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The Magazine of the Maine Municipal Association



MUSICAL CHAIRS
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Advance, Others On Hold

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The Magazine of the Maine Municipal Association

Travel and Training in a Great State 5

Maine Municipal Association Director of Communication & Educational Services Eric Conrad explores many parts of the state, as do his MMA colleagues. Here is a look at some recent highlights, plus a sneak peek at some 2013 training plans.

Update: 'Communities for Maine's Future' Projects 7

Affected communities have dealt with the financial disruption of voter-approved redevelopment projects in a variety of ways, from proceeding on their own to acquiring stopgap financing to shelving the plans, at least temporarily.

A Careful, Thoughtful Evolution 15

The City of Portland made history this year by swearing in a full-time Mayor, but Maine's largest municipality is taking care not to overstep. This article explores the process used to elect Mayor Michael Brennan and looks at how the position is developing.

Understanding Tax Increment Financing 21

This detailed, "look-under-the-hood" article by experts John Holden and Jon Pottle explains the intricacies and power of TIF. They contend that, if used properly, TIF can be a win-win for both communities and businesses.

Medical Gem in Caribou 24

Health-care and municipal officials describe circumstances that made Caribou home to Maine's only municipally owned acute or specialty-care hospital. They say mutual respect between the hospital and city is the key to a "symbiotic relationship" that benefits both patients and employees.

People 26

News 27

Municipal Bulletin Board 28

Legal 29

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COVER PHOTO: This image captures an interior room at the Norway Opera House, which is one of 11 "Communities for Maine's Future" redevelopment projects. (Photo by Jill Brady).



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A Message From MMA



by Eric Conrad, Editor

Of Workshops and Maine Travels

You could call it gentle envy, I guess, or maybe it was nostalgia for the job I'd left behind. When my wife and I moved to Maine in 1995, I was no longer a daily newspaper reporter, for the first time in my career. Rather, I was hired as City Editor of the Portland Press Herald/Maine Sunday Telegram back then and my wife, Barbara Walsh, started as a featured reporter.

Where did the envy come in? She traveled throughout this beautiful state right away, meeting fascinating people and reporting terrific stories. I worked, like most editors do, from the office, the iconic Portland Press Herald building at 390 Congress St. Don't get me wrong, being a newspaper assignment editor was – still is, I presume – a good job, helping reporters cover some of the biggest issues and news events in Maine. But I still felt a twinge when Barbara would recount a reporting trip to Embden or Hermon – or just about any place, for that matter.

Today, the gentle envy is gone.

Working as Director of Communication & Educational Services at Maine Municipal Association, as I have for the past going-on-three-years, puts me on the road often, mostly coordinating and presenting at workshops and training events. I also interact with municipal Affiliate Groups as they hold conferences in places like Newry, Northport and Presque Isle.

As we head toward the end of another calendar year, here's a look at some of the intriguing places we've been since 2010 and at some of the training sessions we've held:

Lakeview Restaurant, St. Agatha, Aroostook County: Last April, Amanda Meader, an attorney with MMA's Legal Services Department, Buckfield Town Manager Dana Lee and I presented a new workshop on Managing Freedom of Access Requests at the Lakeview. And what a view, overlooking (then still-frozen) Long Lake. The workshop was well-attended by an engaged group of elected officials and municipal staff and the restaurant service was outstanding.

This Managing FOAA Requests workshop has proven to be in high demand, as changes to Maine's access law require that each municipality designate a "public access officer" – or two – to handle requests properly. We plan to hold three more during the first seven months of 2013, tentatively in Bridgton, Ellsworth and Saco.

River Drivers Restaurant, Millinocket, Penobscot County: MMA Attorneys Bill Livengood and Richard Flewelling have long been the "stars" of our Elected Officials Workshops, designed to train both new and veteran selectpersons and councilors about their requirements and responsibilities. They even let me say a few words about effective communication and engaging the media. We held eight "EOWs," as we call them, this year. We are scheduling seven more in 2013.

In 2011, we held an Elected Officials Workshop on the second floor of this restaurant, which was located a stone's throw from the banks of the Penobscot River. After the workshop wrapped up at 9 p.m., we retired to a cabin that we shared at the New England Outdoor Center a few miles away. That's a breathtaking site overlooking Millinocket Lake and Mount Katahdin. Here's what made it truly memorable: That night, June 15, 2011, Bill, Richard and I watched the second and third periods as the Boston Bruins beat Vancouver to win the National Hockey League's Stanley Cup for the first time in 39 years.

Town Hall, Union, Knox County: Union Town Manager Jay Feyler called with a request in early 2011. He asked that MMA put together a workshop that helps elected officials and municipal managers better understand one another and their distinct, important roles. MMA tapped veteran municipal officials Pam Plumb, a former Councilor and Mayor in the City of Portland, and Don Gerrish, a former Manager in the towns of Brunswick and Gorham, for our first-ever "Roles of Elected Officials & Municipal Managers Workshop."

This workshop also has been a success, and it will be held twice more in 2013, plus at MMA's 77th Annual Convention, Oct. 2-3, 2013 at the Augusta Civic Center. David Barrett, Director of Personnel Services & Labor Relations at MMA, also is a presenter. What we all remember about the Union debut was the food, especially the spread of pies put before us in generous fashion by the Union Fire Department Auxiliary. Memo to Jay: We'll be back!

Town Hall, Scarborough, Cumberland County: This workshop is still "under construction" in some ways, but MMA is developing training aimed at larger municipalities with managers and councils. Scarborough Town Manager Tom Hall agreed to host this on March 20, 2012. Many members of the MMA staff made presentations including our Executive Director, Christopher Lockwood.

What impressed us most about Scarborough was the professionalism of the staff and Council. Everything went smoothly, from the expert audio-visual assistance that we received to the catered food to the layout of the Council Chamber itself.

My wife and I lived in Cape Elizabeth for the first 10 years of our time in Maine (we live in Winthrop now). Whenever we return to Greater Portland – the city itself, South Portland, Cape and Scarborough – we enjoy the vibrancy, the coastal beauty and the urban/suburban sense of place.

Next year, MMA will make the rounds again – members of our outreach staffs, workshop presenters, Affiliate Group coordinators and more. We're not envious, we're proud – proud to serve you as you serve the citizens of Maine. 

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Maine Communities ‘Play the Hand We’re Dealt’

By Douglas Rooks

When 11 Maine municipalities were awarded Communities for Maine’s Future (CMF) grants last year, many of them went right to work on the projects, which total about \$11 million, and were provided \$3.5 million in state funding. Many involve rehabilitating historic downtown buildings, while others would improve infrastructure that makes such reuse more likely.

Grant applications were highly competitive – 32 communities sought funding – and nothing in the documentation supplied by the Department of Economic and Community Development (DECD) indicated that there were more steps to be taken.

Late last June, more than six months later, word began to spread that there might be a problem with state funding. Although there was no formal announcement, the administration acknowledged that Gov. Paul LePage wouldn’t authorize issuing bonds for the program, as enacted by the Legislature in 2009 and approved by the voters in June 2010. LePage said the state was already spending \$100 million annually to repay previous bond issues, and until that total went down he wouldn’t authorize any more.

Municipal officials were taken by surprise. Norway Town Manager David Holt told a reporter at the time that he was “stunned” by the governor’s action, which he called “unfathomable.”

While not taking back those words, Holt today says he has made his peace with the situation: “We have to play the hand we’re dealt, and that’s what we’re trying to do.”

For a time, debate continued, including meetings among the 11 af-

fectured towns and cities and testy public exchanges between Rep. Jeff McCabe (D-Skowhegan) and the governor over his decision.

McCabe still believes that there was no need to deny funding, and that the necessary money had already been allocated through the biennial budget. “We have the ability to do this and the voters have spoken,” he said. He also expressed concern that other bonds, such as the transportation bond to be voted on in November, might take priority over the Communities for Maine’s Future program later on.

Adrienne Bennett, LePage’s communication director, said she agrees that the borrowing was in the budget, but the critical factor in the decision was funding in the state treasurer’s cash pool, from which money must be withdrawn.

\$100 MILLION LIMIT

“He’s made it very clear that \$100 million is the limit,” she said of the governor. That’s why he also set a date of 2014 or 2015 for when the Communities for Maine’s Future bonds can be issued. “At that point, bond costs drop to \$74 million and we’ll have room.”

Bennett clarified her previously reported comment that other governors had delayed issuing bonds. “I don’t want to try to speak for other governors,” she said. But she did point out that, when LePage took office in 2010, there were unissued bonds that had been voted on during the 2007-08 session of the Legislature.

In the meantime, the governor has provided letters to communities, upon request, formally stating his intent to approve bonds before they expire in 2015. The first one went to Livermore Falls. State Rep. Gary Knight (R-Livermore Falls) had met with LePage on a

Saturday morning at the Blaine House. Knight sought a meeting with the governor that would include town officials and the developer, as well as bank officials and others agencies involved in the project.

“There were just two weeks before the bank agreement expired,” he said, and without a commitment from the state, the \$2 million project to overhaul the downtown Lamb Block would fall apart. The governor “said to come alone, so I put on my suit and drove down,” Knight recalled.

After discussing LePage’s desire for municipalities to seek alternative funding, “he agreed to sign a commitment letter, and we had it on Monday.” Knight observed that “you catch more flies with honey than with vinegar.”

That week, the DECD announced it would offer to Livermore Falls \$400,000 in bridge funding from Rural Development Administration funds.

But not all of the 11 communities have been offered, or have been able to obtain, new financing. Over the past three months they’ve been taking a variety of approaches.

Some have gone forward with projects through bond anticipation notes or municipal bond issues. Others had received CMF money before the governor’s decision, and secured the balance through the Community Development Block Grant (CDBG) program, which may reduce the availability of CDBG funds for other projects. Some are still discussing their options and some have placed their projects on hold (*See chart on Page 9.*)

What follows is a description of decision-making at each of the 11 towns and cities that were involved.

CITY OF BATH

Bath received the smallest grant

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



Outside the Norway Opera House. (Photo by Jill Brady)

from the original \$3.5 million, a sum of \$70,000 to aid renovations to the Old Custom House, given to the city by the federal government on condition that it is maintained to National Historic Register standards. The iconic building, the first downtown structure seen as travelers cross the Sagadahoc

Bridge from Woolwich, has custom-made windows that need to be replaced with energy-efficient models.

The \$250,000 in renovations authorized by the city council went ahead with local funding, said City Manager Bill Giroux. He didn't advocate any action concerning the lack of state

funding.

"We have a lot of dealings with the state, and we've benefited from many CDBG grants in the past," he said. "Considering the amount involved, it's more important for us to maintain the relationship long-term" – though he does hope the city will eventually be paid back.

CITY OF BELFAST

Mayor Walter Ash was among those who criticized LePage's decision. "It's unfair to change the rules more than six months after a grant has been awarded," he said. "It left us in a tight place with no good options."

Belfast, whose downtown has been thriving for two decades, wants to reconnect townspeople and visitors with the historic waterfront and plans a \$1.5 million walkway to do so. Since the city was planning a bond issue anyway, the council decided to increase the bond from \$800,000 to \$1.2 million to reflect the absence of state funding. Discontent remains, said Ash, a former legislator.

"This was a big issue for us. We paid for plans that cost hundreds of thousands of dollars, went through the

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competition and then found ourselves in a pretty tough place when the rug was pulled out.” Ash also is concerned that other affected municipalities won’t be able to make the same kind of commitment that Belfast could.

TOWN OF DOVER-FOXCROFT

His town was one of several caught in the middle this summer, said Chris Maas, who chairs the Friends of Central Hall Committee that has been trying to save the downtown landmark and former municipal building.

The roof is leaking heavily and the town had ordered \$18,000 of shingles when the funding news arrived. “We were in a heck of a spot,” Maas said. Ultimately, the DECD decided to reimburse the money for the shingles, and also provided \$140,000 in CDBG funding that will allow the Friends to continue work over the winter.

But Dover-Foxcroft had been awarded \$400,000 from the original grants, half of which was to go toward a

quarter-mile river walk to create access to the Piscataquis River. The riverbank is the site of an old woolen mill, later Moosehead Manufacturing, that a developer has proposed for a \$12 million mixed-use redevelopment.

“We think that development is desperately needed for reviving the downtown and we haven’t figured out how it can happen,” Maas said.

Though the Central Hall work continues, “We had 30 people working hard on the project and what happened was demoralizing,” he said. “Mentally, we’re still recovering.”

CITY OF EASTPORT

Maine’s smallest city has seen a remarkable revival over the past two years, Town Manager Jonathan Southern said. “This was almost a ghost town and now every single building is occupied.” There are an astonishing 16 restaurants to choose from, for instance.

Southern believes that the catalyst was the effort to renovate the old bank

building that houses the Tides Institute, which led other building owners to reinvest. “It’s just triggered a whole new spirit that had a ripple effect, building by building.”

To keep the revival going, Eastport was granted \$250,000 and had already received \$60,000 before the funding disruption; the balance has now been committed from CDBG.

Hugh French, Tide Institute director, said the money will allow more work on the old bank, plus the first stage of renovations at the Holmes Building, a two-story structure that will include studio space for artists, including a print shop on the ground floor. French said this will allow Eastport to build an “economy of place” that is vital in a community so far removed from major population centers.

TOWN OF MONMOUTH

When the funding freeze hit, Monmouth had almost finished the project for which the CMF grant had been

COMMUNITIES FOR MAINE’S FUTURE GRANTS

Municipality	Project & Budget	Grant Amount	Current Funding	Project Status
Bath	Old Custom House \$250,000	\$70,000	\$70,000	Local funding
Belfast	Waterfront walkway, \$1.5 million	\$400,000	\$400,000	Municipal bond issue
Dover-Foxcroft	Central Hall, River walk, \$1.2million	\$400,000	\$158,000	CDBG
Eastport	Two downtown buildings, \$500,000	\$250,000	\$250,000	\$60,000 DECD \$190,000 CDBG
LivermoreFalls	Lamb Block \$2 million	\$400,000	\$400,000	Rural Development
Monmouth	Old Grange Hall \$800,000	\$400,000	\$400,000	\$243,000 DECD \$157,000 CDBG
Norway	Opera House \$1.1 million	\$400,000	\$400,000	Bond Anticipation note
Rockland	Thorndike Access TBD	\$400,000	\$0	On hold
Skowhegan	Grist Mill Access \$800,000	\$400,000	\$0	Deferred
Unity	Two downtown buildings \$1.1 million	\$305,000	\$0	On hold
Wiinthrop	Library roof \$150,000	\$72,000	\$72,000	DECD

awarded – renovating the old Grange Hall, across the street from the iconic Cumston Hall, which houses town functions and the Theater at Monmouth. Town Manager Curtis Lunt said \$243,000 had been received, while the remaining \$157,000 will be drawn from CDBG accounts.

“We never heard from the state,” Lunt commented, though after receiving the balance in CDBG funds, the town averted a situation “that had us pretty well in a pickle.” The restored structure will provide improved space for theatrical productions, storage and housing, as well as providing meeting space for the town.

TOWN OF LIVERMORE FALLS

Kevin Bunker, the developer of the Lamb Block project, said he doesn’t feel there was any special treatment involved in the first state effort to find alternative funding. “We had a quick deadline to meet and if we hadn’t met it, the project would have been gone. It’s that simple,” he said.

Indeed, within a week of the Rural Development grant, scaffolding was up on the building and windows were

being removed. “There’s a lot of private funding involved,” Bunker said. “At that point, we had our tax credits, our building permits, and a tenant” – Health Reach Community Health Center – “lined up. To apply a funding cutoff retroactively put us in a pretty difficult position. We were right at the

finish line.”

Bunker’s firm, Developers Collaborative of Portland, has worked in communities around the state. Restoring old downtown buildings is feasible but enormously complex. “There were perhaps some unintended consequences,” he said.



Workers renovate the Norway Opera House interior. (Photo by Jill Brady)

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TOWN OF NORWAY

In 2007, part of the Opera House roof collapsed. The five-story building that dominates downtown will need \$5 million if it's to be fully restored, but Norway has concentrated on a \$1.1 million project that will enable it to fix the exterior and bring back five storefronts on the first floor.

"You can imagine that a building like that, in the middle of downtown, can put quite a damper on things when it's vacant," said Town Manager David Holt.

The funding freeze caught Norway at an awkward moment. Because federal rules governing historic tax credits grant them only to for-profit entities, Norway had created such a subsidiary that then had to seek a tax-anticipation note to allow work to proceed. That cost 1 percent more than the interest rate the town could have gotten on its own.

If work hadn't started this year, the tax credits would have expired, so Holt said the town felt compelled to act. Plus, there were two other grants at stake. "I've mellowed a bit" since his original public comments, Holt said, but he added: "This is by far the most

complicated project I've ever been involved with."

CITY OF ROCKLAND

The project for which Rockland received its \$400,000 was not as far advanced as those in other municipalities, said Community Development Director Audrey Lovering. Main Street has been fully occupied for some time, so the city is now turning its attention to Tillotson Avenue, a street leading to the main waterfront area.

The city wants to open a pedestrian walkway and provide improved infrastructure to the rear of the Thorndike Block, which will open up both first-

and second-floor space for retail businesses and offices.

But because no contracts were pending, Rockland is going to wait awhile before deciding whether, and when, to move forward, Lovering said.

TOWN OF SKOWHEGAN

Skowhegan was the second community that received a gubernatorial letter promising funding by 2015, but the town council has decided not to use it, said Town Manager John Doucette.

The \$400,000 state grant was intended to provide infrastructure and amenities on town land adjacent to the restored Grist Mill. But with a pending

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\$9 million municipal bond needed to pay for Combined Sewer Overflow (CSO) improvements, the town doesn't feel comfortable with more debt, Doucette said.

"There is a risk involved, and we've decided we don't want to take it," he said. The downtown project may now wait until the state funding is received.

TOWN OF UNITY

Not much has been heard from Unity about the CMF issue, in part because two different non-profit agencies are involved. Of the \$305,000 awarded by the state, a smaller share will replace the roof of the community building owned by Unity Barn Raisers, according to board president Dave Smith. He said the project ready to go to bid but was "brought to a screeching halt" by the funding decision.

The other share would be used by the Maine Farmland Trust, which plans to locate a "farm hub" in the old Grammar School downtown. Executive Director John Piotti said the hub would involve 20 to 30 farmers whose produce would be "minimally processed" to reach beyond farmer's markets and community-supported

agriculture outlets.

"To really have the kind of impact we need, we have to reach more traditional outlets," such as grocery stores, he said.

The community building and farm hub are on hold, Piotti said. The Farmland Trust might take on financial responsibility for the project if the governor is willing to make the same commitment as he has to other communities. "There's so much going on it will take some time to decide whether to move forward," he said.

TOWN OF WINTHROP

The second smallest grant, for

\$72,000, went to Winthrop, which sought help replacing the roof at the Charles Bailey town library building – an expensive proposition since the slates are custom-made. Town Manager Jeffrey Woolston said there were concerns, but when he checked with DECD he was told the money was there. "We're going ahead. It's not being held up," he said.

Woolston isn't sure exactly where the state money came from. "I decided not to ask. I just said, 'Thank you.'"

The roof work has begun, and is expected to be completed before winter. [mc](#)

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

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

Wednesday, February 6th
Application Deadline.

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

Wednesday, March 20th
Application approval (Board Meeting).

Monday, April 8th
Preliminary opinions and loan agreements due from bond counsel of each borrower.

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

Wednesday, April 10th
Last date for signing school contracts and rates in place for water districts. PUC Approvals due.

Monday, April 22nd & Tuesday, April 23rd
Maine Municipal Bond Bank Pricing.

Wednesday, April 24th
Maine Municipal Bond Bank Sale Meeting (Board Meeting).

Tuesday, May 14th
Final documents due from bond counsel.

Wednesday, May 22nd
Pre-Closing.

Thursday, May 23rd
Closing - Bond Proceeds Available (1:00 PM)

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

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Mayor Brennan: Making History in Portland

By Douglas Rooks

In the 10 months since Portland's Michael Brennan became the state's first full-time elected mayor, the veteran politician has been highly visible – appearing before the Legislature, meeting with state Cabinet officials, organizing the Mayor's Coalition, speaking at countless events.

Even though Brennan had served 13 years in the Legislature and run for Congress, he may be achieving his highest profile yet as Portland's mayor.

"When it stands alone, Portland isn't very effective at the Legislature," Brennan said, during an interview at his City Hall office. "But when it works together with other cities, legislators really listen."

That's the idea behind the Mayor's Coalition, which involves the 10 largest cities that use the mayor-council form of government: Auburn, Augusta, Bangor, Biddeford, Lewiston, Portland, Saco, South Portland, Waterville and Westbrook.

The coalition, along with Maine Municipal Association, was active during the 2012 legislative session by opposing cuts in General Assistance funding that would have shifted significant costs to municipalities and made other program changes, an administration plan sharply scaled back by the Appropriations Committee.

"We are active members of MMA and participate in its legislative activities," said Brennan. "MMA has been particularly helpful with General Assistance issues."

Since lawmakers adjourned last spring, Brennan has focused on meetings with the commissioners of Transportation, Health and Human Services,

Education and others. The mayor has also been a visible presence opposing charter schools in Portland, supporting marriage equality and promoting business development.

Yet the job isn't quite as different from the previous mayor's position – in effect, Chair of the City Council – as it might first appear. And that's by design.

Jim Cohen is a former Portland Mayor himself and vice chair of the

Charter Commission that proposed a directly elected mayor for the first time in nearly 100 years. He said the commission studied dozens of city charters in "peer cities" that included: Corvallis, Ore.; Savannah, Ga.; Manchester, N.H.; Worcester, Mass.; and, Santa Barbara, Calif.

A crucial decision involved whether the mayor should concentrate on policy, with the council, or also to serve as administrative head of city



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Mayor Michael Brennan, Portland. (Photos by Jill Salvail)

government. There are examples of both kinds of mayor in the peer cities; the charter commission decided to keep the mayor focused on policy.

EVOLVING CAREFULLY

Cohen noted that a referendum petition for a directly elected mayor was soundly defeated two decades ago, and “we were mindful of not proposing too much change all at once.”

Brennan points out that the charter changes passed in 2010 with just 52 percent of the vote, although the city now seems to have largely accepted the full-time mayor’s role.

Portland retains its existing City Manager position; five months before Brennan became mayor, Mark Rees was hired as manager, replacing Joseph Gray. Currently, the city manager earns \$143,000; the mayor, \$66,000.

“It’s not as if the charter didn’t provide a good road map,” Brennan said, but he and Rees have had frequent meetings to fill in some of the “gray areas” and divide responsibilities. The city manager continues to supervise all department heads and directs day-to-day operations.

The mayor is free to launch policy initiatives, appoint committees, undertake studies and represent the city in forums far and wide. That suits Brennan just fine and, in his estimation, makes good use of the skills that he acquired over a quarter century in city and state service. His first municipal position was on the Portland Housing Authority Board, where he served from 1984-95. He was elected to the first of four House terms in 1992, left through terms limits in 2000 and then returned to win a Senate special election the following year, ending his Senate career as majority leader in 2006. He ran unsuccessfully for the 1st District Congressional seat in 2008, and had no immediate political plans when the charter commission began meeting the following year.

He couldn’t have served as mayor unless the job carried a full-time salary, Brennan said.

“The last years in the Senate, as Majority Leader, were practically full-time but without that kind of paycheck,” he said. “My wife told me, ‘You have to choose,’ ” and he did, taking a position at the Muskie School at the University of Southern Maine. Having two children in college was another factor.

Like all other Portland municipal offices, the mayor’s is non-partisan, and Brennan said he has adapted to that, despite his years as a Democratic office-holder. He sees advantages in

“not having to assume that someone will take a certain position because they belong to a political caucus,” as would typically happen at the Legislature.

On the other hand, “It’s sometimes a lot harder to figure out how to craft a proposal that the council will support,” he said, absent the give-and-take that typically occurs at caucuses. Brennan relies on one-of-one meetings with councilors to flesh out ideas before he formally presents them.

‘RANKED CHOICE’

Perhaps the most novel aspect of the Portland elected mayor’s position is the election method itself. The ballot used a “ranked choice” approach that required voters not just to vote for a single candidate, but to indicate a preference for a second, third, fourth and so on. Since there were 15 candidates for the November 2011 election, that involved a lot of debate and study beforehand.

Brennan liked the process. “As it was supposed to, ranked choice largely eliminated negative campaigning,” he said. Because candidates needed to appear high on many voters’ ballots, it’s unwise to attack another candidate in a way likely to alienate potential supporters, he said.

Jim Cohen said that, with so many candidates, “It prevented chaos, and helped to clarify the choices.”

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Some candidates decided to form coalitions with others running; Brennan did not, but understands the political dynamics involved. Because none of the city's voting machines are set up to handle the ranked choice system, a consulting firm led a day-long counting session which determined that Brennan was the leading vote-getter overall, and also earned the largest number of other preferences, a step designed to demonstrate majority support.

Though he also would have won in a conventional count, Brennan says that ranked choice had advantages: "It makes a big difference to be chosen by a majority, rather than have a relatively small fraction of the vote."

At the moment, City Council elections will continue to use traditional ballots. Cohen said changing that procedure might not be practical unless the city is willing to replace its current voting machines.

And there are other ways the mayor is set apart from council elections. Brennan will serve a four-year term, expiring in 2015, and he is eligible to serve one more term. Councilors continue to be elected to staggered, three-

year terms. They do not have term limits. Current Councilor Cheryl Leeman has served for more than 20 years.

Brennan believes his political experience allowed him to assume a prominent role for the city without alienating the council – which has three members who were also candidates for mayor last year. And his job description allows him to deploy his "skills and assets" for the city without being concerned about the administrative duties that are not part a big part of his background.

OPPOSES CHARTER SCHOOLS

His visits to Augusta, for instance, are far from pro forma. He took the case against charter schools directly to Education Commissioner Stephen Bowen, a supporter of the new law, pointing out that the Portland area already has a wide array of school options, including the regional Casco Bay alternative high school.

"We don't really see how charter schools are going to help the state," he said. "The real challenges in public education lie elsewhere."



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Brennan also presses the case that the Portland area is the “economic driver” for that state, fueled in part by the large proportion of residents there who hold college degrees. That figure is 41 percent, which is more than the national and New England averages. Maine as a whole falls well below those averages.

Yet he doesn’t feel that Portland itself gets enough attention as a place to start a business. He’s working to change that perception in part through a visitation program that will take him to a new business each week. Over the four years of his term, that will provide plenty of insight into what business owners’ ideas and needs are, he said.

That’s another advantage to a four-year term, rather than the one year served by previous mayors. “You can start on an initiative, like the waterfront, and before you get very far your term is over.” Brennan said of single-year tenures.

While the Portland mayor’s job description has expanded, it isn’t unique in Maine, Brennan said. In Westbrook, the part-time mayor is the administrative head of the city and the mayor has hiring and firing authority over department heads.

Westbrook Mayor Colleen Hilton caused a stir when she used that authority to dismiss several long-time employees shortly after been elected, as a Democrat, over incumbent Republican Bruce Chuluda in 2009. After that narrow victory, Hilton was re-elected to another two-year term in 2011 by a wider margin in a rematch with Chuluda.

Hilton is a long-time participant in city government – she was on the school board for 10 years, most of them as its chair, and several family members have served in other city posts. She also has a Chief Executive Officer background that she feels is appropriate to the mayor’s post, leading the VNA Home Health & Hospice program that’s part of the Mercy Health Care system.

Hilton said that charter changes that were to be voted on Nov. 6 (after the Maine Townsman’s November deadline) will change the mayor’s role in several respects. It changes the mayor’s term from two to three years, and would eliminate party nomination

in favor of a single non-partisan slate of candidates.

Brennan welcomes his role as Portland’s ambassador, and is quick to relate various measures by which the city shines.

“We’re near the top of all the family-friendly cities lists,” he said. “We are the seventh ‘greenest city’ in the country. We have 75 miles of trails and we’re one of the few that’s retained our working waterfront.”

He’s working on a “research triangle” proposal that will spotlight and coordinate the work of the University of New England in Biddeford, the

Maine Medical Center Research Institute and the University of Southern Maine. Despite its seemingly enviable place in the Maine economy, Brennan said underemployment remains among city’s residents, many of whom qualify for higher-paying jobs but may not find them in Portland itself.

He’s particularly concerned about young graduates who are struggling to establish themselves amid a prolonged economic slump.

“This could be a challenge for the rest of their working lives,” the mayor said. “We have to do everything we can to connect them to better jobs.” 



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Maine Municipal Association

TIFs Can Be ‘Win-Win’ For Towns, Businesses

By John Holden and Jon Pottle

In Maine, over 125 municipalities, plantations and counties have used Tax Increment Financing (TIF) to finance public projects since the adoption of the TIF law in 1977.

Although TIF has been around for over 30 years, it is often misunderstood and misinterpreted, even by those with established TIF Districts. Common misperceptions on TIF include: 1. It is a government subsidy for private business; 2. It is a “give away” to help new business; 3. It will raise taxes on properties outside a designated TIF district. Contrary to these misperceptions, TIF is a powerful economic development tool that can benefit communities and businesses, creating “win-win” situations.

For economic development in Maine, TIF is the most flexible and powerful local tool. It may be used by municipalities, plantations and counties to encourage or attract new investment. That investment, either from the expansion of existing or attraction of new business, takes the form of new development of property. This new development translates to new assessed value for tax purposes.

It is this new value that a community uses through TIF to invest in participating businesses and the community. Indeed, TIF can provide a source of funds to pay for a wide variety of com-

munity projects, including projects that facilitate industrial, commercial, transit-oriented or arts development, new employment opportunities and the construction of eligible public infrastructure and facilities.

HOW DOES IT WORK?

In order to use TIF as a funding source, a TIF District must first be established. A TIF District is simply a defined geographic area within a community’s boundaries. There are limits on the size and total valuation a District may take, but these are generally quite large and not a meaningful factor (see chart on Page 22).

Once established, the tax assessor calculates the original assessed value of all property in the defined TIF District, using this as a benchmark to compare with the post-project assessed value. The new assessed value is, in simple terms, the difference in value before and after a project is constructed. It is this new assessed value created in a TIF District that communities can “capture” for their benefit and “shelter” from adverse adjustments to their county taxes and State education aid and revenue sharing.

Capturing and sheltering new value in a TIF district is important for several reasons. In general, as a municipality becomes wealthier as measured by the total assessed value of its property, its County tax is increased and the amount of its State education aid and revenue sharing is decreased. The policy behind this treatment is that wealthier municipalities can afford more of the County’s tax and need fewer state subsidies.

However, TIF allows a community to shelter the new value that has been captured from County tax and State assistance formulas, thereby avoiding

adverse adjustments. For instance, if a community decides to capture 100 percent of the new assessed value in a TIF District, then its taxes owed to the county do not increase as a result of the higher assessed value in the community due to a new development project in the TIF District. Correspondingly, a community’s share of state education aid and revenue sharing does not decrease due to the higher assessed value. Thus, capturing the new assessed value in a TIF district provides benefits for communities by creating a new revenue stream for eligible community projects, while avoiding an increase in costs to the community that could occur from a new business development project.

Originally, TIF districts were established in order to fund public infrastructure projects that could be utilized by business. TIF revenues were used to cover costs of the municipal indebtedness (e.g. borrowing through bonds) for those projects. This model created a significant risk to communities, since they would be obligated to pay the debt service regardless of whether new development occurred. Although still used, a more common and modern approach to TIF districts is to use a Credit Enhancement Agreement (CEA), in which communities pay for eligible projects after new development occurs. The Credit Enhancement model eliminates a community’s risk of inadequate TIF revenues to cover debt service, and also allows flexibility and incentives for businesses.

Under the Credit Enhancement model, the captured TIF revenues go to a Development Program Fund that consists of the following: 1. A project cost account, which is where TIF revenues are initially deposited as

John Holden of Eaton Peabody Consulting and Jon Pottle, Esq. of the law firm Eaton Peabody have worked on a variety of TIF projects across the State, often with other consultants and attorneys for municipalities, plantations, and counties, as well as for private businesses. They also work with staff at the Department of Economic and Community Development, the state agency with authority to approve a TIF District and the corresponding community Development Program. They can be reached at: 207-947-0111.

determined by the percentage of the captured new assessed value; 2. A community subaccount for those portions of the TIF revenues dedicated to costs in the Community's Development Program; 3. A developer subaccount for those portions of the TIF revenues set aside for costs of the new business project (as negotiated with the municipality, plantation or county).

Alternatively, and if applicable, if the Town borrows funds for a new public investment (the old model), funds can be deposited into a Sinking Fund account to pay interest and principal on any indebtedness to fund costs in a community's Development Program.

COMMUNITY BENEFIT

Outside of sheltering new value created through TIF, communities benefit in two ways: new development through existing or new business that helps support the local economy; and, a source of revenue to fund eligible project costs in a community's Development Program.

A community's Development Program outlines how a community may use its TIF revenues. Maine law allows TIF revenues to be used within the TIF District, outside the District (must be necessary by activity in the District) and for economic development, environmental improvements, fisheries and wildlife or marine resources projects, recreational trails or employment training within the municipality.

Thus, in addition to attracting new development from existing or new businesses, a community can help accelerate economic growth by using TIF revenues to complete projects that are part of its Development Program. The net result: Money stays local, helping to support and grow the local economy.

Communities may also amend existing TIF Districts and/or their Development Programs to make better use of the allowable projects costs for community projects. In some cases amendments have been used to extend the shelter value for a community even though the CEA established at the creation of the TIF District has expired.

A community may also create a TIF District without having a specific CEA already negotiated with a business. The TIF District itself then becomes the incentive for new investment. This proactive use of TIF is often found in

the establishment of a business, commerce, or industrial park, or in the case of a Downtown TIF. A Downtown TIF is a special designation allowing a community to capture and dedicate new tax revenue in its downtown. Likewise, special Housing or Transit TIFs are special designations.

BUSINESS BENEFIT

The trend of using a Credit Enhancement Agreement in conjunction with TIF not only reduces potential financial risk to communities, but also provides substantial financial incentives for businesses to create new growth. Under this approach, a busi-

TIF DISTRICT LIMITS

At Least 25% of the Area in a TIF District Must Be Either:	A TIF District May Not:
<ul style="list-style-type: none"> • A blighted area 	<ul style="list-style-type: none"> • Exceed 2% of the total acreage of the municipality, plantation, or county
<ul style="list-style-type: none"> • In need of rehabilitation, redevelopment or conservation work 	<ul style="list-style-type: none"> • Exceed, along with all other existing TIF Districts, more than 5% of the total acreage of the municipality
<ul style="list-style-type: none"> • Suitable for commercial or arts district uses 	<ul style="list-style-type: none"> • Exceed, along with all other existing TIF Districts in the municipality more than 5% of the total assessed value of the municipality

Source: Eaton Peabody



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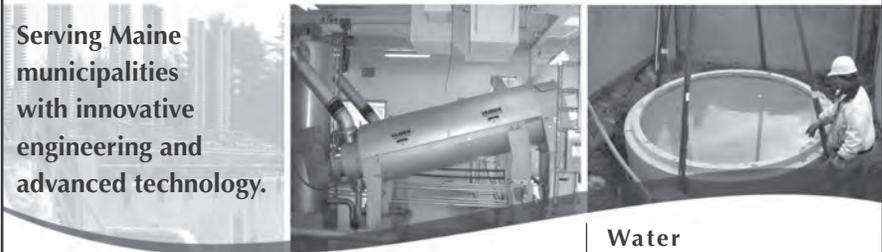
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ness receives a direct incentive from a community in order to help defray the costs of a new development project. The business and community negotiate a contract that determines how new taxes generated by the project in the TIF District will be distributed or shared. For businesses, this type of contract is advantageous, since it can provide a secondary source of income to pay back indebtedness to finance a new development project and/or reduce the overall project's costs.

The net effect of such contracts can be an "enhancement" of a business's credit for financing purposes, thus coining the term Credit Enhancement Agreement. Overall, TIF revenues under the Credit Enhancement model have the potential to help a business increase its overall profitability by providing an additional funding source to help pay financing and/or costs for a new development project that a business desires to complete.

TIF is the most flexible and locally controlled economic development tool available to municipalities. Its flexibility, however, is what can lead to its misinterpretation. TIF Districts may be established for the purpose of dedicated economic development with the additional benefit of sheltering future tax revenues. TIF Districts may also be established to encourage the expansion of an existing business or to attract a new business, through the negotiation and establishment of a CEA. TIF Districts may further be established for special purposes such as funding housing projects, transit, or Downtown development programs. In the end, the most effective TIF District and Development Program is one that provides dedicated future sources of funds to help communities and participating businesses achieve economic growth. That's a "win-win." 

SAMPLE OF ELIGIBLE COMMUNITY TIF PROJECTS

<p>Areas Within a TIF District</p>	<ul style="list-style-type: none"> • Capital improvements to community owned property, not used for general public purpose but for leasing of commercial space. • Capital improvements to equipment used for public safety or public improvements. In this case, the cost of such improvements must be pro-rated for use within the District (the percent of use within the District versus outside the District). • Professional service costs, including, but not limited to, licensing, architectural, planning, engineering, and legal expenses for the development of the projects in the District. • Administrative costs, including, but not limited to, reasonable charges for the time spent by municipal employees in connection with the implementation of this development program.
<p>Areas Outside a TIF District (but made necessary by activities in the District)</p>	<ul style="list-style-type: none"> • A portion of the costs reasonably related to the construction, alteration or expansion of public infrastructure not located within the district but that are required due to improvement activities within the district including amenities associated with streets or walkways, as a result of improvements to properties in the District.
<p>Community Wide</p>	<ul style="list-style-type: none"> • Funding economic development programs or events developed by the municipality or funding the marketing of the municipality as a business or arts location. • Costs relating to planning, design, construction, maintenance, grooming and improvements to new or existing recreational trails that have significant potential to promote economic development, including bridges that are part of the trail corridor; used all or in part for all-terrain vehicles, snowmobiles, hiking, bicycling, cross-country skiing or other related multiple uses.

Source: Eaton Peabody

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Meet Cary Medical, A City-Owned Hospital

By Kathryn Olmstead

Maine has 39 acute-care and specialty hospitals, but only one is municipally owned: Cary Medical Center in Caribou. The 65-bed facility on the Van Buren Road at the edge of town has an 88-year history originating with one of Caribou's highly regarded physicians.

Dr. Jefferson B. Cary practiced medicine in Caribou for many years. A native of Houlton, he moved to Caribou in 1877 and became an outstanding citizen, dedicated to meeting the health care needs of residents in the area. When Dr. Cary died on Aug. 25, 1912, he established the Jefferson Cary Estate with gift of \$100,000 "to the inhabitants of Caribou to build a general hospital for the treatment of medical and surgical conditions." The hospital was to be completed by 1924 or the money would go to Bangor.

The creation of such an institution required state legislation, including an enabling act to establish Cary Memorial Hospital, adopted in 1915, and an endorsement to construct a hospital for the inhabitants of Caribou, approved in 1921, under Gov. Percival Baxter. The first three-member board of directors was elected by the Caribou City Council in March 1916 and excavation began in August 1923. In 1924, a nine-member board of directors was elected at a town meeting in March, and the first board meeting was held in April.

On Sept. 5, 1924, Cary Memorial Hospital admitted its first patient to the new building on Lyndon Street in the center of town, where it would operate for more than 50 years. The first superintendent (like Cary's current Chief



Aerial photo of Cary Medical Center in Caribou. (Submitted Photo)

Executive Officer) was a registered nurse, Agnes V. Hennessey, RN.

By the 1950s, the hospital needed to expand. An Act to Create the Caribou Hospital District, passed on March 12, 1953, enabled creation of a three-member board, appointed by the city council, to acquire property for the purpose of enlarging, repairing and equipping the hospital, with funds obtained through borrowing or issuing bonds. Cary Memorial Hospital was expanded in 1955 and 1967, but by the 1970s the health care needs of Caribou and the surrounding communities had outgrown the space available in town, where the hospital was surrounded by residences.

Enabling legislation to increase indebtedness to \$8 million was passed in 1973, and June 24, 1975, the Caribou Hospital District acquired an 80-acre parcel of land east of town that would become the site for a new hospital. The land and a building were financed through the Maine Municipal Bond Bank (\$4.2 million) and Farmers Home Administration (\$2.5 million). The Maine bond was paid off in 1998 and the FHA loan will be paid by 2017.

Opened in July 1978, the new facil-

ity was renamed Cary Medical Center, but the staff worked to maintain the patient-centered, family-like culture of the original hospital. The new building offered features not found in many hospitals at the time. All patient rooms were private, ancillary areas were designed to permit expansion of services and bright colors were used throughout the hospital to create a less clinical atmosphere.

BEYOND EXPECTATIONS

Today, Jefferson Cary's vision for a relationship between Caribou and its hospital has matured beyond what he could have imagined. Cary Medical Center is the largest employer in the city with a \$20 million payroll that is independent of the city payroll. The Cary family includes 540 employees, 47 active medical staff members, 100 courtesy and consulting physicians and 75 volunteers. The hospital is financially self-sufficient, operating on patient revenues, like most other hospitals in the state.

The medical center is governed by an 11-member volunteer board of directors appointed by the City Council. The Caribou City Manager and the

Kathryn Olmstead is a freelance writer from Caribou, Kathryn.Olmstead@umit.maine.edu.

chair of the Jefferson Cary Foundation are ex-officio members. The board meets monthly and holds quarterly workshops with the City Council to provide updates on medical center initiatives and business.

Cary CEO Kris Doody and Public Relations Director Bill Flagg said that having the City Manager as a member of the Board of Directors has been an asset. Because the city is engaged, the hospital has enjoyed strong support over the years.

"We have had great relationships with all the City Managers in my experience," Flagg said, recalling the three with whom he has worked during his 33 years on the staff.

"They are engaged and aware of the economic impact of the hospital on the community," said Doody, particularly citing the advocacy of Caribou's last Manager, Stephen Buck. "He knew what it meant for housing and the school system when new physicians came to town. He frequently spoke publicly about the benefits of Cary Medical Center."

Doody also praised the sense of ownership in the hospital felt by Caribou citizens.

"It's their hospital," she said, "and when newcomers arrive – doctors and their families – the community welcomes them. It turns into a culture."

"We do have a unique culture," Flagg said. "People talk about it when they walk through the door."

Buck said he felt that sense of pride and ownership in Cary Medical Center when he was City Manager in Caribou. He left this year to become manager for the Town of Sanford.

"The community really owns the hospital," Buck said. "It's absolutely unique. I know of no other like it. It's very symbiotic."

Buck also praised a relationship that enables city and hospital to coordinate services. The city owns the ambulance company that serves the hospital; the two entities work with a private company to offer air ambulance service.

"It is a prime example of public-private partnership," he said.

FreshAir LLC owns the fixed-wing plane, provides the pilot and related insurance. Caribou Fire and Ambulance provides the EMTs, who are covered by the city's medical liability insurance. Cary Medical Center pro-

vides a nurse, specially trained for high-altitude care, who is covered by the hospital's insurance.

THE CITY 'UNDERSTOOD'

Municipal and community support played a significant role in Cary's success in becoming home to the nation's first Veterans Administration Outpatient Clinic located in a community hospital.

"The city really understood what it could mean," Flagg said, "not only for veterans, but also for the community. It would bring people to the community – it's regional." He recalled a VA administrator at the time predicting that the chance of Caribou getting a federal VA clinic was "zero." The clinic opened in 1987.

"People hung in there and did not give up," Doody said. "We had strong veteran advocacy."

In 2000, a 40-bed long-term nursing and skilled care facility for veterans was added to the hospital campus. And in 2003, Cary opened a 30-bed residential care facility for veterans. Both units are operated by the Maine Veterans Home.

In 2011, Cary was designated by the federal Office of Rural Health to be one of five sites in the nation for a demonstration project titled Access Received Closer to Home (ARCH), allowing non-VA hospitals to serve veterans living a great distance from the nearest VA facility. Cary will offer specialty inpatient and outpatient services to veterans who previously would have traveled 250 miles to the VA hospital at Togus to be served.

Doody said the Cary program was the most successful of the five sites, based on surveys of patient satisfaction and volume. "We have seen 1,000 vets in the first full year," she said, adding that when she reported on the program in Washington, D.C., the Undersecretary of Veterans Affairs called Cary's program an example of a "best practice."

Volunteers are critical to Cary Medical Center. In addition to the volunteers who serve on the medical center board and the Caribou Hospital District, volunteers also manage the Jefferson Cary Estate, the Jefferson Cary Foundation and the Cary Medical Center Auxiliary. Funds remaining in the Jefferson Cary Estate are managed by a three-member volunteer board elected by the citizens of Caribou.

The Jefferson Cary Foundation, managed by a nine-member volunteer board, raises funds for special projects. The annual Cary Classic Benefit Golf Tournament is a successful fund raiser sponsored by the foundation to support dedicated funds within the hospital. In 2010, the foundation raised \$18,000 in the annual appeal and more than \$22,000 from the golf tournament.

In February 2012, the foundation mounted a capital campaign with a goal of \$800,000 to renovate the women's imaging center. Before it approached the community for donations, the foundation approached hospital employees with a goal of \$100,000. The internal campaign exceeded \$150,000 and by May 2012 the external campaign had generated \$720,000.

Cary offers a variety of services in collaboration with Pines Health Services, a non-profit health center, including 24-hour emergency medicine, pediatrics, obstetrics and gynecology, physical and occupational therapy, one-day surgery, radiology and pathology. The 2010 annual report of the City of Caribou notes that "the unique relationship between Cary and Pines has been cited as a national model."

NATURAL COLLABORATION

The collaboration is natural, the report explains, because both organizations serve the same patients. "By working more closely together we are better able to meet the healthcare needs of our community."

Cary Medical Center has made significant investments in technology to reduce the risk of medical error and to improve access to health information. In 2001, Cary installed the first fixed-base Magnetic Resonance Imaging (MRI) in northern Maine. In 2006, Cary was listed in the top two percent of hospitals in the United States for health information and patient safety.

Awards based on surveys of patients have placed Cary in the top five percent of hospitals nationally, Flagg said. The center received the Overall Best Performer Award from AVATAR International and the Award of Honor from the American Hospital Association, a single national award given annually by the association.

Flagg said the honors "speak to how seriously we take the responsibility of running this hospital." 



Ed Dube retired as Saco deputy fire chief in September, ending a 33-year firefighting career. The department, as well as representatives from all city departments, attended a farewell barbeque for Dube, who was hired by the city just four days after graduating from Thornton Academy in 1979. Dube, 52, was replaced by **Dave Pendelton**, a Saco native and former member of the Portland Fire Department.

Freeport Town Councilor and board Vice Chairwoman **Sara Gideon** resigned in late October because her family will be moving out of town's District 1, where Gideon was elected to serve until November 2013. Gideon, who was still running for Maine House District 106 seat, said she would not have resigned from the council had she not been moving. A special election to fill her term will be held Dec. 4.

Leo Goodwin, a volunteer firefighter and community leader in Dayton for 40 years, died on Oct. 22 at the age of 85. In addition to being a founding member of the Goodwins Mills Volunteer Fire Department, Goodwin served as road commissioner, a member of the planning board and as York County deputy sheriff.



Tim Hardy

Farmington firefighter **Lt. Tim Hardy** was named Maine Fire Instructor of the Year by the Maine Fire Service Institute. The award is named for the late Biddeford Deputy Fire Chief **Marc Bellefeuille**, who died at the age of 60 in February 2011 after serving 38 years as a firefighter and trainer in Biddeford and Wells. Hardy, who has developed Firefighter I and II schools for departments across Maine, also has traveled to numerous cities and towns to provide on-site training. "He's worked hard. He's well liked and looked up to," Farmington Fire Chief Terry Bell said of Hardy, according to the Lewiston Sun Journal. Meanwhile, selectmen recognized

reserve police officer **Conley Gould** for 22 years of service to the town. Gould, who recently retired, was the last reserve officer in the department.

Howard Kroll, Brewer city clerk since 2007, has been named Auburn assistant manager, effective Nov. 19. Kroll has nearly 15 years of municipal experience, including stints as manager of Milbridge and St. Agatha. He served as assistant Brewer city manager from 2002 until he accepted the job of clerk. Kroll, a Navy veteran, serves on the Maine Municipal Association's Legislative Policy Committee, the USS New Jersey Veterans Association, the Iraqi and Afghanistan Veterans Association, the American Legion and the Veterans of Foreign Wars.

Poland selectmen voted in October to terminate the town's contract with manager **Rosemary Kulow**, effective immediately. "The meeting started off being rattled by the earthquake and ended with my dismissal. It's an evening I won't soon forget, Oct. 16, 2012," Kulow said, as reported by the Sun Journal. Kulow, who said she was stunned by the decision, resigned as manager of Rockland after three years to move to a house she owns in New Gloucester, near Poland, which she had been unable to sell. She had managed New Gloucester until taking the Rockland job with the goal of selling her western Maine house. **Rosemary Roy**, Poland assistant town manager, has been named interim manager until a new administrator can be hired.

Livermore Treasurer **Cathy Lee** resigned on Oct. 25, leaving her two-year elected position after just four months. Selectmen named Administrative Assistant **Kurt Schaub**, whom Lee defeated in June by a vote of 226-219, to serve as interim treasurer until the board can find a replacement. Schaub worked as both treasurer and

AA for 10 years before voters elected Lee as the new treasurer.

Waterville City Councilor **George Myers Jr.** resigned in October, surprising both his peers and the public. Myers, who was appointed in December 2010 to fill an unexpired term, said his job with Kennebec Behavioral Health will consume so much of his time in the coming weeks and months that he could not carry out his councilman's duties as he would wish. Myers won re-election last November, defeating his opponent by a vote of 345-202.



Gary Petley

Clinton Fire Chief **Gary Petley** has been named Maine's Fire Chief of the Year by the Maine Fire Chief's Association. A 32-year veteran of the town's department – the past 21 as chief – Petley said he was surprised by the honor. The association, with about 400 members, recognized Petley in late October, noting his leadership in fire prevention efforts, community involvement and improved safety within the department as some of the reasons he was selected for the top award.

Lincoln Town Council voted in October to terminate Town Manager **Bill Reed's** six-month probationary contract. Reed came to Lincoln after serving as Veazie town manager for 19 years. "It just wasn't a good fit," said Councilor Curt Ring, according to the Bangor Daily News. Councilors voted unanimously to appoint Police Chief **William Lawrence** as interim manager. Lawrence also filled in as manager when manager Lisa Goodwin took the Bangor city clerk's job. Reed was hired in June to replace Goodwin. 

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

Augusta: The City Council is considering renaming some streets and roads that share similar-sounding names, such as Meadow Brook Road, Meadow Drive, Meadow Lane and Meadow Road. In this example, some of the roadways are on the west side of the Kennebec River and others on the east side. The council is being careful in its deliberations, since changing street and road names can upset residents who want to retain the name of their street or preserve names that honor family members or historic city leaders. The fire and police departments, meanwhile, support some changes to save time when responding to emergencies and crimes in cases where the name of streets and avenues are similar enough to cause confusion and possible response time delays.

Bethel: The town expects to save about \$5,000 in annual heating costs for the Town Office after a Brunswick firm installed a wood pellet stove to replace the oil boiler in the basement of the municipal building. The new stove is among 15 installed in public buildings in Maine, including some schools.

Millinocket: The Maine Supreme Judicial Court sided with the town in agreeing the council can legally reduce lifelong health insurance coverage for 29 retired and present town workers. The vote was taken in May 2009 and led to a class-action lawsuit by the employees. The council, faced with difficult budget decisions and a spike in health coverage costs for retirees, opted to phase out the town's share of coverage for retirees. The court agreed with town officials, who said the changes were within their authority. "I am glad we won it but it is bittersweet in a way because the retirees have lost something," council Chairman John Davis told the Bangor Daily News. "These guys are all on fixed incomes and they don't need another expense, but difficult times call for difficult measures." In the decade leading up to the 2009 vote, retirees' health coverage costs to the town increased about \$400,000 a year to nearly \$840,000. The town had prevailed in superior court, but workers appealed to the high court.

Paris: Fire Chief Brad Frost announced in October that he plans to begin inspecting apartments for health and safety violations following a federal investigation in 2011 that showed 87 percent of Section 8 housing in Greater Paris did not meet standards for keeping people safe. Frost would inspect apartment buildings with three or more units. Residential homes would not be inspected. Frost intends to check on the units annually under authority granted to Maine fire chiefs under the law.

Peru: A group of residents is asking selectmen to allow public comment at each of their weekly meetings rather than every other meeting as presently practiced. Selectmen decided last year to stop allowing public comments at each meeting because discussions were often off-topic and delayed working on agenda items.

Readfield: Residents will likely vote next year on a proposal by an ad-hoc committee to develop a town charter. A petition has been filed with selectmen asking for a vote to establish a charter commission. The proposal has early support following a debate last year to eliminate the town's public works department and a subsequent effort to restore it.

South Portland: The City Council is expected to take up changes to the fire protection ordinance as early as December, including requiring that all new homes be built with sprinkler systems. Existing homes would be exempt, unless the owners add to their living space by 50 percent or more. Sprinklers are already mandated for homes located 500 feet or more from a fire hydrant. The sprinkler mandate is in place in nearby Portland, Gorham and Scarborough. Fire officials say sprinklers, if working correctly, save lives in 95 percent of residential fires.

Topsham: Board of Selectmen meetings will now be available on the Web at www.topshammaine.com. The meetings will remain available for viewing and listening online for four days.

Waterville: City officials expect to save at least \$800,000 over the next two decades by refinancing a 2002 bond; the annual savings are pegged at \$40,000. The 2002 bond for a new fire station, road repairs and athletic fields totaled \$5.3 million at 4.8 percent interest. The city will refinance the 30-year bond to a 20-year note to repay the 2002 bond balance of \$3.3 million. The new bond would carry an interest rate of just 1.99 percent. 

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*.

- **Fiscal Survey.** Maine Municipal Association's annual Fiscal Survey – the most complete look at municipal finances that you'll find anywhere – is available for examination.
- **Animal Control.** Training through the State of Maine's Animal Welfare Program will be held Nov. 26-28. Animal control officers must undergo this training within six months of their appointments.
- **Salt Management.** A featured speaker from New Hampshire will highlight two free seminars on salt-management this month in Portland and Augusta. Municipal Public Works employees and private contractors and snow plow operators are invited.
- **Labor Law.** One of MMA's most in-demand workshops – Labor & Employment Law – was rescheduled from late October to Nov. 27, due to Hurricane Sandy. We encourage registrants to contact Denise Kolreg at 1-800-452-8786, ext. 2304, or Margaret Noel at the same 1-800 number, ext. 2296.



Municipal Bulletin Board

MUNICIPAL LAW FOR TAX COLLECTORS & TREASURERS

The Maine Municipal Tax Collectors' & Treasurers' Association will hold a one-day session on Municipal Law on Nov. 15 at the Waterville Elks Banquet & Conference Center. Three attorneys will speak on the subject: Rebecca Seel and Susanne Pilgrim of MMA's Legal Services Department; and, F. Bruce Sleeper with the law firm Jensen Baird Gardner & Henry.

The workshop begins at 8:30 a.m. and ends at 4 p.m. Among the topics scheduled to be addressed: qualifications of office; oath; bond; deputies; Right to Know record preservation rules; assessment issues; gifts and trust funds; and, many others. Cost of the workshop is \$50 for MMTCTA members and \$60 for non-members.

ELECTED OFFICIALS WORKSHOP: HOULTON

MMA officials will hold an Elected Officials Workshop on Nov. 27 at the Center for Community Health Education in Houlton. The workshop will run from 4:30 to 8:30 p.m. and includes a light meal. Registration begins at 4 p.m.

The workshop is a "must" for both newly elected and veteran officials as it provides 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. Registration is available through the MMA website at www.memun.org.

BASIC MUNICIPAL BUDGETING: HOULTON

James Bennett, City Manager in Presque Isle, and John Eldridge, Finance Director in Brunswick, will co-present a workshop on municipal budgeting on Nov. 28 at the Center for Com-

munity Health Education in Houlton. The program begins with registration at 8:30 a.m. and concludes at 3:30 p.m.

The course, sponsored by MMA, is designed for municipal officials with primary responsibility for budget preparation and management. The cost is \$60 for MMA members and \$90 for non-members. The workshop counts toward Maine Town, City & County Management Association certification (1.5 credits in the finance/budget category).

PLANNING BOARD/BOA: AUGUSTA

MMA's Legal Services Department will host sessions for local Planning Board and land use Boards of Appeal members from 4:30 to 8:30 p.m. on Dec. 4 at the MMA Conference Center in Augusta.

The workshops are designed as an introduction for new or less experienced members, but veterans may find an update useful as well. Among the topics to be covered: jurisdictional issues; conflicts of interest and bias; public notice requirements; site visits; procedure for decisions; and, variances. The cost is \$40 for MMA members and \$80 for non-members.

CUSTOMER SERVICE: AUGUSTA

The Customer Service Excellence workshop focuses on key strategies that municipal employees can use when interacting with citizens, fellow municipal employees and vendors.

The workshop, to be held Dec. 11 at the MMA Conference Center in Augusta, will be led by: Margaret Noel, Director of Educational Services at MMA. Andrew Gilmore, manager in the Town of Sabattus; Abigail DiPasquale of the Maine Municipal Employees Health Trust; and, Andy D'Eramo, Law Enforcement Instructor at the Lewiston Regional Technical Center.

Among the specific topics to be explored: how to recognize customer needs; the art of language; owning the customer's level of service; and, key steps in conflict resolution. Registration begins at 8:30 a.m. and the workshop will conclude at 4 p.m. Cost for the seminar is \$60 for MMA members and \$120 for non-members.

PERSONNEL PRACTICES: PORTLAND

Attorney Larry Winger, one of MMA's most requested speakers, will hold a workshop on Personnel Practices on Dec. 18 at the Seasons Event Center in Portland. 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. This program counts toward Maine Town, City & County Management Association certification. 

60 Community Dr., Augusta, ME 04330 • 207-623-8428

All of the upcoming workshops can be found on the MMA website. Use the following link:

<http://www.memun.org/public/MMA/svc/training.htm>

www.memun.org

LAW COURT: PERSONNEL POLICY NOT A CONTRACT

The Maine Supreme Court has held that a municipality's personnel policy does not create enforceable contractual rights to the employee benefits described in the policy.

In *Budge v. Town of Millinocket*, 2012 ME 122, current and retired town employees sued after the town council amended the personnel policy to reduce the town's contribution to retiree health insurance. The employees argued that the town's personal policy, which at the time they were first employed offered 100% health insurance for life, amounted to a binding contract. The Law Court, however, rejected this claim, citing its longstanding rule that legislation will not be construed to create contractual rights without language clearly expressing that intent (the town's policy not only contained no such language, it expressly reserved the right to alter benefits).

The employees also argued that, apart from the personnel policy, the town was bound by oral promises made by the town manager and individual councilors to continue the benefit. But the Court rejected this claim, too, noting that neither the manager nor individual councilors had any authority to make such a commitment – only the council did, and it had not done so.

The *Budge* case provides welcome reassurance that municipal personnel policies are just that – policies, not enforceable promises – and that they can be altered as circumstances warrant without liability to employees.

To ensure that a personnel policy is not misconstrued as a contract, either by employees or the courts, we recommend including an explicit disclaimer to this effect. For sample wording and many other sample policies, suggestions and resources, see our "HR Toolkit" on the subject, available free to members at www.memun.org. (By R.P.F.)

HOLIDAY DISPLAYS ON MUNICIPAL PROPERTY

(Reprinted from the November 2009 *Maine Townsman* "Legal Notes")

Question: With the holidays ap-

proaching, what's the law on permitting religious displays such as a nativity scene on municipal property?

Answer: This is a complicated and continually evolving question of constitutional law, but here's a quick summary of current case law (*sans* citations).

The key is that the First Amendment prohibits Congress (and by extension state and local government) from either promoting religion (the "Establishment Clause") or interfering with the free exercise of religion (the "Free Exercise Clause").

Thus, if a nativity scene or other religious display is *publicly* sponsored (*i.e.*, sponsored by a governmental entity or erected at governmental expense), it is probably an unconstitutional endorsement or "establishment" of religion unless accompanied by traditional secular symbols of the holiday, such as a snowman, Santa Claus, or a banner reading "Season's Greetings." These secular symbols of the holidays should be positioned in close proximity to the religious display so that they are all in the same viewshed. This combination of publicly sponsored religious and secular symbols renders the scene a constitutional public celebration of a traditional holiday, not an unconstitutional government endorsement of a particular faith.

On the other hand, if a nativity scene or other religious display is *privately* sponsored (*i.e.*, sponsored by a private entity or erected at private expense), it *must* be allowed on public property

if that property is a "traditional public forum," such as a park or commons, and the property is made available for secular displays. It is unconstitutional to limit the "free exercise" of religious expression in a public place where secular expression is permitted (again, such as a park or commons).

For a *privately* sponsored religious display on public property, there is no constitutional requirement that it be balanced with traditional secular symbols – it is not publicly sponsored, so it does not constitute government endorsement of religion. A privately sponsored display should include a prominent sign or banner identifying its sponsor, however. Also, any other sponsor of either a religious or secular display must be allowed to use the property on the same terms.

This is a general, un-nuanced overview of the law on a subject that is more complex than this article lets on. Specific questions and circumstances should be reviewed by legal counsel.

For more on the First Amendment and the relationship between government and religion, see the feature article "Church and State," *Maine Townsman*, October 2001. (By R.P.F.)

MAINE COURT: AUDITOR'S WORKSHEETS NOT PUBLIC

A Maine Superior Court has held that the worksheets of a private auditor hired by a town to perform its annual audit are not public records subject to

The logo features the letters 'MM' in a stylized, blue, blocky font. Above the 'M's is a simple blue outline of a house with a chimney. To the right of the 'MM' is the text 'Municipal Calendar' in a blue, sans-serif font.

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

DECEMBER 25 — Christmas Day - a legal holiday (4 MRSA §1051, 20-A MRSA §4802).

DURING DECEMBER — Towns that elect officials by secret ballot under

30-A MRSA § 2528 must make nomination papers available 40 days before the filing deadline. The filing deadline must be at least 45 days before the election date. For most towns with March elections, papers must be made available beginning sometime in December, depending on the date of the election.

BY JANUARY 1 — Each owner or keeper of a dog or wolf hybrid at the age of 6 months or more shall obtain a license for that animal from the municipal clerk (7 MRSA § 3922).

compulsory disclosure under Maine's Freedom of Access Act (FOAA).

In *Oren v. Town of Casco*, CUMSC-CV-2011-417 (Me. Super. Ct., Cum. Cty., Aug. 27, 2012), the dispute centered on whether the worksheets were "in the possession or custody" of the town, as required under the FOAA's definition of public records (see 1 M.R.S.A. § 402(3)). The plaintiff argued that the worksheets effectively were because an auditor is required by law to turn over records upon a client's request if the records would ordinarily constitute client records. The town countered that the worksheets, which outlined the methods, testing and analysis used by the auditor to perform the audit, were proprietary and not client records and were therefore not in the town's constructive possession. The Court held for the town. The plaintiff said she has no plans to appeal.

For the record, we note that an auditor's complete audit report to a municipality must be kept on file at the municipal office, and it most certainly is a public record (see "Annual Audit Required," *Maine Townsman*, "Legal Notes," March 2010).

The defense that the requested record is not in our possession or custody does not always prevail. In *Bangor Publishing Co. v. University of Maine System*, PENSC-CV-1995-223 (Me. Super. Ct., Pen. Cty., Dec. 4, 1995), the plaintiff sought records relating to settlement agreements with certain former university employees. The university declined, arguing that since the records were housed in the offices of its outside legal counsel, it did not have custody or possession. But the Court noted, "It is axiomatic that an attorney's client file belongs to the client." The records were therefore in the constructive custody or possession of the university, and the university was ordered to obtain and produce them. (By R.P.F.)

TAX DELINQUENTS & MUNICIPAL OFFICE

Question: Are delinquent taxpayers disqualified under Maine law from holding municipal office? If not, can we disqualify them locally?

Answer: No, people who are delin-

quent in paying their property taxes are not disqualified under State law from holding municipal office – neither are convicted felons or persons engaged in litigation with the municipality (see "Felons, Litigants & Tax Delinquents," *Maine Townsman*, "Legal Notes," May 2011).

Whether a municipality may lawfully disqualify delinquent taxpayers from holding local office is unclear. There is no Maine statute or case law on point. There are, however, conflicting federal court decisions (a 1986 Second Circuit opinion says no, a 1995 Sixth Circuit opinion says yes). But for municipalities without a charter, we need not speculate on how a Maine court or the federal First Circuit (which includes Maine) might rule because the question is moot, for the following reason.

The legal qualifications for municipal office in Maine are established by

statute. Title 30-A M.R.S.A. § 2526(3) states, "In order to hold a municipal office, a person must be a resident of the State, at least 18 years of age and a citizen of the United States." Moreover, these are the *only* qualifications for municipal office "[u]nless otherwise provided by charter." A municipality without a charter therefore has no means of imposing other qualifications or disqualifications for office even it were so inclined.

For the record, of the roughly 95 municipalities in Maine with charters (out of almost 500 municipalities), we are not aware of any that disqualify a delinquent taxpayer from holding local office.

For some other reasons why a municipality might want a charter, see "Why a Municipal Charter?," *Maine Townsman*, "Legal Notes," April 2009. (By R.P.F.) 

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