

July 2012

maine townsman

The Magazine of the Maine Municipal Association



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The Magazine of the Maine Municipal Association

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ABC Television Journalist Cynthia McFadden has had an exemplary career, interviewing heads of state, U.S. presidents and many prominent public figures. The Maine native and graduate of Edward Little High School has a message that is sure to inspire convention attendees.

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Downtown districts in Waterville and Biddeford were among those recently honored at the Maine Development Foundation's Maine Downtown conference in Farmington. Other downtowns are on the move as well, including revitalization efforts in Calais.

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Invasive aquatic plants, chiefly two species of milfoil, are beginning to surface in Maine lakes, taxing local lake associations and affecting property valuations in communities dealing with the problem.

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COVER: Brad Phillips of Verse Three Photography in Calais captured this unique image last month of downtown Calais at night.



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A Message From MMA



by Eric Conrad, Editor

Taking on the World, with Maine at Heart

What if we had a story about someone born and raised in Maine, who succeeded as a television journalist at the highest levels, has interviewed leaders and celebrities the world over and speaks glowingly of classic Maine values – humility, frugality, perseverance and public service?

Would you want to hear more?

You can, by attending the 2012 Maine Municipal Association Convention on Oct. 3-4 and listening to keynoter Cynthia McFadden.

McFadden, who hosts ABC television's venerable *Nightline* news program, is one of us. An Auburn native, McFadden is the self-described daughter of a father who "worked for the phone company" and a mother who "decided to stay at home." She attended Edward Little High School where, as a junior, she won the state high school debate championship.

"Along with that came a four-year scholarship to Bates College," McFadden recalled. "Bates is a good school, a fine school, but I didn't want to stay so close to home. I wanted to go to Bowdoin."

Her father never blinked. He and his wife had saved for years to put their daughter through college and if she wanted to go to Bowdoin College, that's where she'd go.

One day, McFadden came home with financial aid forms and college paperwork.

"I don't think my dad ever made more than \$35,000 a year," McFadden said. "He said, 'No financial aid. That should be for the kids who need it.' I come from really old-fashioned Maine."

Which may explain her success, and there's been a lot of it.

After graduating from Bowdoin summa cum laude, McFadden went to Columbia Law School in New York, graduating in 1984. Journalism called and McFadden went to work for Fred Friendly, whose seminars at Columbia often were shown on Public Television. One of McFadden's first scoops: Talking Supreme Court Justice Harry Blackmun into appearing on one of Friendly's TV programs, a first for a Supreme Court Justice.

"That was a real breakthrough, a thrill, and I thought, 'This journalism stuff, it's not so bad,'" McFadden said with a laugh.

From there, it was on to a job as anchor and senior producer at Court TV and then to ABC in 1994, where she has been ever since, co-anchoring its *Primetime* and now *Nightline* news shows. The career highlights are almost too many to mention, including interviews with world leaders such as President George W. Bush, Secretary of State Hillary Clinton, British Prime Minister Tony Blair and Pakistan President Pervez Musharraf.

Oh, and this one: "When I interviewed George Clooney he asked me to marry him on the air," she said. "He was so convincing my mom called me afterward and asked, 'Was he serious?' He wasn't."

Journalism has changed over the years, McFadden said, es-

pecially on the financial side. She recently went to Africa to do a report and one staffer, the segment's producer, went with her. They did their own writing, videography and editing.

"In the old days, with (former *Nightline* anchor) Ted Koppel, he would have gone on a trip like that with a dozen or more people," she said. "In some ways our small team makes us more nimble and able to get closer to some stories, but there is less money to spend."

McFadden said her most cherished reports don't involve politicians or stars, but rather people – "especially women and children" – who encounter incredibly tough times and find ways to push onward. Girls who were victims of sex trafficking and became mothers at 14. A grandmother in Newark, N.J. raising six grandchildren in extreme poverty.

The approach is working. *Nightline's* ratings sagged over the years but those days appear over. The news show regularly competes with NBC's *Tonight* and CBS' *Late Night* – and wins. During the week of May 14-18, for example, *Nightline* drew 3.7 million viewers, compared to 3.2 million for *Tonight* and 2.7 million for *Late Night*.

"I'm having a ball," McFadden said.

"*Nightline's* on such an incredible trajectory."

McFadden also has heeded the call of public service. As a young woman, McFadden developed Crohn's Disease, a debilitating intestinal autoimmune disorder that only recently has been understood. Were it not for the understanding and support she received while attending Bowdoin College, she may never have graduated.

"It was not talked about back then," she said. "I felt guilty about it. I was told I gave it to myself because I was such a type-A personality. Now we understand it's an autoimmune disease."

McFadden is an outspoken advocate for victims of the disease and proudly said she was part of a luncheon in New York recently that raised \$1.8 million to research Crohn's and find a cure. "We're going to beat it," she said.

McFadden will kick off the MMA Convention at 9 a.m. on Wednesday, Oct. 3 at the Augusta Civic Center. Her keynote's working themes are threefold: How a Maine upbringing and values serve one well; how world and community leaders both heed the call of public service; and, how effective communication begets effective leadership.

She was in Maine twice during May and June, receiving an honorary doctorate degree at Bowdoin and doing a report on a Georgia man with Duchenne muscular dystrophy who was appearing at Erskine Academy in South China. McFadden was happy about that – and the thought of a return engagement next fall.

"It's Maine time all the time these days," she said. 



Cynthia McFadden



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Priorities, Persistence Keys To Downtowns

By Eric Conrad, Director of Communication
& Educational Services, MMA

Delilah Poupore and Shannon Haines see one key to developing downtowns in Maine – or anywhere.

“The best way to recruit new businesses is to support the businesses you have,” said Poupore, Executive Director of Heart of Biddeford.

“Nothing attracts new businesses like knowing the existing businesses are strong,” said Haines, Executive Director of Waterville Main Street.

Both leaders were co-presenters at the Maine Development Foundation’s 2012 Maine Downtown Conference. Both were award winners, too: Heart of Biddeford won the 2012 Maine Community of the Year Award; Haines was named Downtown Visionary of the Year.

While they agreed that establishing and maintaining a critical mass of hopefully complementary businesses is essential in order to have a vibrant downtown, both officials said getting there isn’t easy and they offered differing approaches and advice at times.

Municipal support – and, at times, financing – can be crucial as well, they said.

‘MAIN STREET CHALLENGE’

Poupore described a recent competition that her organization orchestrated with a goal of bringing three new operators to downtown Biddeford. The “Main Street Challenge” carried with it an alluring prize to three winners: financing – including municipally backed loans – worth up to \$20,000 apiece.

Twenty-seven small businesses and entrepreneurs applied for the funding last March. Ten finalists were then challenged to develop full-blown business plans, five were selected for interviews and three winners were announced in late May: a vegetarian restaurant; a second-hand book store and cafe that at night transforms into event space and a tap room;

and, a store that will sell hand-carved wood.

The idea is to create “a culture of entrepreneurship” in Biddeford, Poupore explained. What entrepreneurs eschew are boredom and staleness.

“Entrepreneurs are people who are constantly learning and innovating,” she said.

Communication and activity are two ways to keep the good vibes going. Heart of Biddeford has a newsletter, a networking series that it calls “Pulse!” and many events and meetings, including an Entrepreneur’s Group that meets once a month.

Biddeford has an arts walk, music in the park, community theater, museum and it has long been known for the La Kermesse Festival, an annual celebration of Franco-Americaine culture each June



Workers put finishing touches on a piece of art in downtown Biddeford. (Submitted photo)

that it co-hosts with the City of Saco. This year marked the 30th anniversary of La Kermesse.

While those are some of the highlights, Poupore said attention to detail matters downtown as well. She stressed things such as proper street lighting, quality storefront lighting and storefront design.

Heart of Biddeford at one point identified businesses elsewhere in Maine that would fit well in its city. Many of them received letters asking: “Would you consider opening a second spot in downtown Biddeford?”

Public perception can be an obstacle. A common comment in Biddeford – and in many downtowns – is that parking is hard to come by. In fact, Biddeford has done two studies showing parking is more than adequate. The question is how to promote that.

Haines, in Waterville, said another key is to know what kinds of businesses are most desired downtown.

“Know what you want,” Haines said. “It makes it a lot easier to say ‘no’ to the ones that you don’t want.”

Waterville surveyed residents several times about what they most wanted to see in the core area of their city and a grocery store consistently ranked No. 1. The Save-A-Lot grocery store opened in Waterville’s Concourse plaza on April 25. Gov. Paul LePage, Waterville’s former mayor, was on hand. Even then, not everyone was satisfied.

“When Save-A-Lot came in there were some comments in the paper like, ‘Oh, great, I wish we got Whole Foods instead,’” Haines recalled. “It made me think we need to promote what business models are and what we can realistically recruit.”

Haines has been doing her job for nine years and learned that tenacity is

a much-needed trait. Getting a grocery store downtown was on her to-do list from her first day on the job.

“Don’t lose faith,” she said. “You have to be persistent and work with people, sometimes for a year or two.”

The City of Waterville, like Biddford, has put money where its priorities are. Waterville has a loan application that, initially, was designed to provide up to \$50,000 for qualified applicant businesses that wanted to locate in the downtown area.

Waterville received four applications, all for the full \$50,000, and wound up funding two of them – the Silver Street Tavern and Selah Tea Café – at \$25,000. The tea café, seen as a business that can draw Colby College students downtown, was recently named Waterville’s Downtown Business of the Year.

Haines listed four ways that downtown promoters can help new businesses: by recruiting them; helping with grand openings; marketing and publicity; and, networking.

She said the social-media website Facebook is a great tool for downtown businesses to keep up to speed with what they are doing, offering and events they are holding.

Biddeford’s Poupore agreed but

said: “One thing to watch out for is not trying to think that social media are relationships. They’re not. But they are another way that people are sharing information.”

The two leaders said cooperation with municipal government is basically a must. Code enforcement and other issues can come up and they need to be resolved in a cooperative way.

Poupore has been careful not to complain about city actions or the city’s role. “They have appreciated that,” she said.

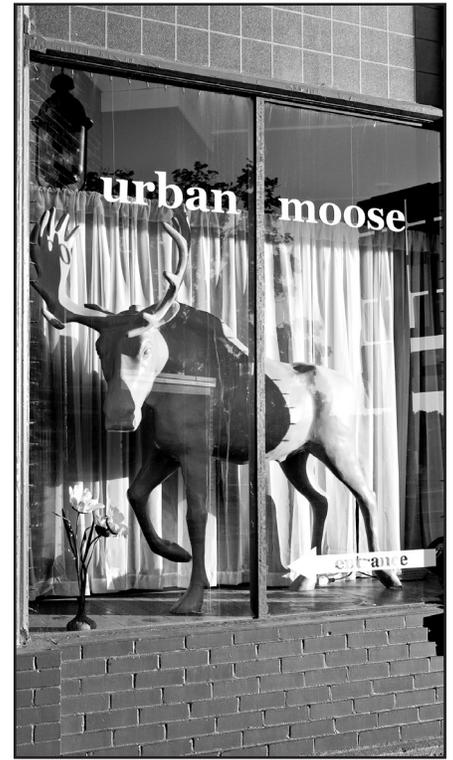
Haines said city officials tend to look to her organization for direction when matters of downtown revitalization come up. “They consider us staff, to some extent,” she said.

THE CALAIS CHALLENGE

Calais is new to the formal Main Street development game, but it is certainly no newcomer to development challenges, said Jim Porter, that city’s Assistant City Manager, Code Enforcement Officer and Community Development Director.

Maine Development Foundation for years has run the Main Street Maine program, and Waterville and Biddford are participants. A requirement

to receive that designation was forming an organization like Poupore’s and Haines’ and having a paid, professional



The Urban Moose is an eclectic highlight in downtown Calais. (Photo by Brad Phillips)

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program manager.

"We were interested for a long time but didn't have the funds to do it," Porter said of his city, which has a population about one-sixth the size of Biddeford or Waterville.

MDF responded to that situation in 2009 by creating the Maine Downtown Network. There are still criteria that communities must meet before receiving this designation – such as demonstrating an organized effort and sustainable budget – but a dedicated, professional manager is not required. There are now 22 communities in this program; Calais, Castine, Camden and Kennebunk joined this year.

Porter candidly assesses the situation in downtown Calais as "a real challenge. About 30 percent of the storefronts are vacant. Downtown was a thriving place at one time."

Calais faces one challenge due to its location: With Canada on the other side of the St. Croix River, Calais, like other border communities, is heavily affected by the strengths of the U.S. and Canadian dollars.

Right now, that's working to Calais' advantage. Canada's dollar was worth slightly more than the U.S. dollar as this article was being reported. Wal-Mart, Marden's and the IGA grocery store in Calais were benefitting. Of those three, however, only Marden's truly has a downtown location, Porter said.

Central to the challenges facing the Calais downtown are the finances of owning property there, he explained. The best way to get return on a downtown property is to have a business on the ground floor and apartments on the floors above.

Rental rates in the area are so low that property owners can't make money by investing in renovations, which might include installing an elevator to make a building handicapped accessible.

"That's the big problem," he said. "We've only been in this (Downtown Network) for a month. We'll look into grants and ways to incentivize."

There are bright spots. Porter said Marden's, a used-book store, Kendall Jewelers and The Urban Moose, a novelty and gift store, are among them.

Calais already has begun the priority-setting process that Haines, in Waterville, described and said is so important when setting goals for a downtown. In Calais, they call it "Vision Quest." A

meeting last April drew more than 200 attendees discussing the topic: What would you like to see downtown?

Mayor Joseph Cassidy, in a news report published on a local radio sta-

tion's website (www.wqdy.fm), called the turnout "wonderful" and said he is energized about the future of Calais. "Positive energy builds positive energy," he said. 



Street signs and lighting show revitalization efforts are under way in Calais. (Photo by Brad Phillips)



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

Wednesday, August 1st
Application Deadline.

Wednesday, August 22nd
Application approval (Board Meeting).

Thursday, September 6th
Preliminary opinions and loan agreements due from bond counsel of each borrower.

SEPTEMBER						
						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

Friday, September 7th
Last date for signing school contracts and rates in place for water districts.

Monday, October 1st & Tuesday, October 2nd
Maine Municipal Bond Bank Pricing.

Wednesday, October 3rd
Maine Municipal Bond Bank Sale Meeting (Board Meeting).

Wednesday, October 17th
Final documents due from bond counsel.

Wednesday, October 24th
Pre-Closing.

Thursday, October 25th
Closing - Bond Proceeds Available (1:00 PM).

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

If you would like to participate in or have any questions regarding the 2012 Fall Bond Issue, please contact Toni Reed at 1-800-821-1113, (207)622-9386 or tir@mmbb.com.



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Invasives Test Towns, Lake Associations

By Jeff Clark

In 2007, the Town of Limerick had to reduce some shorefront property valuations on Lake Arrowhead by as much as 20 percent. This summer, the assessor in Belgrade is reviewing values on part of Great Pond. In both cases, the reason was the same – milfoil.

Invasive aquatic plants, chiefly two species of milfoil, have developed into a major concern for Maine lakefront property owners and the towns that depend on them for a substantial part of their revenues. At last count, almost three dozen bodies of water had confirmed infestations.

Lake associations that once concerned themselves chiefly with the annual Fourth of July picnic and Parade of Boats are now raising and spending tens of thousands of dollars each year on efforts to control hydrilla, curly-leaved pond weed, Eurasian and variable leaf milfoil, and hybrid milfoil. Towns are being asked for annual appropriations to underwrite boat inspection programs and weed harvesting machines.

Although variable milfoil was found in Sebago Lake as far back as 1970, invasive water plants began generating statewide interest in the late 1990s as invasives spread to other lakes. The Bridgton-based Lakes Environmental Association held its first “milfoil summit” 13 years ago, and it has become an annual event.

In 2002, when the state instituted a mandatory \$10 “milfoil sticker” program for all boats and seaplanes launched in fresh water in Maine (\$20 for out-of-state boats), the state Department of Environmental Protection (DEP) had confirmed infestations in only 10 water bodies. By 2010, there

were 34 known cases in 23 lake systems. (Depending on who is doing the counting, Maine has between 2,400 and 6,000 lakes and ponds; the Department of Inland Fisheries and Wildlife puts the number at 3,400.)

“We have to recognize that a huge resource that is very important to the state and local economies is being threatened,” said Toni Pied, the milfoil coordinator for the Belgrade Regional Conservation Alliance.

The Belgrade Lakes Association is raising \$500,000 over the next three years to fight a milfoil infestation in Great Pond’s North Bay – which has been closed to boaters this summer – and its associated Great Meadow Stream. On a sunny June day, Pied noted that Great Pond was hosting a large bass tournament, one of several during the summer that have become important parts of the local economy.

ECONOMIC IMPACT

“The local economic impact of these infestations can be very high,” said Ernie Rice, Belgrade’s interim town manager and former selectman. “I’d estimate that shorefront properties make up half or more of our tax base. It’s a very large topic of conversation around here.”

“If a significant amount of tax money comes from shorefront owners and aquatic plant infestations cause values to go down, that tax burden is shifted to other landowners in the town,” Pied pointed out. “That has already happened in other states. It could happen here very easily if these infestations aren’t controlled.”

A 2002 University of New Hampshire study showed “that property values on lakes experiencing milfoil infestation may be considerably lower than similar properties on uninfested

lakes.” The Lakes Environmental Association and local lake associations have fielded inquiries from people trying to sell or buy shorefront properties asking about the effects of invasive plants on property values.

Left unchecked, milfoil forms dense mats of vegetation on the water’s surface.

“You can’t get through it swimming and boats can’t penetrate it,” Pied said. “There have been cases of kayakers getting trapped, overturning, and drowning in milfoil.” The weed has also been blamed for several drowning deaths of swimmers in recent years, although none has occurred in Maine yet.

Milfoil and other invasive plants spread when pieces of the plants get snagged on boats, motors, trailers or even fishing gear and piggyback to the next lake or river. Milfoil requires only a small piece of the plant to survive to establish itself in new water.

“Basically milfoil’s purpose in life is to fragment and spread,” Pied said. The spread of invasive plant infestations in Maine closely follows the I-95 corridor, she added, supporting the conclusion that boats are the most likely carriers.

USING MATS, HANDS

The most common control methods are so-called benthic barriers – mats spread over the lake floor to block sunlight and kill the plant’s roots – and hand harvesting using DASH (diver-assisted suction harvesting) boats. Chemical suppression is controversial and only works in specialized situations.

Stopping the infestations before they start is a large part of the anti-invasive effort. Maine now has an extensive courtesy boat inspection program

Jeff Clark is a freelance writer from Bath, jeffreycla@gmail.com.

run by local lake associations where trained inspectors make sure that boats entering or leaving a water body are free of aquatic plants, as well as educating boaters on the importance of self-inspecting. Last year more than 76,000 inspections were done and 287 "saves" were recorded, where invasive plants were found. (By mid-June this year inspectors at the seven Belgrade Lakes launches had made five saves.)

Lake associations have taken the lead role in fighting infestations more by default than design.

"The lakes and ponds of the State of Maine belong to the people of Maine – until there's a problem," said Michael Fitzpatrick, founder of the Lake Arrowhead Conservation Council (LACC) in Limerick. "Then they belong to the lake associations."

But lake association members admit that their local towns usually don't hesitate to contribute money toward eradication efforts, and the DEP has awarded annual grants of up to \$6,000 each to local programs, funded through the milfoil sticker income.

"We're very much aware of the work the association does," said Nancy Brandt, the town manager in Water-

boro, which includes the southern half of Lake Arrowhead. "The town for the past several years has appropriated \$3,000 or \$4,000 each year to help control milfoil."

FUNDING FROM TOWNS

"We routinely approach the surrounding towns for funding," said Charlie Balder, executive director of the Belgrade Regional Conservation



Volunteer milfoil inspector Daniel Giguere talks with boat owner Jim Garland of Madison at Great Pond in Belgrade recently. Milfoil inspectors examine boats before and after the water. (Photo by Jeff Pouland)

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Still, lake associations raise many thousands of dollars themselves. Last year the Little Sebago association, for example, received a \$6,000 DEP grant and raised another \$58,817 from local sources. The West Pond Association, which is battling the state's only infestation of curly-leaved pond weed, also received \$6,000 toward a budget of \$18,137. (It has in the past run up to \$50,000 a year.)

Lake Arrowhead has one of the worst infestations of milfoil in the state.

"We were watching this plant grow out of control," Fitzpatrick recalled. The warm-water lake has an average depth of only six feet, prime milfoil territory, and Fitzpatrick is convinced that, left unchecked, the plant would have completely choked the water body by now.

"We all felt there was a lot at stake here," he said. "Property values were dropping; the lake was getting a bad name."

Starting five years ago, the Lake Arrowhead Conservation Council secured funding for two DASH boats. They now work almost full-time through the summer pulling up milfoil by the ton for composting ashore. LACC also hires courtesy boat inspectors at the lake's launch ramp and has a regular lake survey to keep track of the infestation.

"I'm employing 19 people and operating a \$70,000 a year budget these days," Fitzpatrick said.

"The biggest lingering problem I think is that the plant-control folks are carrying a lot of water here without much help," said Peter Lowell, executive director of the Lakes Environmental Association, in a recent video interview. "They really are cleaning up a state resource. When the folks at Little Sebago are taking those plants out of the lake, it's not their land, it's our land."

NOT GOING AWAY

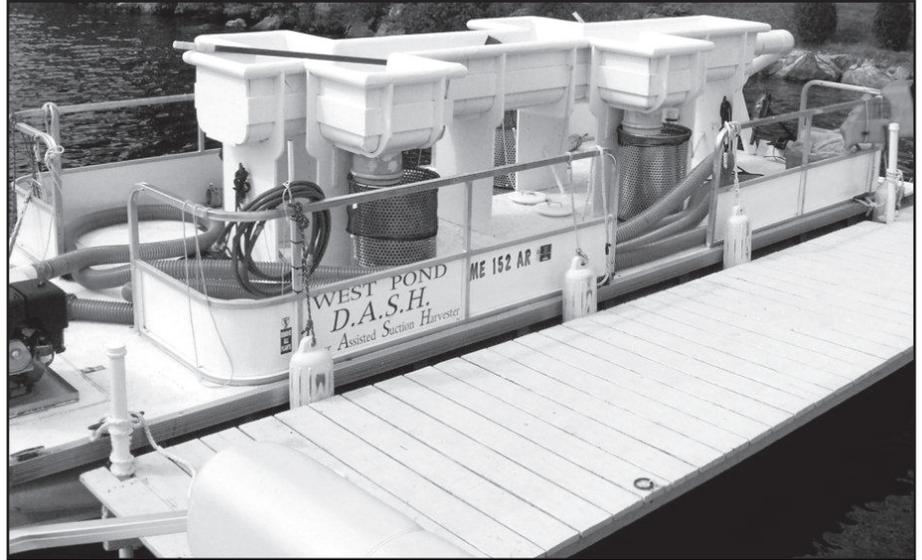
It's a job with no end in sight. "I don't think it will ever go away," said Joe Howes, of the West Pond Association. "It's too persistent. We'll be doing this for the foreseeable future, I'm

afraid."

"People want a silver bullet, the magic treatment that will make milfoil or hydrilla go away forever," Pied said. "But there isn't any magic. You just have to keep working at it and hope to manage it."

While milfoil and curly-leaved

pond weed are bad, "there are other aquatic plants out there a lot worse that we haven't seen in Maine yet," Pied noted. "Things like Brazilian water weed are in nearby states that we don't have here, yet. After all, we didn't have Eurasian milfoil until five years ago."



The DASH boat is considered a key tool toward containing invasives. (Submitted photo)



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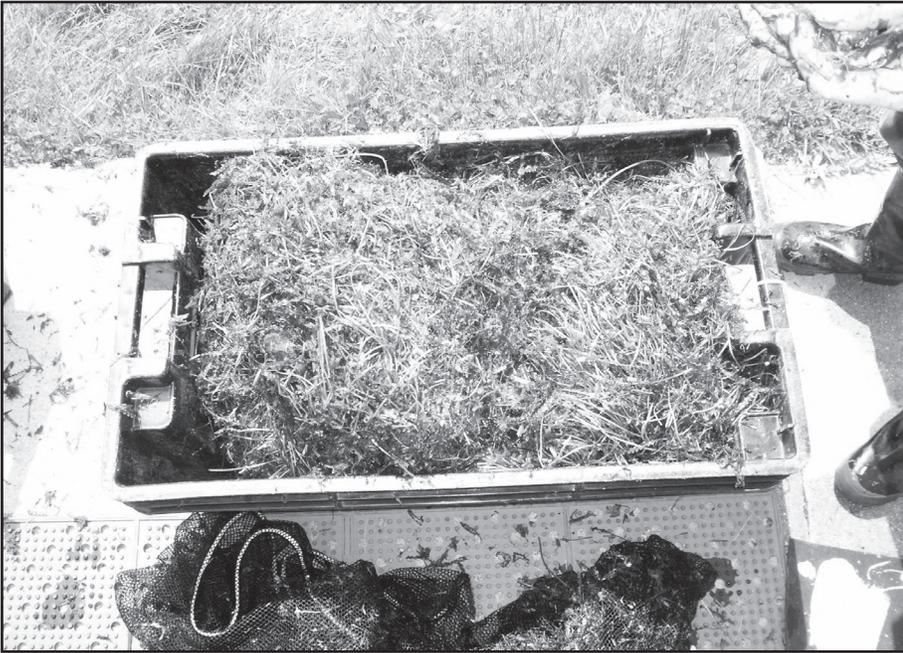
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As town budgets come under more pressure, lake associations are feeling the squeeze. Limerick's voters this year turned down Fitzpatrick's request for \$3,000 in funding, for the first time in four years, even as he argued that

towns may need to take on more of the burden in the future.

"It can't be just lake associations," he said. "Towns need to protect their lakefront assets. If they don't, they're going to lose a lot of money." [ML]



Harvested invasive vegetation is contained, then removed. (Submitted photo)

MILFOIL WEBSITES

For more information about invasive aquatic plants:

Maine Congress of Lakes Associations:
<http://www.mainecola.org/>

Lakes Environmental Association:
<http://mainelakes.org/>

Lakes Environmental Association video on the history and future of milfoil infestation in Maine. "Facing the tipping point: The Future of Maine's Invasive Aquatic Species Program"

<http://www.youtube.com/watch?v=KiKm0SIRmgY>

Maine Lakes Resource Center:
<http://www.mainelakesresourcecenter.org/>

List of infested water bodies, Maine Department of Environmental Protection:
<http://www.maine.gov/dep/water/invasives/doc.html>

Lake Arrowhead Conservation Council:
<http://www.laccme.org/>

Belgrade Regional Conservation Alliances:
<http://www.belgradelakes.org/>

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MRRA works with towns and cities statewide.

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2. communication and information exchange between members and markets, equipment vendors, state and federal governments, other state and national associations and among members themselves;
3. Compiling and developing information relevant to the education and technical assistance needs of Maine's solid waste and recovery programs;
4. promoting market development and cooperative marketing opportunities.

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Turning the Bus Around: One Town's Story

By Paul B. Frederic, First Selectman, Town of Starks

Beginning in 2007, Maine's Legislature began passing a series of laws that set in motion a chain of events designed to transform K-12 education in much of small town and rural Maine. The statutes promoted administrative consolidation of school districts. Pressure to reduce operating costs and avoid penalties resulted in many systems closing schools and cutting staff.

This situation was aggravated in some communities by a reduction in state education financial support. The Town of Starks (pop. 640) responded to this new set of dynamics by changing school districts, thus providing strong educational opportunities for its children while saving tax dollars for its citizens.

In 1966, Starks joined School Administrative District (SAD) 59. SADs are now referred to as Regional School Units (RSUs). During the next 46 years, RSU 59 educated the town's students. The relationship between Starks and the Madison-dominated system deteriorated during the past decade as the Board of Directors moved more grades from the Starks Elementary School to Madison schools. Following years of close votes, the Madison directors achieved a closure vote and the Starks school was shuttered at the end of June 2010.

Starks, like many small towns that suddenly owned a closed school, took possession of the building and grounds and accepted the challenge of determining what to do with the property.

Paul B. Frederic is First Selectman in the Town of Starks, former Director of the Maine Land Use Regulation Commission and University of Maine at Farmington Professor of Geography Emeritus. He can be contacted at Frederic@myfairpoint.net or at: (207) 696-8339. He thanks Liz Frederic for advice, clerical support and graphic assistance.

Town officials, committees and volunteers worked out a plan for its reuse and the structure is now the Starks Community Center and municipal office complex, housing many educational, social and government activities.

The struggle to keep the local school open galvanized the community and a number of citizens began investigating other educational options for the town. This movement reflected not only the school closure issue but also growing dissatisfaction with RSU 59.

On July 22, 2010, a group of citizens met to discuss the overall K-12 education situation and subsequently asked the selectmen to appoint an exploratory committee to study what the town might do to improve educational options. A committee of 12 residents – co-chaired by Ernest Hilton, a lawyer and myself (a retired university geography professor) – conducted extensive research of the academic, vocational, extra-curricular and socio-economic profiles of the area school districts.

An analysis of information about three local districts in addition to data from the Maine Department of Education (DOE) convinced the committee that the Mount Blue system was the best choice for Starks.

Public informational hearings were held during the fall of 2010 relative to the merits of sending our children to Farmington. Mount Blue's larger system offered more academic, vocational, cultural and extra-curricular opportunities. I argued that if you are buying educational services, seek them in a place that specializes in education, a university town.

The Exploratory Committee also included Kerry Hebert, Chairman of the Board of Assessors. He found that Starks would save between \$70,000 and \$100,000 per year by changing to RSU 9. According to an analysis done by the committee, the savings are realized because RSU 59 runs a budget at 16-18 percent over state recognized Essential Programs and Services (EPS), whereas RSU 9 operates at 0-2 percent over EPS. Educational philosophy and the economy of scale advantage for larger units are reflected in this difference. In November and December of 2010, the Exploratory Committee and Starks Comprehensive Plan Committee conducted education options polls and both indicated 85 percent supported the shift from RSU 59 to RSU 9.

Committee members reviewed four laws pertaining to a town changing

TIPS FOR TURNING THE BUS AROUND

- Fact-finding by municipal leaders and citizen committees should focus on: 1. Quality of educational services; 2. Fiscal impact; 3. Social impact.
- Ensure broad-based community support for any action. Remember: It may be best to stay where you are.
- Develop two plans: 1. How to withdraw from a district; 2. How to educate students after withdrawal.
- Ensure transitional process for students with special consideration given to: 1. School district choice (for a set period of time); 2. Transportation arrangements.

from one RSU to another, all found in Title 20-A MRSA: § 1467 Transfer of a Municipality from One Regional School Unit to Another; § 1466 Withdrawal of a Single Municipality From a Regional School Unit; § 1461 Formation of a Regional School Unit; Reorganization Planning and Approval; and, §1465 Addition of a School Administrative Unit to an Existing Regional School Unit.

After considering 20-A MRSA § 1467, it became evident that the RSU 59 Board and citizens of the Town of Madison likely would not approve the transfer of Starks which would result in the loss to the district of \$400,000 to \$500,000 and 50-70 students. The committee advocated for the use of 20-A § 1466. This approach called for a citizen petition for withdrawal signed by at least 10 percent of the number of voters who voted at the last gubernatorial election be presented to the selectmen who, upon acceptance, call for a referendum to move forward.

At the same time, a petition was circulated to ask the selectmen to investigate joining another RSU, which also included enough signatures to authorize action on the matter. In December 2010, the selectmen accepted the petitions.

On Jan. 6, 2011, voters supported both petitions with approval by 87 percent and 89 percent respectively. As called for under A-20 § 1466, the selectmen appointed a withdrawal committee that consisted of Starks RSU 9 Director Diane Russo, Hilton, Hebert and me, and charged it with negotiating a withdrawal agreement.

For the next five months, the Withdrawal Committee attempted to negotiate with RSU 59. District leadership avoided discussion with the Starks group. The Withdrawal Committee sought advice from DOE Deputy Commissioner James Rier and his staff and began informal discussions with RSU 9 leaders about joining that district. In June, the Starks Withdrawal Committee submitted a withdrawal agreement to the DOE. Commissioner Steven Bowen rejected the agreement because no one had negotiated on behalf of RSU 59. On June 30, RSU 59 Superintendent Lyford Beverage resigned and was replaced by Todd LeRoy. DOE asked RSU 59 to discuss withdrawal with Starks. Both the Town of Starks and RSU 59 hired their own legal counsel with expertise in school law.

After many months of uncertainty, the Withdrawal Committee and RSU 59 developed an agreement that was approved by Commissioner Bowen. On Jan. 10, 2012 Starks voters approved this agreement by 84 percent, more than the two-thirds majority required by law. *(Note: A law passed during the recent session changed the two-thirds requirement until Jan. 1, 2015. During this period, a simple majority will be required so long as it is equal to or greater than 50 percent of the number of voters who cast ballots in the most recent gubernatorial election.)*

WITHDRAWAL AGREEMENT

§ 1466 is specific about most aspects of a withdrawal agreement including provisions of educational services, transportation, school debt, distribution of financial obligations, collective bargaining arrangements, disposal of property, governance of schools, etc. The Starks/RSU 59 situation involved no property (RSU 59 had turned the Starks Elementary School over to Starks in 2010), and there were no employees for contract issues. RSU 59 had little debt.

While developing the agreement with RSU 59, the Starks Withdrawal Committee had kept RSU 9 informed of progress. The Starks plan focused on joining RSU 9 as soon as withdrawal from RSU 59 was finalized. Some of the obligations in the withdrawal agreement would be carried with Starks into RSU 9, including special education arrangements and the right for some Starks students to continue attending Madison schools. Under law, towns can only withdraw from an RSU at the end of the school fiscal year (June 30) and join an RSU at the beginning (July 1).

The following provisions were of special consideration:

- 20-A MRSA §1466 provides for all students to have the right to attend schools in the district the town leaves for one year after withdrawal. Some parents wished to keep their children in Madison schools for the duration of their education. The agreement allows children to remain in RSU 59 schools after the fall of 2013 if parents place the children on a final list by June 30, 2013. This overrides the traditional superintendent agreements that allow students to attend schools outside their home district. Neither Starks nor RSU 9 would pay tuition for these students. However, RSU 59 would receive the state subsidies for these students.

- Transportation for these students to Madison schools will be provided by RSU 59 to and from the former Starks Elementary School. This provision encourages some Starks students to remain in RSU 59 and generates income for the Madison district. The DOE found that Starks needs to fund bus service to only one school district and, because Starks is joining RSU 9, that district will provide transportation for Starks children to its schools.

- Special education students that remain in Madison will be managed by educational personnel from both RSU 59 and RSU 9, or a Starks consultant if the town does not join RSU 9.

- Starks is responsible for \$17,865 in RSU 59 debt. That is to be paid in July 2012.

- Upon withdrawal from RSU 59, Starks would be responsible for administering its own education system unless it joined another RSU or Alternative Organizational Structure (AOS). Starks plans to avoid being an independent school unit or an AOS member by joining RSU 9.

JOINING RSU 9

Following the Jan. 10, 2012 vote, the DOE gave Starks authority to start formal discussions with RSU 9. During informal talks with Mount Blue Superintendent Michael Cormier and members of his board, it became evident that an earlier failed effort to merge RSU 9 and RSU 58 (Mount Abram) would now benefit Starks.

Much of the work involving those two districts could now be applied to Starks and Mount Blue reorganizing into a single RSU. RSU 9 and Starks formed a joint reorganization committee and Starks selectmen appointed the four individuals that had served on the withdrawal committee.

On Jan. 18, 2012 the Starks/RSU 9 Reorganization Committee held its first official meeting. Primary discussion items involved the amount of money and number of students Starks would bring to Mount Blue, how to handle special education needs, transportation and problems with voting policy (the weighted vote or ward voting that the DOE wants implemented by RSUs). By mid-February, the committee developed a reorganization plan that was approved by the Starks selectmen, RSU 9 directors and the Commissioner of Education. Starks residents approved the plan by 72

to 5 on April 17 and, on April 24, RSU 9 voters supported it by 321 to 34.

REORGANIZATION PLAN

The plan combines RSU 9 and Starks into a single RSU still called RSU 9. The DOE gave Starks selectmen the power to appoint an RSU 9 director to serve until a special election is held. That person was able to participate in the 2012-2013 budget process and Starks citizens were allowed to vote on the budget in the spring of 2012. The reorganization was fairly simple because Starks has no real estate, employees or fiscal obligation that would be passed to Mount Blue. Issues of greatest concern in the plan include:

- A weighted voting policy that reduces the power of the small towns in RSU 9.
- The addition of one board member resulting in Mount Blue Board having a board of 16.
- The Town of Starks has no obligation for RSU 9 debt that existed before July 1, 2012. This amounts to about \$6.65 million.
- Transportation services will be provided to all Starks school children who attend Mount Blue schools.
- Ongoing withdrawal agreement provisions assigned to Starks become obligations of RSU 9.

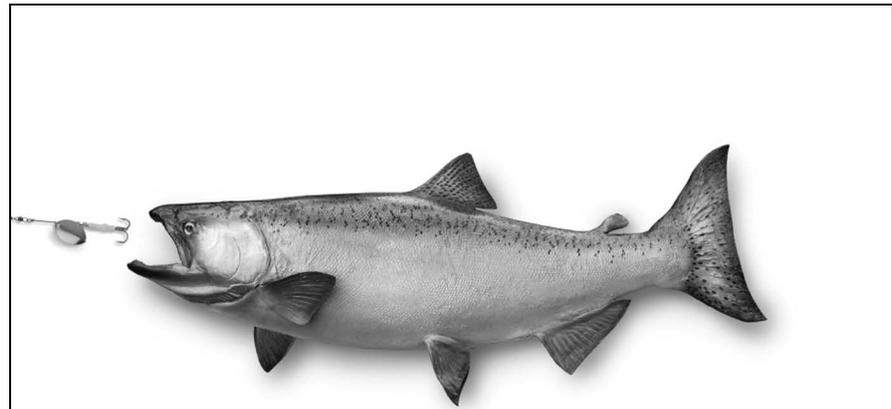
Starks students and their parents are currently making decisions about which RSU to attend and minor details concerning budget numbers are surfacing. For 2012-2013, Starks will save \$97,297 in local taxes by changing districts and close to that amount is expected to be saved each year into the future. Most towns that withdrew from school districts have high assessed property values and few children and are motivated by tax savings. Starks has a low property assessment value and was primarily motivated by education improvement, with tax savings a secondary consideration.

Turning the Starks school bus around has been a two-year project with many bumps along the way. By joining Farmington based RSU 9, Starks citizens believe that both their children and taxpayers will benefit in the long run with improved education opportunities at lower cost. No option is perfect. The commute from Starks to Farmington is slightly longer and over a rougher road than the drive to Madison. However, the majority of Starks children live in the village area and on the western side of

town closest to RSU 9.

This has been a bold move for a small town and Starks is the first municipality in Maine to change school districts overnight (June 30-July 1, 2012). This could not have happened without long hours and much energy contributed by citizens, and advice from the DOE. Each place, big or small, confronts a particular set of geographical, social and economic circumstances and must address its own unique situation. Present problems, education or otherwise, can be solved best with a well-organized plan for the future. **[mt]**

About this Article: *This article was published because numerous municipalities around the state are weighing their school district affiliations and agreements. The views expressed within the article are those of the author, not Maine Municipal Association.*



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Dana Lee

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former Town Manager in Poland,
Mechanic Falls)

Eric Conrad

Director of Communication &
Educational Services, MMA



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The Municipal RISK MANAGER

SUMMER 2012

A Publication of the Maine Municipal Association

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Risk Management Services at the 2012 “Highway Congress”

On June 7th, 2012 the Risk Management Services (RMS) Loss Control Department staffed a booth at the MCAPWA 21st Annual Highway Congress. RMS participates in this event annually as one of the eight “Time Out for Training” stations that are located throughout the Skowhegan Fairgrounds.

The training station topic provided by RMS Loss Control staff focused on “mounting and dismounting vehicles and use of 3-point positioning” and

featured informational displays, a participant quiz and a drawing. The lucky winners of our drawing for a “Bag of Stuff” were Todd Hubbard from Cape Elizabeth Public Works and Jeff Libby from Guilford Public Works

As always, we enjoyed participating in the Annual MCAPWA Highway Congress and seeing all of the municipal employees who were in attendance. We look forward to seeing you again next year. 🏠



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The Municipal Risk Manager

The Municipal Risk Manager is published seasonally to inform you of developments in municipal risk management which may be of interest to you in your daily business activities. The information in these articles is general in nature and should not be considered advice for any specific risk management or legal question; you should consult with legal counsel or other qualified professional of your own choice.

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Story Continued on Page 23

25 Years *(cont'd)*

Presque Isle, Princeton, Randolph, Rangeley, Readfield, Reed Plantation, Richmond, Ripley, Robbinston, Rockport, Roque Bluffs, Sabattus, Saint Agatha, Saint Albans, Saint Francis, Saint George, Saint John, Sanford, Sangerville, Scarborough, Searsport, Seboeis Plantation, Sedgwick, Shapleigh, Sherman, Shirley, Sidney, Smithfield, Smyrna, Solon, Somerville, Sorrento, South Berwick, South Bristol, South Portland, South Thomaston, Southport, Southwest Harbor, Springfield, Stacyville, Standish, Starks, Stebson, Steuben, Stockholm, Stockton Springs, Stoneham, Stonington, Stow, Sullivan, Surry, Swanville, Sweden, Temple, The Forks Plantation, Thomaston, Topsfield, Topsham, Tremont, Trenton, Turner, Union, Unity, Vanceboro, Vassalboro, Veazie, Verona Island, Waldo, Waldoboro, Wales, Wallagrass, Washington, Waterboro, Waterville, Wayne, Webster Plantation, Weld, Wellington, Wesley, West Bath, West Forks Plantation, West Gardiner, West Paris, Westfield, Westmanland, Weston, Westport Island, Whitefield, Whiting, Whinteyville, Willimantic, Windsor, Winn, Winslow, Winter Harbor, Winterport, Winthrop, Wiscasset Woodland, Woolwich, Yarmouth, York

Special Purpose Districts & Schools

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Residential Development Corp., Auburn Sewerage District, Auburn Water District, Auburn-Lewiston Municipal Airport, Bath Water District, Bayville Village Corp., Belfast Water District, Berwick Sewer District, Boothbay Harbor Sewer District, Boothbay Region Water District, Boothbay Region Refuse Disposal, Bowdoinham Water District, Bristol/South Bristol Transfer Station, Brunswick & Topsham Water District, Brunswick Economic Development Corp., Brunswick Sewer District, Caribou Utilities District, Carrabasset Valley Sanitary District, Central Penobscot Solid Waste, Charlotte School Department, Coastal Recycling Corp., Freeport Sewer District, Gorham Economic Development Corp., Great Salt Bay Sanitary District, Guilford-Sangerville Water District, Guilford-Sangerville Sanitary District, Hancock County Planning, Holbrook Regional Recreation, Kennebec Regional Development Authority, Kennebec Sanitary Treatment District, Kennebec Valley Regional Waste Corp., Kennebec Water District, Kittery Water District, Lake George Corp., Limestone Water & Sewer, Lincoln Water District, Lower Kennebec Regional School Unit #1, Manchester Sanitary District, Marion Transfer Station, Mars Hill Utility District, Mechanic Falls Sanitary District, Mid-Coast Regional Planning Committee, Mid-Coast Solid Waste Corp., Mid-Maine Solid Waste Corp., Monhegan Plantation Power District, Monson Utility District, Mount Desert Water District, Northern Aroostook Regional Incinerator Facility, Northern Oxford

Regional Ambulance, Owls Head-South Thomaston-Thomaston Solid Waste Corp., Passamaquoddy Water District, Pembroke Schools, Penquis Solid Waste Corp., Pleasant River Ambulance, Pleasant River Solid Waste, Presque Isle Industrial Counsel, Rangeley Water District, Richmond Utilities District, RSU #78, Rumford Water District, Sabattus Sanitary District, Sanford Sewerage District, Sanford-Springvale Development Corp., Scarborough Economic Development Corp., Searsport Water District, Solon Water District, South Berwick Sewer District, South Berwick Water District, Stonington Water Company, Tenants Harbor Water District, Tri-Community Recycling & Sanitary Landfill, Tri-County Solid Waste, Veazie Sewer District, Waldoboro Utility District, Warren Sanitary District, Washington County EMS Authority, Wells EMS, Winter Harbor Utilities, Wiscasset Water District, Yarmouth Water District, York Sewer District 🏠

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at the Annual MMA Convention October 3 & 4, 2012 at the Augusta Civic Center. Bring your questions about our programs and enjoy the convention.

We look forward to seeing you there!

Rewarding Safety

Maine Municipal Association Risk Management Services continues to reward safety. Since 1999 Risk Management Services has been assisting the safety efforts of participating members of the Workers Compensation Fund through the Safety Enhancement Grant Program. The Grant program has awarded more than **\$2.6 Million** through the funding of Safety Enhancement Grants and Scholarship Grants. Since the inception of the grant programs, MMA Risk Management Services has approved **2074** grants.

The Safety Enhancement Grant and

Scholarship Grant Programs offer financial incentives to members of the Maine Municipal Association Workers Compensation Fund. Safety Enhancement Grants are used to purchase safety equipment or services that assist in reducing the frequency and severity of workplace injuries. Grants are awarded in May and October each year.

Ed MacDonald, Loss Control Manager for MMA Risk Management Services, reported that the program received **190** grant applications for the May 2012 period and that the committee approved **153 grants** total-

ing **\$182,922**.

For those of you who missed the May application deadline, please note you can again apply for Safety Enhancement Grants by the end of September for the October Grant period. All that you need to do is follow the instruction and FAQ information that is available on the MMA Risk Management Services Website at <http://www.memun.org/rms/lc/grant.htm>. Further information can be obtained by contacting your assigned Loss Control Consultant or Ed MacDonald, Loss Control Manager at 1-800-590-5583. 🏠

EXCITING NEWS: Dividends Approved

We are pleased to announce that due to the continued good risk management practices and favorable loss experience of its members, the Board of Trustees of the MMA Workers Compensation Fund and the Board of Directors of the MMA Property and Casualty Pool approved the payment of annual dividends to eligible members of the two programs.

On May 24th, 2012 the respective Boards approved the scheduled distribution of \$1,150,000 in dividends to their members. We look forward to delivering your dividend check later this summer. 🏠

ACCIDENT INSURANCE FOR VOLUNTEERS

July 1, 2012 – June 30, 2013

REDUCED PREMIUM EFFECTIVE 07/01/2012

Maine Municipal Association Risk Management Services is pleased to announce that the Accident Insurance for Volunteers (AIV) coverage is now available through The Hartford Life Insurance Company at a reduced premium **effective July 1, 2012**. The program provides coverage limits of \$50,000 for accidental medical expenses at a reduced rate of **\$2.25 per volunteer**. Last year 87 members participated in this MMA sponsored program, providing excess medical coverage to 6,633 volunteers.

If you have any questions with Accident Insurance for Volunteers (AIV) or the Volunteer Firefighter Blanket Accident Program (VFF), please contact Judy Doore
jdoore@memun.org or 1-800-590-5583, ext 2255



Maine Municipal Association
Risk Management Services



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Form-Based Codes: Sensible Approach

By Patrick J. Venne, Esq.

Form-based codes, or FBCs, are revolutionizing the way some towns approach local development regulations. They place an emphasis on comprehensive public-realm design considerations and seek to implement smarter ways to manage growth. In many ways, the prescriptive nature of FBCs contrasts with their inverse: traditional land use codes. In recent years, form-based codes have emerged at the forefront of many discussions in Maine. It is worth examining, then, whether this approach offers a meaningful alternative to the standard zoning paradigm.

Zoning typically operates by organizing development regulations on the basis of land-use; district and sub-districts are often separated on zoning maps. When considered in light of the context in which zoning arose, this focus makes sense. Cities and towns could be congested and unwelcoming places. In promotion of public health and safety, delegated state-level “police powers” enabled the approach outlined above. Perhaps not surprisingly, that approach prompted many legal challenges across the country.

Today, land-use ordinances are occasionally referred to as *Euclidean zoning* after one such challenge, in which the U.S. Supreme Court answered in the affirmative whether use-based zoning is constitutional. Following that case, use-zoning spread rapidly around the country. The form of development permitted by such regulations is often a consideration secondary in importance to use separation, and is typically derived on the basis of quantitative standards rather

than local qualitative context.

The result, unfortunately, is at times at odds with community vision statements. In recognition of this disconnect, a variety of potential fixes have emerged: incentive zoning, performance zoning, and the like. While improvements, regulatory deal-making or overly discretionary review of these sorts can engender public suspicion.

FORM-BASED ALTERNATIVE

Form-based codes seek to derive, codify and unwaveringly implement community visions. While the range of contexts and styles in which they do so is wide, the approach is nonetheless susceptible to general description.

Like Euclidean zoning, FBCs begin with a plan. Typically, it is a master plan coupled with an intensive design charrette where a broader-than-usual base of stakeholders builds consensus about town design. This process is somewhat analogous to site-plan review at a planning commission hearing, but instead of a site-by-site application it happens in a comprehensive manner and before a developer is involved.

In a recent interview on Maine cities, noted architect and planner Andres Duany listed the stability of a form-based approach as one of its major benefits. According to Duany, “Any city that wants a predictable outcome would thrive under a form-based code, and (Maine cities are) no exception.”

Unlike Euclidean zoning, FBCs often endorse mixing compatible land-uses, particularly in downtown or neighborhood center settings. Such places often create an “urban synergy” where compatible uses feed consumers and clientele to each other, and may also create “destinations.” Far from novel, this approach approximates many main streets in Maine as they exist today.

FBCs seek to enable and, where appropriate, require the re-creation or furtherance of these vibrant community settings. In line with this pursuit, they employ a prescriptive approach to lot-placement and site design. Whereas Euclidean zoning often mandates building setbacks, for example, an FBC might employ a “build-to” range – i.e., a line along which new structures must build to create a consistent “street wall.” As opposed to advisory design guidelines, these sorts of requirements are mandatory in FBCs.

While their intended outcomes are often of aesthetic consequence, FBCs represent more than mere codified “pretty committee” recommendations. They include use regulation and performance standards as well. Moreover, the basis of FBCs’ legitimacy, like traditional zoning, stems from concerns related to public health, safety and welfare.

Part and parcel of the usually denser, more pedestrian-friendly environments fostered by FBCs is a slowing of traffic associated with “complete streets,” which cater to pedestrians as well as cars, and a corresponding greater ability to walk between destinations. Walkability is an amenity sorely lacking in some places, particularly in rural Maine. According to Duany, the architect and planner, some neighborhoods are so isolated “one could literally starve without a car.” Even with a car, the health impacts of disjointed land-use patterns are apparent, as obesity rates parallel suburban sprawl. The potential for FBCs to address public health concerns is therefore apparent.

In recognition of these and other facts, a number of Maine towns have explored FBCs.

DOWNTOWN PORTLAND

The City of Portland has for years

Patrick J. Venne is an attorney, planner and urban illustrator from Portland who serves on that city's Planning Board. Reach him by email at land.planning.law@gmail.com or 207-274-1298.

employed zoning's dimensional arm to ensure an urban-specific outcome throughout its downtown. For example, the city requires new development to be a minimum of 35 feet in certain business zones, and also utilizes "build-to lines" to create consistent street walls. While operating within a Euclidean context, these approaches are form-based and challenge traditional proscriptive zoning emphases.

In early 2012, Lewiston and Auburn discussed form-based zoning at a joint planning board meeting. While still exploring if and to what extent it should occur, these two cities acknowledge the benefits of at least considering a greater integration of their approaches to development regulation in light of their shared economic base. One of the critical physical links in that shared base is the River Front Island (RFI) section of Lewiston, a centrally located mix of urban-industrial and other uses along the Androscoggin River between downtown Auburn and Lewiston.

That area recently concluded an intensive planning process from which a number of policies recommending more pedestrian-oriented uses emerged. Likely because of that emphasis, the Lewiston Planning Board has expressed interest in exploring FBC as a plan-implementing mechanism within the RFI district. The city's planning staff has likewise indicated a willingness to explore the approach in one form or another as one tool to foster the sort of development envisioned.

The Town of Lisbon also recently held a planning board workshop at which FBCs were considered. There, the town voiced interest in exploring how to plan for appropriate growth along key corridors into and out of town, with an eye toward making such routes gateways to village centers.

Although all four of the above municipalities share an interest in the urbanist approach of FBCs, the town which has experimented most extensively with FBCs has done so for reasons primarily related to protecting its rural character.

STANDISH CORNER

In 2011, Standish adopted an FBC for the Standish Corner District, following a years-long planning process. The vision which emerged from that process amounts to restoring the town's village center while simultaneously conserving open space. With a detailed strategy for

implementation, Standish's plan resulted in the town's selection by GrowSmart Maine for inclusion in that entity's Model Town project. Standish was thereafter used as a demonstration project of sorts to showcase best practices as relate to participatory process and regulatory implementation techniques.

Pursuant to a village design study based on "Smart Growth" policies aimed at directing future growth to the crossroads of Routes 25 and 35, Standish adopted its FBC to "(E)stablish mixed-use, interconnected village-scaled neighborhoods..." It did so by employing some of the form-based elements discussed above, in addition to others not before mentioned – specifically required build-to lines, metrics for rights-of-way and types of building-frontages. Standish also employed the concept of vertical-use zoning to prescribe a mix of uses appropriate to context. The town's efforts do indeed serve as a model, and have generated discussion in a number of towns across the state. Not every town, however, has been as successful in embarking on the road to FBCs.

DAMARISCOTTA'S APPROACH

Following a controversial retail-size cap, Damariscotta engaged in a visioning process between 2007 and 2010 aimed at deriving community values for incorporation in future land use plans. That process, like Standish's, was participatory in nature and revealed a number

of elements related to the heart and soul of the town. These values were developed further in a subsequent design charrette. Key amongst the implementation mechanisms recommended to bolster the elements of Damariscotta's vision was adoption of an FBC.

Despite the participatory nature of the process underlying this recommendation, voters rejected the proposed code in a 2011 referendum. However, it appears Damariscotta may have taken more of an issue with the particularities of the code as proposed than with FBCs in principle. Voters sounded concern about not fully understanding what had been proposed, as well as an alleged over-participation of interested parties from beyond town lines. The latter issue is one likely to be a recurrent concern in any service-center community.

Other Maine towns to explore FBCs include: Naples, Bridgton, Windham, Yarmouth and Kennebunk. While the approach offered by FBCs may not be a cure-all, and may be viewed with skepticism by some, it is nevertheless making its way throughout many Maine communities.

The experience of pioneering towns in this arena seems to indicate that, if based on sound, upfront and inclusive participatory visioning processes, and if employed pursuant to reasonable and well-thought out regulations, FBCs serve as an additional tool worth exploring in search of smarter ways to grow. [\[m\]](#)



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Voters Approve Most Proposals, Reject Some

By Liz Chapman Mockler

Mainers approved a vast majority of town meeting articles in June, but voters in many communities rejected myriad ideas and proposals: ordinances, wind farms, tax breaks, school budgets, fireworks, borrowing for roads and permitting roosters.

Some local voters pared budgets and in a few communities they rejected enough spending articles to force officials to operate at current spending levels pending new proposals.

For example, residents of **Livermore Falls** defeated 12 key spending items that will require further action by both selectmen and voters. Among the victims of voter dissatisfaction in the western Maine town of about 3,200 residents include insurance coverage for employees, which totaled \$358,000, compared to the budget committee's recommendation of \$261,609. The difference is the cost of covering employees' dependents, which a majority of voters did not favor. The vote was 139-109.

Livermore Falls voters also rejected spending \$168,000 for administration, which included, among other items, pay for the manager and selectmen, as well as the annual audit and legal fees. They also didn't like, as proposed, the code enforcement budget, public works spending or general assistance funding.

Voters approved allowing town officials to operate under the current-year budget allotments until a new budget is developed and presented at a special town meeting. Selectmen were expected to meet in early July to discuss their options.

In other towns, such as **Buckfield**, voters rejected spending more or bor-

rowing for road work, an issue that often gets taxpayers' support. Specifically, voters denied selectmen the authority to borrow about \$175,000 to partially reconstruct four town roads. According to published reports, Buckfield Selectman Robin Buswell said the town would only be able to improve two of the four roads without the ability to borrow for some of the priority work.

In **Peru**, voters rejected a request to borrow \$90,000 to buy a public works truck. The vote was close at 274-257, and it was the only article defeated at town meeting. However, voters also withheld their support for the construction of a wind farm within town limits. Although non-binding, the straw vote provided a clear signal of residents' sentiments: 394 to 194 against allowing a farm. The town's wind power committee will take the voters' lead and begin formulating ways selectmen can impose restrictive measures.

NO EXPANDED FIREWORKS

In numerous towns, voters continued the general trend in Maine against the sale and use of fireworks. The towns of **Mexico** and **Wells** were two of the municipalities in June that joined other cities and towns that have outlawed more powerful consumer fire-

works which are now legal in Maine.

The new state law includes an opt-out provision for municipalities. Some officials, especially fire chiefs, police and other emergency responders, opposed the bill and have advocated back home to ban the new fireworks or restrict their use.

At their June town meeting, **Farmingdale** voters reiterated their opposition to a tax break for a natural gas pipeline that is proposed to run through the center of the town and serve many facilities in **Augusta**, **Madison** and beyond.

Jay residents voted down an ordinance that would have set rules for overseeing the new state building code. Through their vote, 325-314, voters took a hands-off policy and opted instead to use the state's administrative rules in overseeing the new building energy rules. Beginning July 1, municipalities with 4,000 or more residents are required to enforce the state-adopted code.

In **Phillips**, voters turned down an ordinance to prohibit shooting guns on a range on town-owned property. Several members of the local gun club strongly disagreed that because the club changed its name, its \$2 million insurance policy is void. Despite loud applause when the ban was voted

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down, Selectman Lynn White told residents that the policy is no longer in effect and the town could be bankrupted if anyone should be injured on the shooting range, according to the Sun Journal newspaper. The range reportedly opened sometime before 1940.

Phillips voters also disliked two proposals to sell town-owned property, the "Old Firehouse" and the former municipal building. They also withheld authority from selectmen to sell any unspecified tax-acquired property.

Raymond residents defeated a proposed change to a 1984 ordinance regarding dog barking by a vote of 324-302. Voters sided with a resident who owns a dozen roosters as part of her "hobby farm." A neighbor had asked for the ordinance change; the issue went to town meeting because the neighbors could not reach agreement despite mediation attempts by town officials.

China residents rejected an effort to water down the rules for septic systems in the China Lake shoreland zone. The central Maine town of about 4,500 residents uses the lake as its drinking water source.

As described by the York County

Coast Star, **Wells** voters decided that even though fireworks are legal in the state, they remain banned in the town. A referendum to allow private fireworks displays failed on a vote of 709-425.

In nearby **Kennebunkport**, voters also didn't want to see more of the fiery celebrations, voting by a margin of 550-254 to ban them, while still allowing fireworks displays sanctioned by the state or local governments. In **Mexico**, the voting was closer but the outcome was the same.

Residents voted on two fireworks-related items: They decided by a margin of 189-169 to outlaw the sale of fireworks and then voted 184-173 to ban the use of them within town limits. Local leaders expect to draft an ordinance to make the policies more official.

Mexico voters also rejected a proposed recreation budget outright. Officials expect to rework that part of the budget and return to voters for their approval. The proposed budget of \$93,585 was voted down, 209-158. [m](#)



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June Town Meeting Election Results

By Liz Chapman Mockler

This is a partial roundup of town meeting elections in June, based largely on published media reports. Uncontested races are not included unless the candidate was filling a seat vacated by a selectman or councilor who resigned or did not seek re-election.

Arundel: Incumbent Selectman Phil Labbe won another term after garnering 302 votes, followed by Dan Dubois, a planning board member, who received 232 votes. A third candidate for one of the two open seats received 200 votes.

Bethel: Peter Southam defeated incumbent Selectman Robert Everett, 221-162.

Buckfield: Incumbent Eileen Hotham lost her bid for re-election to Martha Catevenis by a vote of 168-164, for a seat on the board of assessors. The vote was 175-154.

Buxton: Voters elected Penny Booker to replace Selectman Peter Burns, who did not seek re-election. Booker easily defeated her challenger by a vote of 730-206.

Canton: Selectman Jackie Conant defeated budget committee member Rob Walker by a vote of 91-45. Conant will start a third three-year term.

Chesterville: Guy Iverson defeated Nicole Ibarguen by a vote of 89-78 to replace former Selectman John Worth, who resigned earlier this year.

Falmouth: Sean Mahoney and Karen Farber defeated two other candidates to win seats on the Board of Selectmen, replacing outgoing selectmen Will Armitage and Fred Chase, who did not seek re-election. Mahoney collected the most votes with 1,492, followed by Farber with 1,416. Russ

Anderson and Bryan Dench received 1,331 and 976 votes, respectively.

Harrison: Selectman Chairman Bill Winslow won re-election with 315 votes, while newcomer Christine Davis picked up 266 votes to replace Lisa Villa, who did not seek re-election.

Hartford: Veteran Selectman Lee Holman won re-election over two challengers with 107 votes. The challengers received 48 and 32 votes.

Hermon: Town Councilor Doug Sinclair won re-election with 346 votes, while incumbent Donna Pulver lost to Alden Brown by a vote of 233-165. A third candidate for the second open seat collected 208 votes.

Holden: David Black received 199 votes to his challenger's 162 votes to replace Town Councilor Joel Swanton, who did not seek re-election.

Livermore: Megan Dion was elected selectwoman with 202 votes, defeating incumbent Grace Jacques, who received 101 votes and another challenger, Rodney Newman, who collected 145 votes. Peter Castonguay defeated incumbent Brenda Merrill and two other candidates to win the second available seat. Castonguay received 171, while Merrill received 168 votes, followed by the challengers with 80 and 24 votes. Meanwhile, voters elected Cathy Lee as the town's new treasurer. She defeated incumbent Kurt Schaub by a vote of 226-219.

Lyman: Incumbent Victoria Gavel collected the most votes in the June election with 497, while Roger Grant and George Sutton won the other two open seats on the Board of Selectman, expanding the size of the board from

three to five members.

Madawaska: In a race for two, three-year terms as selectman, incumbent Michael Williams received the most votes with 234, while challenger Barbara Skinner defeated incumbent Ivan Fletcher by a vote of 230-200. In a two-way contest to replace outgoing Selectman O'Neil Clavette, Brenda Theriault won the seat with 214 votes.

Madison: Paul Fortin, a former member of the town's planning and school boards, defeated incumbent Selectman Robert Hagopian by a vote of 334-280. Hagopian had been elected selectman five times and is the board's current chairman.

Mexico: Incumbent Norine Clarke was defeated by Hart Daley by a vote of 193-118.

Scott Belskis won the seat vacated by Chairman Stephen Donahue, who did not seek re-election. Belskis received 140 votes, followed by Clarke and another challenger, who received 91 votes.

New Gloucester: In a four-way race for two selectmen seats, incumbent Linda Chase and former Selectman Nathaniel Berry were elected with 528 and 516 votes, respectively. The two challengers won 281 and 198 votes.

Peru: An election to fill two open selectman seats became complicated when one incumbent garnered the most votes to win one seat, while two newcomers tied for the second opening and a fourth candidate, an incumbent, lost with the fewest votes, according to Town Clerk Vera Parent. Incumbent Timothy Holland collected 316 votes for a clear first-place; incumbent Richard Vaughn lost re-election when



Liz Mockler Chapman is a freelance writer from Augusta, lizmockler@hotmail.com.

he received 155 votes. Two challengers, Richard Powell and John Witherell, tied with 284 votes. A recount did not change the outcome. Parent said the two men were told of their options: one could concede to the other or they could decide to force a run-off election. Witherell decided to concede to Powell. In another election matter, town meeting voters passed an ordinance that prohibits town employees from serving as a selectman or a member of the finance committee. That poses a problem for Selectman Kathy Hussey, who must now choose between her job and serving as selectwoman.

Rumford: Incumbent Selectman Greg Buccina was re-elected with 673 votes. His two challengers garnered 227 and 186 votes, respectively.

Union: Incumbent Selectman Gregory Grotton won re-election with 323 votes, while his challenger picked up 163 votes. Newcomer Sara Moore defeated former Selectman Abraham Knight by a vote of 274-236.

Unity: Chris Rossignol was elected to fill the unexpired term of Jim Kenney, who resigned after the March annual town meeting. He will serve

for 10 months. Rossignol received 94 votes; he faced three opponents who received 84, 41 and 19 votes.

Vassalboro: Selectman Philip Haines defeated his challenger by a vote of 324-177. Haines also served as selectman from 1982-89 and again from 1993-99.

Veazie: Christopher Bagley defeated incumbent Selectman David King by a vote of 242-220 for a three-year term on the Board of Selectmen.

Waldoboro: Incumbent Selectman Theodore Wooster won re-election with 409 votes, while Carl Cunningham clinched the second term with 368 votes in a five-way race. James Bodman was elected to a two-year term, defeating his challenger 594-288.

Wilton: Paul Berkey Jr. was elected to fill the seat recently vacated by Paul Gooch. He collected 294 votes, while two challengers received 195 and 134 votes. 

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Photo Credit: ABC Virginia Sherwood

Keynote – Cynthia McFadden Maine Values, World Leaders and the Call of Public Service

Wednesday, October 3 – 9:00-10:00 a.m.

Our special guest and keynote speaker is acclaimed journalist and television interviewer Cynthia McFadden, co-anchor of ABC's *Nightline* and *Primetime* news programs. Ms. McFadden, a native of Auburn and graduate of Bowdoin College and Columbia Law School, has interviewed many leaders over the years, including Prime Minister Tony Blair of Great Britain, Pakistan President Pervez Musharraf, U.S. President George W. Bush and Secretary of State Hillary Clinton. Ms. McFadden recounts her experience growing up in Maine, attaining journalistic success and describes the traits that lead people to public service success – at all levels of government.



Economic Development, Culture and the Arts

Thursday, October 4 – 8:45-10:00 a.m. SPECIAL SESSION!

Canadian municipal government and economic development expert Gord Hume joins us to talk about his country's successful revitalization projects and why economic development and the arts are intrinsically intertwined. Hume, who served four terms as a City Councillor in London, Ontario, literally wrote the book (*Cultural Planning for Creative Communities*) on economic development and the arts. Hume authored two follow-up books and is a sought-after municipal consultant and media interviewee in Canada.

Presenter: Gord Hume, President, Hume Communications Inc., Ontario, Canada.



Influencing With Integrity

Wednesday, October 3 – 10:15-11:45 a.m. SPECIAL SESSION!

This session, coordinated with the National League of Cities, provides valuable tools to communicate and manage conflict collaboratively on contentious issues with high energy citizens, board members, municipal employees and public officials. Attendees will learn how to utilize strategies and skills to increase levels of satisfaction in terms of substance, relationship and process.

Presenter: Dr. Neil Katz, Professor, Social Science and Conflict Resolution, Department of Conflict Analyses and Resolution, Nova Southeastern University, Fort Lauderdale, Fla., and Training Manager, Executive Education Programs, Maxwell School, Syracuse University.

2012 MMA Convention

General Sessions & Events (preliminary)

Wednesday, October 3, 2012

7:30 a.m. Registration Begins

7:30 a.m.-8:45 a.m. Continental Breakfast in Exhibit Area

9 a.m.-10 a.m. WELCOME AND KEYNOTE

Maine Values, World Leaders and the Call of Public Service

Our special guest and keynote speaker is acclaimed journalist and television interviewer **Cynthia McFadden**, co-anchor of ABC's *Nightline* and *Primetime* news programs. Ms. McFadden, a native of Auburn and graduate of Bowdoin College and Columbia Law School, has interviewed many leaders over the years, including Prime Minister Tony Blair of Great Britain, Pakistan President Pervez Musharraf, U.S. President George W. Bush and Secretary of State Hillary Clinton. Ms. McFadden recounts her experience growing up in Maine, attaining journalistic success and describes the traits that lead people to public service success – at all levels of government.

10 a.m.-10:30 a.m. Break & Time with Exhibitors

10:30 a.m.-11:45 a.m. SPECIAL SESSION!

Influencing With Integrity

Elected Officials: This session, coordinated with the National League of Cities, provides valuable tools to communicate and manage conflict collaboratively on contentious issues with high energy citizens, board members, municipal employees and public officials. Attendees will learn how to utilize strategies and skills to increase levels of satisfaction in terms of substance, relationship and process.

Presenter: Dr. Neil Katz, Professor, Social Science and Conflict Resolution, Department of Conflict Analysis and Resolution, Nova Southeastern University, Fort Lauderdale, Fla., and Training Manager, Executive Education Programs, Maxwell School, Syracuse University (*MTCMA Certification Credits: 1.25 in Leadership and Elected Relations*)

10:30 a.m.-11:45 a.m. CONCURRENT SESSIONS

Importance of Employee Assistance Programs

Human Resources: Life is not always easy but when the going gets tough, an Employee Assistance Program (EAP) can be a great resource for employees and managers. Attend this session and learn what EAPs are, how they can assist employees with personal issues and, if you have one, how to promote it to your work force. Following a general overview of EAP services, our panelists will assist you in understanding EAPs by sharing features of their unique programs.

Moderator: Karen Childs, Assistant Director, Maine Municipal Employees Health Trust Services; *Presenters:* Carol Young, Employee Assistance Program Coordinator, City of Portland; Kristy Gould, Director of Human Resources, City of Augusta; Anne Charles, Health Promotion Manager, Maine Municipal Employees Health Trust Services; Michele Skadberg, Anthem EAP (*Approved for 1.25 Assessor Continuing Education Credit Hours – Maine Revenue Services.*)

The Status of Municipal GA

Money & Finances: During the last Legislative session spending under the state/municipal General Assistance (GA) program was scrutinized to find cost savings. As a result, several structural changes were proposed,

including proposals placing limits on the amount of assistance provided to otherwise eligible clients, redefining eligibility standards to reduce the number of clients, and making deep cuts in the reimbursement provided to communities triggering the GA expenditure circuit breaker. The Legislature also appointed an 11-member working group to review the program and to develop recommendations for reducing the state's costs. At this workshop, panelists will discuss how the working group's short- and long-term recommendations will impact the municipal administration and property taxpayer cost of GA. (*Approved for 1.25 Assessor Continuing Education Credit Hours – Maine Revenue Services.*)

Presenters: Kate Dufour, Senior Legislative Advocate, State & Federal Relations, MMA; other panelists TBD

10:30 a.m.-11:45 a.m. AFFILIATE SESSIONS

Legal Aspects for Fire Protection

(*MFCA/MFSI Sponsored Session*)

This session will provide an overview of various legal requirements for fire protection.

Presenters: Chief Darrel Fournier, Town of Freeport; Chief Bill St. Michel, Town of Durham; Bill Guindon, Director, Maine Fire Service Institute

Foreclosures, Short Sales and Assessing Part I

(*Maine Chapter of IAAO*)

"Help. I've fallen and I can't get up!" said the parcel to the assessor. Even as the economy attempts to recover, distress sales continue to drag the real estate market down. How are the sick properties affecting the healthy ones and how much longer will this continue? This two-part session will open your eyes. **Part 1 will discuss the current market situation.** Part 2 (Wednesday afternoon at 1:45 p.m.) will focus on how market value is affecting assessed value. (*Approved for 2.5 Assessor Continuing Education Credit Hours for both sessions or 1.25 Assessor Continuing Education Hours for each session.*)

Presenter: Gordon T. Holmes, Jr., Owner, Direct Real Estate

11:45 a.m.-Noon Break & Time with Exhibitors

Noon-1:15 p.m. AWARDS LUNCHEON CELEBRATION!

Awards, incoming MMA President and recognition of Past Presidents.

1:15 p.m.-1:45 p.m. Break & Time with Exhibitors

1:45 p.m.-2:45 p.m. MMA Annual Business Meeting

1:45 p.m.-2:45 p.m. CONCURRENT SESSIONS

Succession Planning for Municipal Leaders

Elected Officials: How can busy selectmen, councilors and managers keep their eyes on the future, knowing that the municipal workforce is aging and key positions will need to be filled by quality individuals? How can you assess future needs, attract top candidates and select "good fits" for your city or town?

Presenters: Rick Dacri, Consultant, Dacri & Associates; Barry Tibbetts, Manager, Town of Kennebunk and President, Maine Town, City and County Management Association

Wednesday, October 3, 2012

Bond Issuance Monitoring and Tax Compliance

Money & Finances: Local borrowers need to monitor their compliance of meeting legal bond requirements well after the bonds are issued. The IRS recently decided that tax-exempt borrowers have not developed the “infrastructure” to assure that they are in compliance with tax laws. What this means is even the smallest municipalities need to adopt written policies and procedures about bond issuance and tax compliance

Presenters: James Saffian, Partner, Pierce Atwood, Portland; David Delano, Chief Financial Officer, Maine Municipal Bond Bank, Augusta

Wind Power: A Municipal Update

Environment: Major wind power projects have been in the headlines throughout Maine in recent years, but changes in federal laws and policies are about to change the industry profoundly, even while still in its infancy. Join two of Maine’s leading experts on wind power as they assess the past and talk about the future of what can be controversial proposals and projects.

Presenters: Jim Katsiaficas, Attorney, Perkins Thompson, Portland; Brooke Barnes, Stantec Consulting, Topsham (*Approved for 1.00 Assessor Continuing Education Credit Hours – Maine Revenue Services.*)

1:45 p.m.-2:45 p.m. AFFILIATE SESSIONS

Maine Office of Animal Welfare and Inland, Fisheries and Wildlife Update

(MTCCA Sponsored Session)

Representatives from these State offices will present updates to assist municipal clerks in their responsibilities.

Presenters: Representative from the Office of Animal Welfare, State of Maine; Bill Swan, Director Inland, Fisheries and Wildlife, State of Maine

Foreclosures, Short Sales and Assessing Part II

(Maine Chapter of IAAO)

“Help. I’ve fallen and I can’t get up!” said the parcel to the assessor. Even as the economy attempts to recover, distress sales continue to drag the real estate market down. How are the sick properties affecting the healthy ones and how much longer will this continue? This two-part session will open your eyes. Part 1 will discuss the current market situation (Wednesday morning at 10:30 a.m.). **Part 2 will focus on how market value is affecting assessed value.** (*Approved for 2.5 Assessor Continuing Education Credit Hours for both sessions or 1.25 Assessor Continuing Education Hours for each session.*)

Presenter: Gordon T. Holmes, Jr., Owner, Direct Real Estate

2:45 p.m.-3:15 p.m. TOUR OF MMA

Stroll over to the MMA building for a guided tour!

2:45 p.m.-3 p.m. Break & Time with Exhibitors

3 p.m.-4:15 p.m. CONCURRENT PANEL DISCUSSIONS

University Expertise at Your Fingertips

Elected Officials: Did you know that experts and students from the University of Maine are available to assist municipalities with projects – and reaching out to towns and cities is a top priority for them? Come listen as university officials explain what they have to offer and hear how MMA’s Citizen Education Program is playing a key role.

Moderator: Eric Conrad, Director of Communication & Educational Services, MMA; *Presenters:* Dr. Linda Silka, Director, Margaret Chase Smith Center and Professor, School of Economics, University of Maine; Dr. Laura Lindenfeld, Associate Professor of Communication & Journalism, Margaret Chase Smith Center and University of Maine; Karen Hutchins, Graduate

Research Fellow, Sustainability Solutions Initiative, University of Maine; Evan Richert, Planner, Town of Orono

Going Up in Maine: Public School Costs

Money & Finances: It’s a difficult but long-standing practice: Municipal officials send out property tax bills, so they often hear about and feel responsible for K-12 education spending, even though they do not fully control it. Come listen as our panelists discuss their recent experiences and offer tips and tools for dealing with, and communicating about, public education in Maine.

Presenters: Tom Hall, Manager, Town of Scarborough; Bill Bridgeo, Manager, City of Augusta; Gary Brown, Manager, Town of Brunswick; Dr. Cornelia Brown, School Superintendent, City of Augusta (*MTCMA Certification Credits: 1.25 in Leadership*)

Transit, Jobs & Money

Economic Development: Maintaining a strong transit infrastructure is an important way to improve a community’s chances for economic development. This eclectic workshop touches on that, compressed natural gas in municipal fleet vehicles and municipal planning and development.

Presenters: Dave Redlefsen, General Manager, Portland METRO; Connie Garber, York County Community Action.

Coming Soon: More Stormwater Regulations

Environment: There is an increasing focus from above on municipal stormwater management, including the identification of new streams “impaired” by stormwater pollution. Municipalities constantly search for clarity and predictability with respect to stormwater regulations and scramble to find financial solutions to meet these regulatory requirements. In straight language, this session will detail possible ways to cost effectively deal with Clean Water Act obligations. For towns not yet directly regulated, this session will provide suggestions to avoid the “impaired stream” designation. (*Approved for 1.25 Assessor Continuing Education Credit Hours – Maine Revenue Services.*)

Moderator: Greg Connors, Staff Advocate, State & Federal Relations, MMA; *Presenters:* TBD

3:00 p.m.-4:15 p.m. AFFILIATE SESSIONS

Professionalism and Politics for Fire Protection

(MFCA/MFSI Sponsored Session)

This session will provide an understanding of professionalism and the political climate for fire protection.

Presenters: Chief Darrel Fournier, Town of Freeport; Chief Bill St. Michel, Town of Durham; Bill Guindon, Director, Maine Fire Service Institute

Maine Office of Vital Records Update

(MTCCA Sponsored Session)

There have been many changes to Vital Records laws and procedures in the last few years. Here’s a great opportunity to hear about those changes and incorporate them in your municipality.

Presenter: Roberta Fogg, Deputy Registrar, Office of Vital Records, State of Maine

4:15 p.m.-6 p.m. MEMBERS WELCOMING CONCERT AND CELEBRATION OF MAINE FOOD!

Member Welcoming Reception and “Gypsy Jazz” Concert by Mes Amis – Exhibit Area

6:30 p.m. Networking Dinner on Your Own

(Information Available at Registration Desk)

Thursday, October 4, 2012

7:30 a.m. Registration Begins

7:30 a.m.-8:45 a.m. Buffet Breakfast in the Exhibit Area

8:45 a.m.-10 a.m. SPECIAL SESSION!

Economic Development, Culture and the Arts

Money & Finances: Canadian municipal government and economic development expert Gord Hume joins us to talk about his country's successful revitalization projects and why economic development and the arts are intrinsically intertwined. Hume, who served four terms as a City Councilor in London, Ontario, literally wrote the book (Cultural Planning for Creative Communities) on economic development and the arts. Hume authored two follow-up books and is a sought-after municipal consultant and media interviewee in Canada.

Presenter: Gord Hume, President, Hume Communications Inc., Ontario, Canada

8:45 a.m.-10 a.m. CONCURRENT SESSIONS

How to Head Off Employment Claims

Human Resources: Attendees will learn how to avoid expensive loss of time and energy by handling employment situations well – and staying out of state and federal courts.

MMA; Presenter: Jonathan Brogan, Attorney, Norman Hanson & DeTroy, Portland

Right to Know

Elected Officials: This session will review the rights and duties of public officials under Maine's Freedom of Access Act (FOAA), commonly known as the "Right to Know" law. It is designed to satisfy training requirement imposed by State law on certain elected officials, including selectmen, councilors and elected clerks, treasurers, assessors and budget committee members.

Presenters: William Livengood, Director, MMA Legal Services; Richard Flewelling, Assistant Director, MMA Legal Services (*Approved for 1.25 Assessor Continuing Education Credit Hours – Maine Revenue Services.*)

8:45 a.m.-10:00 a.m. AFFILIATE SESSIONS

Effective Bargaining

(MTCMA Sponsored Session)

This session will discuss how to effectively negotiate a collective bargaining agreement. Topics will include, among others: understanding the bargaining process and avoiding common pitfalls; employing creative and strategic approaches to address new trends and challenges; and, putting together a successful bargaining team.

Presenters: Patricia M. Dunn, Attorney, Jensen Baird Gardner & Henry; Jennifer W. Peters, Attorney, Jensen Baird Gardner & Henry (*MTCMA Certification Credits: 1.25 in Human Resources, Legal and Leadership*)

Fire Chief's Role in Leadership

(MFCA/MFSI Sponsored Session)

This session will focus on the leadership requirements of the municipal Fire Chief.

Presenters: Chief Darrel Fournier, Town of Freeport; Chief Bill St. Michel, Town of Durham; Bill Guindon, Director, Maine Fire Service Institute

Mortgage Loan Inspections vs. Boundary Surveys

(MBOIA Sponsored Session)

Learn about the differences between Mortgage Loan Inspections and

Boundary Surveys, common misconceptions about their use and how to approach the application of these surveys in a way that will raise the awareness of municipalities and their residents while maintaining high levels of quality service.

Presenter: Jim Nadeau, Nadeau Land Surveys

Maine Office of Division of Elections Update & the Municipal Clerk

(MTCCA Sponsored Session)

As we head into another election cycle, it's important to have the most current information in your "elections toolkit." This session will focus on providing up-to-date information about elections as well as some tips of how the municipal clerk can handle those "spotlight" situations professionally and as a representative of your community.

Presenters: Julie Flynn, Deputy Secretary of State, State of Maine; Ruth Lyons, Clerk, Town of Topsham; Shelly Crosby, Clerk, Town of Lincoln

10 a.m.-10:30 a.m. Break & Time with Exhibitors

10:30 a.m.-11:45 a.m.: CONCURRENT SESSIONS

Cable Television in Your Community

Elected Officials: It's never easy but a core function of municipal government is to negotiate cable television service for your citizens. Come hear about the latest trends, tips and new approaches from the cable-TV industry. This is a hot topic that has important municipal tax implications and it affects the pocketbooks of many citizens.

Presenters: Tony Vigue, President, Community Television Association of Maine, South Portland; Pat Scully, Attorney, Bernstein Shur, Portland

Keeping Computerized Data Safe, Secure

Money & Finances: As municipalities delve more deeply into technology and automation, there are safeguards and protections to keep in mind regarding all kinds of computerized data, from online financial accounts to medical, personnel and other protected information.

Presenters: Joe Kurlanski, Vice President, Sage Data Security, South Portland; Celeste Donovan, Vice President & District Sales Manager, Treasury Management Services, TD Bank; TBD, Bangor Savings Bank (*Approved for 1.25 Assessor Continuing Education Credit Hours – Maine Revenue Services.*)

Expanded Fireworks: Splash or Fizzle?

Public Safety: When it comes to fireworks, 2012 has been a year of experimentation. Maine this year greatly expanded what kinds of fireworks could be legal – with municipal approval. That prompted towns and cities to allow expanded fireworks, disallow them or regulate them in other ways. This session is intended to reflect on various communities' experience with fireworks this year and offer tips and trends going forward.

Presenters: Joe Thomas, Acting State Fire Marshal, State of Maine; Chief Roger Audette, City of Augusta; Chief B. Michael Thurlow, Town of Scarborough

10:30 a.m.-11:45 a.m. AFFILIATE SESSIONS

Effective Asset Management

(MTCMA Sponsored Session)

Municipalities have the perpetual chore of maintaining, replacing and rehabilitating a range of assets from water and sewer infrastructure to vehicles and roads. At the same time, they are tasked with installing new assets in response to growth, customer demands. This presentation will review and explain effective asset management methods that have been implemented to address various municipal infrastructure problems.

Presenter: Seth Garrison, Woodard & Curran (*MTCMA Certification Credits: 1.25 in Leadership and Elected Relations*)

Thursday, October 4, 2012

Maine Office of Notary Public Review (MTCCA Sponsored Session)

This session will review the duties and procedures of the role of the Notary Public.

Presenter: Julie Flynn, Deputy Secretary of State, State of Maine

11:45 a.m. to Noon: Break & Time with Exhibitors

Noon to 1:15 p.m. NETWORKING LUNCHEON

1:15 p.m. to 1:30 p.m.: Break & Time with Exhibitors

1:30 p.m.-3:00 p.m. CONCURRENT SESSIONS

Roles of Elected Officials & Municipal Managers

Elected Officials: This workshop was praised during the 2011 convention so it's back! It is designed for new and long-time officials and managers from mid-to-large size municipalities. Presenters will explore how effective communication is the key to maintaining proper relationships among selectmen and councilors in towns with appointed managers. The panel also offers advice on how to handle important decisions that affect employees.

Presenters: Don Gerrish of Eaton Peabody Consulting, former Town Manager, Towns of Brunswick and Gorham; David Barrett, Director of Personnel Services & Labor Relations, MMA (MTCMA Certification Credits: 1.25 in Leadership and Elected Relations) (Approved for 1.50 Assessor Continuing Education Credit Hours – Maine Revenue Services.)

*Note: Presenters will be available for Q&A after the workshop.

Successful Collaboration in Public Works

Money & Finances: In these days of shrinking budgets and smaller work forces, people on the front lines are often innovators in finding solutions that work for all concerned. Three Western Maine towns have done just that by forming an interlocal group to share work and equipment. No grader? No problem. Need sand hauled? No problem. They have found ways to make it all work.

Presenters: Bill Nichols, Highway Foreman, Town of Livermore Falls; John Johnson, Public Works Director, Town of Jay; John Welch, Public Works Foreman, Town of Wilton

Going Local: Supporting Farmers in Your Community

Economic Development: More municipalities are passing ordinances and taking other steps to support local farmers and produce markets, which can benefit economic vitality in downtowns and other areas. Attendees will learn about local-food strategies and will hear about the pluses and occasional problems associated with this movement.

Presenters: Gord Hume, President, Hume Communications Inc., Ontario, Canada; Leah Rachin, Attorney, Bergen & Parkinson, Kennebunk; Jim Schatz, Selectman, Town of Blue Hill

1:30 p.m.-3:00 p.m. AFFILIATE SESSIONS

Financial Management and Planning for Fire Protection

(MFCA/MFSI Sponsored Session)

This session will focus on various financial management strategies for fire protection.

Presenters: Chief Darrel Fournier, Town of Freeport; Chief Bill St. Michel, Town of Durham; Bill Guindon, Director, Maine Fire Service Institute

Understanding Flood Zones

(MBOIA Sponsored Session)

This session will focus on a general history of the National Flood Insurance Program, Flood Insurance Rate Maps (FIRMs and DFIRMs), flood zone determinations, Elevation Certificates, Letter of Map Amendments and FEMA submittals, as well as the significance of using the most accurate data collection and analysis procedures when making determinations.

Presenter: Jim Nadeau, Nadeau Land Surveys

3:15 p.m.-4:45 p.m. U.S. SENATE CANDIDATES FORUM!

Leading candidates vying to succeed retiring U.S. Sen. Olympia Snowe have been invited to assess the current state of affairs in Washington, D.C. and Congress at our 76th Annual Convention. They will field questions about federal, state and municipal issues and the importance of towns and cities in the intergovernmental system.

Forum Moderator: Tory Ryden, former Anchor at WMTW-TV Channel 8, in Lewiston/Auburn and Portland.

Overnight Accommodations

Overnight Rooms have been blocked for MMA Convention attendees at the Best Western Plus in Augusta. The rate is \$70.00/night. To reserve your overnight room, please call 207-622-4751 and mention the Maine Municipal Association (MMA) group block. Rooms are available for reservation until September 18, 2012 on a first-come, first-served basis. The Best Western Plus is located within the Civic Center Complex and is within walking distance of the Augusta Civic Center. If requesting tax exemption, you will be asked to provide your tax exemption certificate and municipal payment (municipal credit card or check) at the time of check-in.

Attendee Registration Form



2012 MMA Convention
Strong Leaders,
Strong Communities
STRONG MAINE

MMA Convention – Augusta Civic Center – October 3 & 4, 2012

One registrant per form (please photocopy for additional registrations)

Name of Municipality/Company/Agency:		First Time Attendee? <input type="checkbox"/> Yes <input type="checkbox"/> No
Mailing Address:		
Attendee Name:	Title:	
E-mail Address of Registrant:		
Telephone:	Fax:	

SPECIAL PROGRAMMING - for Wednesday October 3 and Thursday October 4

MMA Building Tour:

(Please check if you plan to attend)

Wednesday, October 3 (2:45-3:15 p.m.)

Right-To-Know Training:

(Please check if you plan to attend)

Thursday, October 4 (8:45-10:00 a.m.)

CONVENTION REGISTRATION FEES (For one or both days)		Cost
<input type="checkbox"/> MMA Members/Affiliate/Patron	Pre-Registration - <i>must be postmarked or received by 9-21-2012</i>	\$ 60.00
<input type="checkbox"/> MMA Members/Affiliate/Patron	Registration - <i>after 9-21-2012</i>	\$ 75.00
<input type="checkbox"/> Non-member municipality/Gov't/or Non-profit	Pre-Registration - <i>must be postmarked or received by 9-21-2012</i>	\$ 120.00
<input type="checkbox"/> Non-member municipality/Gov't/or Non-profit	Registration - <i>after 9-21-2012</i>	\$ 150.00
<input type="checkbox"/> Business Representative	Pre-Registration - <i>must be postmarked or received by 9-21-2012</i>	\$ 100.00
<input type="checkbox"/> Business Representative	Registration - <i>after 9-21-2012</i>	\$ 125.00
Registration Fee		\$

WEDNESDAY LUNCHEON-OCT 3	Location	Cost
Awards Luncheon (Buffet)	Civic Center	\$ 15.00
Wednesday Meal		\$

THURSDAY LUNCHEONS-OCT 4	Location	Cost
Networking Luncheon (Buffet)	Civic Center	\$ 15.00
Maine Chapter of American Public Works Association (MCAPWA)	Augusta Elks Lodge	\$ 17.00
Thursday Meal		\$

TOTAL (Registration Fee & Meals)	\$
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Signature: _____ Date: _____

Payment Options: Send invoice* Check will be mailed** Payment Enclosed** PO #: _____
 (*You will be invoiced after Convention – **Please send a copy of this registration form with payment)

Fax registration form to: (207) 626-5947 **Mail form to:** Convention Registration, Maine Municipal Association, 60 Community Drive, Augusta, ME 04330

Please make check payable to Maine Municipal Association

Questions/Cancellations: Please call Louise Ridley at MMA, 1-800-452-8786. Notification must be given three business days in advance to obtain a refund. All cancellations are subject to a \$10 processing fee. Registrations may be transferred to another official or employee. Please inform us of any special dietary needs or special requirements you may have due to a disability.

Please keep a copy of this form for your records.



Maine Municipal Association

LOCAL GOVERNMENT
begins with **YOU**

ANNUAL SEARCH

Nominees for the Maine Municipal Association's Most Prestigious Award

**Deadline for Receipt of Nominees – 4:30 p.m. on Friday, August 31, 2012.
Award will be presented at the MMA Awards Luncheon on Wednesday, October 3, 2012.**

Ethel N. Kelley MEMORIAL AWARD

**If you know a municipal elected or appointed official,
employee or volunteer who ...**

- ★ *Is dedicated to the cause of good local government;*
- ★ *Has conscientiously served local government and made this a lifetime achievement for 20 years or more;*
- ★ *Has demonstrated the capability and willingness to “Hold the Community Together”;*
- ★ *Has a selfless concern for others in their community;*
- ★ *Has not received full recognition for their service in local government; and*
- ★ *Is currently serving or has retired in the past two years (may be given posthumously if within the past two years).*

MMA wants to know about them! Please take this opportunity to nominate this individual and give MMA the opportunity to recognize their achievement and dedication.

THE NOMINATION PROCESS: Nomination Forms can be downloaded from the MMA website at www.memun.org. Please complete the Nomination Form and return it to MMA with up to five supporting letters. **The supporting letters are a critical part of the process.** Care should be taken to describe in detail why your Nominee should receive this award and to assure that they highlight the criteria referenced above. Please give examples of your Nominee's efforts. **Start thinking about your Nominee now!**

THE JUDGING: The panel of judges will consist of three MMA Past Presidents who will meet in mid to late September to make their selection. The award will be presented during the Awards Luncheon being held in conjunction with the MMA Annual Convention.



People



Steven Buck

Long-time Caribou City Manager **Steven Buck** has accepted the top administrative job for the Town of Sanford. Buck replaces veteran manager Mark Green, who is heading northeast to work as Executive Director of the Washington-Hancock Community Agency. Buck has worked as Caribou manager since 2001 and said he will miss the city staff, business owners and volunteers he has worked with over the years. Buck, who holds a Master's Degree in Public Administration, will begin his new job on Aug. 6. A fourth-generation farmer who served 15 years as a Corinna selectman, Buck followed his grandfather, who served 35 years, many as chairman, on the Corinna Board of Selectmen. Buck, 48, served as interim manager several times during his tenure as Corinna selectman. Buck's first full-time manager's job was in Caribou.

Millinocket Fire Chief **Wayne Campbell** retired on June 30 after serving the town as a part- and full-time firefighter for 42 years. Campbell was appointed chief in 1999. The council praised Campbell for his dedication to the town and lamented the experience and knowledge Campbell took with him when he retired.

Augusta police officer **Lindell Cox** retired in early June after 25 years with the city. Cox, 47, started his career as a part-time Waldoboro patrolman at age 19 before taking a full-time job in Augusta three years later. He preferred the night shift, which he worked for 19 years while passing up higher positions in the department. Cox plans to move to Texas, where his brother lives, and then onto Tennessee. He does not plan a second career in law enforcement, telling the Kennebec Journal newspaper: "...I'm looking for a new adventure."

Garold "Twig" Cramp will end his long career as East Millinocket police chief in mid-July to take a private job with Federal Protective Services. Cramp had retired in June 2011, but returned for one more year to help the municipi-

ality during a trying financial period. The department serves Medway as well as East Millinocket. Cramp has worked for the town for nearly 30 years. He told selectmen in June that his salary and time demands of the job were not conducive to a quality family life. He will work as a private contractor for the federal law enforcement agency, under the umbrella of the Department of Homeland Security, to protect federal buildings, facilities and properties.



Norman Cyr

Madawaska Fire Chief **Norman Cyr** will retire this summer after serving the U.S.-Canada border community for 43 years. Cyr, who cited his age and health concerns as reasons for his retirement, planned to work through June 30. Cyr also has served on the board of the Aroostook Regional Incinerator Facility for 27 years, stepping down in 2011. Cyr said he intends to stay in Madawaska.

Paris police officers **Tim Gamache** and **Zane Loper** have resigned to work for other agencies. Gamache has worked for the western Maine town for three years. He is leaving to work in Poland as an Androscoggin County sheriff's deputy. Loper, a 12-year department veteran, will work as an Oxford police officer. Loper has worked as a part-time drug enforcement officer

for the towns of Paris and Oxford and planned to remain in that position until the funding that paid for the shared drug agent ended on June 30.

Paris Selectman **Ted Kurtz** resigned his position to spend more time at his law office after the departure of his partner. Kurtz, 77, said he lacks the energy and time to serve out his term as well as trying to maintain his nearly 40-year practice in Paris. He was first elected in March 2010 to fill a vacant seat and was re-elected in June 2010 to serve through June 2013.

Scott LaFlamme will succeed Turner Town Manager **Eva Leavitt** effective July 1. LaFlamme recently graduated with a Master's Degree in Public Administration from the University of Maine. He was elected to the Old Town council at the age of 19 and served three years. He also has worked in various town government internships as part of his college courses. Meanwhile, the town has hired **Jack Moultrie** as its new public works director, also effective July 1. Moultrie will also be responsible for town cemeteries, parks and the transfer station as part of the combined position approved during the annual town meeting this year.

Former Veazie Manager **Bill Reed** has been named Lincoln town manager, succeeding **Lisa Goodwin**, who recently accepted the job of Bangor city clerk. Reed worked for Veazie for 19 years and takes over from interim manager **William Lawrence**, Lincoln police chief. (mt)

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Boothbay: Volunteers of Boothbay have organized a group of elderly men known as the “Woodchucks” to cut down, chunk up, split, season and deliver to needy residents of the Boothbay Peninsula, all at no cost. These men range in age from early 60s to 85 and have felt a need to help where they can in the community. In the last three years, they have delivered 119 truckloads of both hard and soft wood. Two truckloads equal about one cord of wood. “This has helped relive the town in purchasing wood for the needy, although it was not the original intent of the Woodchucks,” according to Town Manager James Chaousis II. For their efforts, the “Woodchucks” were awarded the Spirit of America Award by the Town of Boothbay for 2012.

Falmouth: The town’s website was breached in June when a resident post-

ed a notice on the site. Officials think the man was able to get through the security system when they gave him a list of email addresses of subscribers to the site, which apparently included an address that allows only authorized people to post public notices. The resident got the list of addresses after filing a Freedom of Access request. Councilors said the breach could compel them and other municipal officials to seek legislation to protect the addresses that give only authorized people authority to post information to the site.

Millinocket: Town officials announced in June they will proceed with a lawsuit against Gov. Paul LePage for withholding \$216,000 in education funds from the community. “The town does not want to be suing the state of Maine. We are doing this with great reluctance,” Town Manager Eugene Conlogue said, according to the Bangor Daily News. “That said, it appears we are not going to get the funding the town is legally owed but for this action.” LePage is refusing to release the money after saying the town broke its promise to pay \$50,000 a year toward the estimated annual cost of \$250,000 to maintain the Dolby regional landfill – a claim that town officials deny.

Nobleboro: Taxpayers will enjoy a property tax cut of nearly 3 percent now

that selectmen have approved the final spending plan for the new year. The new tax rate was set at 9.8 mills.

Pittsfield: Councilors in June approved a business permit allowing the operation of a gun shop out of a residence a stone’s throw from an elementary school. The businessman plans to run the operation as a part-time venture. He assured town officials he would not sell ammunition or stockpile firearms. He presented a detailed business plan to the council. He holds a federal license to gunsmith, which allows him to repair and sell firearms. Only one person attended a special meeting on the proposal

Saco: Maine’s highest court has ruled in favor of the city regarding an historic property they contract zoned and which was razed to make way for a 14-lot condominium subdivision. The developer caused a ruckus when he demolished a hotel-turned-convent and other buildings on the beachfront property, which was bought by the Good Shepherd sisters in 1948. The nuns put the property up for sale in 2008 when they consolidated the convent with one in neighboring Biddeford. A superior court judge ruled in the city’s favor last May; protestors appealed the council’s and planning board’s decisions to the Maine Judicial Supreme Court. [\[m\]](#)

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NEW ON THE WEB

Here are some highlights of what’s been added at www.memun.org since the last edition of the *Maine Townsman*.

- **MMA’s Legislative Policy Committee.** The election process that selects 70 elected or appointed municipal officials from across the state is under way, as ballots have been mailed to municipal managers and first selectmen in member municipalities. Members elected to serve on this committee will help guide MMA staff on legislative matters during the 2012-2014 biennium of the Maine Legislature.
- **Behavioral Highway Study.** The Maine Bureau of Highway Safety wants proposals from potential sub-grantees for projects that would use federal funds for local and state-wide behavioral highway safety programs and increase awareness of behavioral highway safety issues in local communities.
- **Social Media Guidelines.** Maine Municipal Association posted its recently approved “Communication and Social Media Policy and Guidelines.” The document may be a valuable resource for municipalities that have not adopted guidelines on this topic and may be using Facebook, Twitter and other social-media communication tools. It is listed in the members, area of the MMA website. Go to: “Resources by Position” and then click “Human Resources.”



Municipal Bulletin Board

ELECTED OFFICIALS

WORKSHOPS:

SACO, AUGUSTA/CARIBOU

MMA officials will hold Elected Officials Workshops on July 19 at the Ramada Inn in Saco and on July 25 at the MMA Conference Center in Augusta. The July 25 workshop will be relayed live via videoconferencing equipment to the Northern Maine Development Commission office in Caribou. The workshops will run from 4:30 to 8:30 p.m. and include a light meal. Registration begins at 4 p.m.

The workshops are “musts” for both newly elected and veteran officials as they provide an update to legal requirements regarding: your rights as officials; open meeting requirements; conflicts of interest; liability issues; and, the Maine Freedom of Access law. Officials who attend the session meet the state’s Right to Know training requirements and will receive certificates. A section on media relations and communications was added in 2010.

The in-classroom cost is \$40 for MMA members and \$80 for non-members. Attendees in Caribou will pay \$25 if they are MMA members. Registration is available through the MMA website at www.memun.org.

VITAL STATISTICS

The Maine Town & City Clerks’ Association will hold this day-long workshop on Aug. 9 at the MMA Conference Center in Augusta. The course will be presented by Patty Brochu, Clerk in the City of Old Town, and by Roberta Fogg of the Maine Office of Vital Records.

This workshop provides municipal clerks with an overview of the laws, rules and regulations concerning Maine’s vital records program. It will explore: the history of vital statistics in Maine; duties of municipal clerks; access to records; and, birth, death and marriage documents. The workshop starts at 8:30 a.m., will conclude at 4 p.m. and costs \$50 for MTCCA members and \$60 for non-members.

PERSONNEL PRACTICES

Attorney Larry Winger, one of MMA’s most requested speakers, will

hold a workshop on Personnel Practices on Aug. 15 at the MMA Conference Center in Augusta. This workshop will be video-conferenced live to the NMDC office in Caribou.

Among the topics to be explored: discipline and discharge of public employees; special rules for public employees; family medical leaves; and, administering collective bargaining agreements.

The workshop will begin with registration at 8 a.m. It will conclude at 3:30 p.m. Cost to attend is \$75 for MMA members and \$150 for non-members and the price includes a light lunch. The price in Caribou is \$35 for MMA members. This program counts toward Maine Town, City & County Management Association certification.

MANAGING FREEDOM OF ACCESS REQUESTS

This timely workshop is aimed at helping both municipal staffs and elected and appointed officials understand Maine’s Freedom of Access Act, why FOAA requests are filed and how to handle them properly. For elected officials, attending this workshop fulfills the state requirement of learning about FOAA.

This two-hour workshop is designed to encourage afternoon or evening attendance. The workshop will be held on Aug. 21 at the Inn at Brunswick Station in Brunswick. The first session starts with registration at 2:30 p.m.; the workshop runs until 5 p.m. and is followed by a light dinner. The second

session starts with light dinner and registration at 5:15 p.m. The workshop runs from 6 p.m. to 8 p.m. Cost is \$30 for MMA members.

The workshops are led by: Amanda Meader of MMA’s Legal Services Department; Dana Lee, manager in the Town of Buckfield and formerly at Poland and Mechanic Falls; and, Eric Conrad, MMA Director of Communication & Educational Services.

NEW ENGLAND MANAGEMENT INSTITUTE

The 67th New England Management Institute will be held Aug. 22-24 at Sunday River in Newry. Hosted by the Maine Town, City and County Management Association, the event features Paul Mellor, of Success Links as the keynote speaker, who will speak about “Memory Magic.” Also featured is Felicia C. Logan, Director of Leadership Development at the International City/County Management Association, who will offer several sessions on being “Ready to Lead” and “Put Me In, Coach.”

The wide-ranging conference also will feature workshops on: Maine’s Freedom of Access Act; Legislative Potpourri; and trends in health insurance. This year’s conference also emphasizes teamwork and family time, so a host of activities and social events are planned to meet those priorities.

Costs vary based on how many days and events attendees choose, lodging choices, status of membership at MTCMA and whether registrants are first-time attendees of the Institute.

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NEW AMENDMENTS TO FOAA 'OPEN RECORDS' PROVISIONS

The Legislature has enacted some important changes to the "open records" provisions of Maine's Freedom of Access Act (FOAA) or "Right to Know" law. The new amendments, in the form of PL 2011, c. 662, take effect on Aug. 30, 2012.

The new law began life as LD 1465, a bill that would have radically altered the duties of public officials when it comes to public records requests. The original bill, among other things, would have required most records to be produced "immediately" and, if available electronically, in any medium requested; would have required most large or multiple requests to be filled within five business days; and would have treated any failure to comply with these deadlines as a denial of the request, subject to fines and penalties.

Fortunately, the bill was carried over to the second session of the 125th Legislature, where it was recast based on recommendations of the Right to Know Advisory Committee, a standing advisory council created by law to, among other things, review proposed legislation affecting the FOAA. (Municipal interests on this committee are represented by an MMA staff member.) The resulting legislation was a dramatic improvement over the original version and represents a reasonable compromise among the affected interests (government, public, media, etc.). Among the highlights:

Non-binding estimate of response time. In addition to the current law requiring an agency or official to acknowledge receipt of a records request, under the new law the agency or official must also provide a good faith non-binding estimate of the response time and must make a good faith effort to respond within that time. The statutory deadline for responding, however, remains the same as before – "within a reasonable period of time."

Making and mailing copies. Under current law a person may copy a record in the office of the agency or official having custody during regular business hours, but the agency or official is not required to make or send a copy. Under the new law a person may also request an agency or official to make and mail a copy, for which a reasonable copying fee and actual mailing costs may be charged. A

request for a copy need not be made in person or in writing.

No requirement to create a record. Current law is silent on whether an agency or official is required to create a record in response to a request (although we have long advised that there is no such requirement). The new law makes this explicit: An agency or official is not required to create a record that does not already exist.

Access to electronically stored records. Current law is silent on this subject. The new law requires that access to an electronically stored record be provided either as a printed document or in the electronic medium in which the record is stored, at the requester's option, except that an agency or official is not required to provide access to a computer file if they have no ability to separate or prevent disclosure of confidential information in that file. The law does not require an agency or official to provide access to a computer terminal. Nor does it require that an electronically stored record be provided in a different electronic medium or format. If an electronically stored record must be converted into a comprehensible or useable format in order to provide access to it, the agency or official may charge for the actual cost of conversion.

Cost of searching for, retrieving and compiling records. Current law authorizes a charge of up to \$10 per hour after the

first hour for staff time for the cost of searching for, retrieving and compiling requested records. The new law bumps this up to \$15.

Local public access officers. The new law requires each unit of government, including each municipality, to appoint an existing employee as its public access officer to serve as the contact person for public records requests. Public access officers are subject to the same FOAA training requirements as certain other local officials (municipal officers, school board members, and elected clerks, treasurers, assessors and budget committee members). Public access officers are responsible for ensuring that each records request is acknowledged and that an estimate of the response time is provided, but a request must be acknowledged and responded to regardless of whether it was delivered or directed to the public access officer. Also, a response may not be delayed due to the unavailability of a public access officer.

State Public Access Ombudsman. The new law finally funds an Assistant State Attorney General position to serve as a Public Access Ombudsman. This position was actually created in 2007 (see 5 M.R.S.A. § 200-I) but was never funded until this year. The Ombudsman's duties include working to informally resolve complaints by the public and public officials concerning the FOAA and, upon request, issuing advisory opinions on the

 MMA Municipal Calendar

BY AUGUST 1 — Urban Rural Initiative Program (URIP) certification forms must be returned to MaineDOT Community Services Division prior to August 1st. This is an annual certification that must be completed by a municipality to receive URIP funds. Effective July 1, 2008, there is a requirement for municipalities to provide information on how the previous fiscal year's funds were expended.

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

MRSA §4311).

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

BY SEPTEMBER 1 — Clerks of organized plantations shall make return to the Secretary of State, on blanks furnished by him for that purpose, of the names of the assessors and clerks of their plantation and that the same have been sworn. There is a penalty for failure to make such a return (30-A MRSA §7005).

interpretation of and compliance with the FOAA. This should be a welcome development for local officials as there is at least as much need for educating the public about the FOAA as there is for public officials.

For much more on the FOAA, see MMA's "Information Packet" on the Right to Know law, available free to members at www.memun.org, or go to the State FOAA website's FAQs at <http://www.maine.gov/foaa/faq/index.shtml>. (By R.P.F.)

FUNDRAISING 'TOLL BOOTHS'

We've written before about voluntary traffic stops or "toll booths" that some groups such as volunteer firefighters use to solicit donations from passing motorists (see "Fundraising Traffic Stops Now Legal for Nonprofits," *Maine Townsman*, "Legal Notes," January 2006). But since then additional questions have been raised, including about potential municipal liability, so let's revisit the subject.

Title 29-A M.R.S.A. § 2109, which makes it illegal to stop traffic for sales or solicitation, contains an exception for "an event or project conducted by a charitable nonprofit organization incorporated in or recognized by the State that has received municipal and local law enforcement authorization, including approval for the organization's traffic routing, schedule and procedures for the event or project."

As we wrote in 2006, what constitutes "municipal and local law enforcement authorization" is unclear. Presumably, the municipal officers (selectmen or councilors) or their designee can approve on behalf of the municipality. As for approval by local law enforcement, however, if there is no local police department (as is the case in most municipalities in Maine), we recommend that the sponsor obtain approval from the county sheriff with jurisdiction in the municipality or, in the case of a state highway, the State Police.

It's worth noting that municipal and law enforcement approval is entirely discretionary; charitable traffic stops are not an entitlement. But approval should not be arbitrarily granted or denied based on a particular organization's purposes. If a municipality chooses to permit them

(some municipalities prohibit them altogether, which is ok too), it should do so on a case-by-case basis based on the statutory criteria (see above) and the safety of both participants and the motoring public.

Incidentally, *because* approval is discretionary, neither municipalities nor their officials or employees can be held liable for any injuries or property damage resulting from a charitable traffic stop – the Maine Tort Claims Act provides full immunity from liability for, among other things, "discretionary functions" (see 14 M.R.S.A. §§ 8104-B(3), 8111(1)(C)).

One final note: Because only charitable nonprofit organizations are eligible to conduct traffic stops, and because municipalities are units of government, not nonprofit organizations, municipal departments such as fire departments and recreation programs are *ineligible* for this type of activity (although separately incorporated nonprofit auxiliary organizations supporting municipal fire departments, etc. would be eligible). (By R.P.F.)

PERFORMANCE GUARANTEES

Many land use ordinances, particu-

larly subdivision and site plan ordinances, require developers to post a performance guarantee to ensure that infrastructure improvements such as streets and sewers are completed on time and as specified. While the current economic climate may make real estate development pretty risky, now may be a good time – for the same reason – to review an ordinance's performance guarantee provisions to make sure they will adequately protect the municipality.

For a description of the three most common types of performance guarantees and related advice, see this March 2002 *Maine Townsman* article by former MMA Senior Staff Attorney Jim Katsiaticas: <http://www.memun.org/public/publications/townsman/2002/pubimprov.htm>.

For a discussion of letters of credit and their advantages, see this article from the Maine Association of Planners December 1990 newsletter by long-time municipal planner Peter Morelli: http://www.memun.org/members/plan/Zoning/Ltr_Credit.htm.

While both of these articles were published a number of years ago, the information they contain is still very much current. (By R.P.F.) 

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