of the society's municipal contracts, it was "the functional equivalent of a public agency." The Court, however, handily rejected this argument.

Applying the test it adopted in earlier cases (see "Chamber of Commerce Not Subject to 'Right to Know,'" *Maine Townsman*, "Legal Notes," December 2005), the Court considered four factors: (1) whether the entity performs a governmental function; (2) whether its funding is governmental; (3) the extent of governmental involvement or control; and (4) whether it was created by private or legislative act.

LEGAL NOTES

The Court found that while the society provided statutorily mandated services under contract with municipalities, it had no statutory authority to enforce animal welfare laws, so it did not perform a traditional governmental function. As for funding, the bulk of the society's came from private donations. And as for governmental involvement or control, neither the State's licensing requirements nor the society's municipal contracts amounted to significant involvement or control. Finally, the society was an incorporated nonprofit, not a creature of statute. Thus, while the society benefits the public and assists municipalities in fulfilling their obligations, it is neither a public agency in its own right nor subject to FOAA. (By R.P.F.)

Code Enforcement Actions & Maine's Anti-SLAPP Law

Maine, like many other states, has an anti-SLAPP statute. (SLAPP stands for strategic lawsuit against public participation, i.e., a lawsuit intended to prevent or punish the exercise of one's right to "petition" or address the government.) Title 14 M.R.S.A. § 556 authorizes a court, upon motion, to dismiss a suit if its purpose is to frustrate the exercise of this constitutional right. According to the Maine Supreme Court, however, this remedy is not available in an ordinary code enforcement action even if the violator has long argued with the municipality.

In *Town of Madawaska v. Cayer*, 2014 ME 121, the town filed a Rule 80K enforcement action for a shoreland zoning violation. The defendants, who had been vocal and uncooperative for many years, moved to dismiss under the anti-SLAPP law, alleging the suit was in retaliation for their earlier protests and appeals. But the Law Court was in no mood for such a claim.

It wrote that the anti-SLAPP statute is applicable only where the suit is based *solely* on the defendant's exercise of the right to petition and that "[t]his is not such a case." Rather, the defendants here were just trying to use the statute to prevent enforcement of an ordinance with which they disagree or do not wish to comply. Nothing in the law protects a defendant from a common code enforcement action simply because he objects to it. A dismissal under the anti-SLAPP statute

is an extraordinary remedy reserved for the extraordinary case.

The Law Court reached a similar conclusion in 1988 when it held that civil rights claims for damages and attorney fees should not routinely be coupled with land use appeals (see *Burr v. Town of Rangeley*, 549 A.2d 733 (Me. 1988)). In that case, the Court awarded attorney fees to the town as a sanction against this practice. (By R.P.F.)

Tax Lien Discharge Recorded in Error?

Question: What if a tax lien discharge is recorded in error, because payment was applied to the wrong account, for example, or because the check "bounced" later – can this be corrected?

Answer: We think so. Although the tax lien laws don't address this issue, we recommend that a treasurer in this position promptly record in the registry of deeds an affidavit to reassert the lien. This will not expunge the discharge (nothing can remove it), but the affidavit will serve as notice to anyone searching title that the municipality still claims a valid lien for unpaid taxes and that the lien was "improvidently" or mistakenly discharged.

We can't guarantee this affidavit will be effective because it's not specifically recognized by law, but we're confident it will cast sufficient doubt to render the discharge unreliable by title standards. If full payment is received prior to foreclosure, a discharge with an explanatory note should be recorded.

Incidentally, we suggest a similar affidavit for improvidently discharged sewer and water liens.

A sample treasurer's affidavit and a sample discharge are included in the appendices to MMA's *Guide to Municipal Liens*, available free to members at www.memun.org. (By R.P.F.) ■

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The Maine Municipal Association (MMA) is a voluntary membership organization offering an array of professional services to municipalities and other local governmental entities in Maine.

MMA's services include advocacy, education and information, professional legal and personnel advisory services, and group insurance self-funded programs.

For more information visit the MMA website: www.memun.org

2015 SPRING 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 Spring Issue.

FEBRUARY						
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

Wednesday, February 11th
Application Deadline.

Wednesday, March 25th
Application approval (Board Meeting).

Monday, April 13th
Preliminary opinions and loan agreements due from bond counsel of each borrower.

MARCH						
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, April 15th
Last date for signing school contracts and rates in place for water districts. PUC Approvals due.

Monday, April 27th & Tuesday, April 28th
Maine Municipal Bond Bank Pricing.

APRIL						
			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		

Wednesday, April 29th
Maine Municipal Bond Bank Sale Meeting (Board Meeting).

Tuesday, May 19th
Final documents due from bond counsel.

Wednesday, May 27th
Pre-Closing.

Thursday, May 28th
Closing - Bond Proceeds Available (1:00 PM)

MAY						
					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						

If you would like to participate in or have any questions regarding the 2015 Spring Bond Issue, please contact Toni Reed at 1-800-821-1113, (207)622-9386 or tir@mmbb.com.



Labor and Employment Law

For Municipalities



Linda McGill
207 228-7226



Matt Tarasevich
207 228-7158

Bernstein Shur's labor and employment attorneys have extensive experience in helping local governments throughout Maine comply and cope with the numerous and constantly-changing mandates of state and federal employment law. We partner with our clients to develop strategic and compliant personnel policies, implement best management practices, deal with employee discipline and discharge, and prevent and aggressively defend discrimination and other employment-related claims.

Our labor and employment group represents numerous public employers in union contract negotiations, dispute resolution, grievance arbitration, labor board practice and more. In addition, we keep our clients updated on new legal developments and provide regular workshops for managers and decision-makers on issues specific to local government employment.

Our municipal and regulatory specialty areas include:

- Collective bargaining contracts
- Labor negotiations
- Maine Labor Relations Board proceedings
- Employee benefits
- Health plans
- Disability plans
- Recruiting
- Interviewing
- Applications
- Hiring process
- Anti-discrimination laws
- Maine Human Rights Commission proceedings
- Posting requirements
- Reporting requirements
- Employee manuals
- Termination practices
- Personnel issues
- Unemployment compensation
- Workers compensation

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