

October 2012

maine townsman

The Magazine of the Maine Municipal Association



IN THIS ISSUE:

2012 Convention Highlights | Senate Candidates | Watching the Money | Police Mergers

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Share Your Concerns and Perspective

5

MMA Executive Director Christopher Lockwood notes this is high time during the 2012 election season. As municipal leaders, please share your questions and concerns with candidates for state and federal office when they visit your community.

When Uncle Sam Hits Home

7

Angus King and Cynthia Dill, candidates for the U.S. Senate seat being vacated by retiring Olympia Snowe, spoke to 100-plus municipal officials at MMA's 76th Annual Convention about the federal government and its effect on municipalities.

Executive Committee Backs Bond Proposals

13

MMA's Executive Committee last month voted to support four bond proposals that go before voters statewide on Nov. 6. This article summarizes the bond proposals and offers insight into why MMA is behind them.

Watching Your Municipality's Money

15

The cases are rare, but they do happen. When municipal employees improperly handle public finances, it usually draws statewide media attention and adds to public skepticism. Our experts offer useful advice on monitoring financial transactions.

Risk Manager

17

MMA's Property & Casualty Pool is expanding areas of coverage and Risk Management Services is improving its extensive online training offerings. Meanwhile, \$1.15 million in dividend checks have been distributed to participating members.

Police Departments Eye Mergers

21

It can be an emotional decision for elected officials and town meeting voters alike, but tough economic times and difficulty in recruitment have some municipalities collaboratively considering merging police departments.

Scenes of Success

26

The 2012 MMA Convention was a success from both an attendance and exhibitor point of view. Turn here to see scenes from the event, held Oct. 3-4 at the Augusta Civic Center.

People

30

News

31

Municipal Bulletin Board

32

Legal

33

COVER: (Clockwise from upper left) Keynoter Cynthia McFadden; U.S. Senate candidates Angus King and Cynthia Dill; MMA President Sophia Wilson; convention exhibit area. (Photos by Jeff Pouland).



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A Message From MMA



by Christopher Lockwood, Executive Director

Engage Your Candidates

It's election season. This is a prime time to engage candidates on key issues affecting municipal government.

Municipal officials know firsthand the impact of state and federal government decisions. As candidates for the Legislature and for Congress visit your communities, you have opportunities to provide tangible examples of the effects of these decisions, whether it's the State's decision to divert money from the Municipal Revenue Sharing program or the unfunded Federal government special education mandate.

You can discuss the condition of your roads and bridges, your social service needs, your economic development efforts, environmental issues – and the list goes on.

As examples, here is some background information and possible questions you might consider asking:

CANDIDATES FOR THE LEGISLATURE

Background on Municipal Revenue Sharing: The Municipal Revenue Sharing program was created by the Legislature in 1972 in recognition of the fact that property taxes alone are insufficient to pay for the wide array of core governmental services provided by local government. Revenue sharing is a property-tax relief program; as a matter of law, all revenue sharing funds must be used to reduce the property tax rate. For nearly 30 years, Maine law has dedicated 5 percent of state sales and income taxes to the purpose of revenue sharing distribution, and for most of that time the Legislature has treated the program with respect

For the last four fiscal years, however, the Legislature has raided the Municipal Revenue Sharing program – to the tune of 25 percent to 30 percent each year – in order to balance the state budget. For the current fiscal year, the legislature has taken more than \$44 million out of Municipal Revenue Sharing to support state government priorities over property-tax relief.

What has been the effect on your community's tax rate as a result of this diversion of

Revenue Sharing funds? Will the candidate for the Legislature commit to restoring Municipal Revenue Sharing to its statutorily authorized level during the next budget?

CANDIDATES FOR THE U.S. HOUSE AND U.S. SENATE

Background on Special Education. The special education law enacted by Congress in 1975 established the requirement for all public schools to provide special education services. Part of that law requires Congress to distribute grants to the states to cover 40 percent of the cost of the special education mandate. Congress has never come close to honoring its financial commitment. The current level of IDEA funding to Maine from Washington is about \$55 million a year, which is 15 percent of the total special education cost and \$90 million less each year than would be provided under the 40 percent standard. That shortfall is causing significant problems with many school budgets. In a related matter, during intervening years Congress has adopted additional educational requirements – such as the No Child Left Behind program – without honoring its commitment to fund 40 percent of the IDEA program requirements.

What should be done about the failure of Congress to honor its special education funding obligation? Should we continue with the practice of promising funding that is never provided? Should the program be properly funded? Should the 40 percent standard in law be reduced? Should the special education mandates or other federal educational mandates be relaxed?

Hopefully the discussions that take place during the election season will carry over into an ongoing dialogue between municipal officials and their representatives in the Legislature and the Congress. It's critically important for state and federal officials to know how their decisions affect the communities they represent. Thank you for your service to your communities. 

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Senate Candidates Cover Federal-Local Issues

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

For more than an hour, two leading candidates for the U.S. Senate – former Gov. Angus King and State Senator Cynthia Dill – discussed and occasionally disagreed over federal funding and regulatory issues that affect Maine’s cities and towns.

They also disagreed about what’s wrong with Congress, although they concurred that something is. While King believes that partisan rancor is paralyzing Washington’s ability to function, Dill says the Senate in particular does not properly reflect the nation’s diversity in gender, race or economic status.

The question-and-answer forum, which concluded Maine Municipal Association’s 76th Annual Convention, covered issues such as unfunded federal mandates, storm water regulation, highways and bridges and special-education requirements and funding – or the lack thereof.

King and Dill are among six candidates vying to succeed U.S. Sen. Olympia Snowe, who will retire at the end of 2012 after a distinguished political career. Snowe has served as a U.S. Senator representing Maine since 1994. She served in the U.S. House of Representatives from 1978-94 and served as a state Senator and Representative in Augusta prior to that. Snowe addressed MMA Convention attendees at the start of the two-day event with an 11-minute video. The MMA Convention was held on Oct. 3-4.

MMA’s Executive Committee had invited three leading candidates to address the convention – King, Dill and Maine Secretary of State Charlie Summers. All three candidates were sent invitations on June 25. By July 15, all three candidates had affirmed that they would participate.

On Sept. 28, the Summers campaign told MMA that the candidate would not attend, citing scheduling challenges. Summers held a news conference in Portland at the time of MMA’s Senate Candidates Forum to announce two endorsements he had received.

In her opening remarks, Dill cited her terms as a Town Councilor in Cape Elizabeth, three terms as a state Representative and current service as a state Senator as proof of her readiness to become a U.S. Senator.

“I believe it’s time for a new generation of leaders in Washington,” said Dill, who is 47 years old. “We need younger people in Washington. We need racial diversity. My goal is to bring Maine values to Washington, D.C.”

TOO MUCH PARTISANSHIP

King, a 68-year-old, successful business owner who served as an independent Governor of Maine from 1995-2003, said he had no intention of seeking elected office after he served two terms as governor. He moved into the field of alternative energy, including wind power, and was quite busy in that line of work. That changed, he said, when Sen. Snowe announced her retirement – and the reasons she cited in doing so.

“What she said was, ‘I’m leaving because Washington doesn’t work,’ ” King said. “ ‘I can’t get anything done.’ My conclusion was maybe we have to try doing it a different way, an independent way.”

Dill countered that by saying the two-party system isn’t broken. Rather, she said, Congress is being held back by a “small, intransigent” group of Republicans. Dill said she supports repealing the Senate’s ability to filibuster

legislation, a parliamentary move than can allow a minority of Senators to block final action.

In a clear reference to King’s independent status, Dill said: “It’s not possible ... for one person from Maine to go down (to Washington) and straighten things out.”

King countered that he doesn’t expect Senate Majority Leaders Mitch McConnell, a Republican, or Minority Leader Harry Reed, a Democrat, to “put their arms around me and say, ‘Tell us how to make it work.’ But we have to start somewhere.”

When asked about the roles of the federal and municipal government, Dill said Washington primarily is responsible for maintaining the general welfare of the country, providing for national defense and financing and regulating interstate transportation and commerce.

“It’s incredibly important for local governments to regulate themselves to the highest degree possible,” she said, adding that having the ability to support or reject proposed wind power projects is one important example.

“The first responsibility of the federal government is to fund mandates,” said King.

He noted that in the late 1960s and 1970s, the federal government paid 75 percent of the costs required to deal with federal clean water regulations. “Today it pays virtually none,” he said.

Special education requirements at the federal level can have devastating financial effects on local school systems and municipalities, said King. “It’s kind of the granddaddy of all unfunded mandates at this point.”

King recalled that when a group of governors met with President Bill Clinton in the late 1990s, the president



U.S. Senate hopefuls Angus King and Cynthia Dill address more than 100 municipal officials at the MMA convention.. (Photo by Jeff Pouland)

started talking about education improvements, including having children wear uniforms to school.

“I told him to fund special education,” King said. “That got me a few slaps on the back from the other governors and a scowl from President Clinton.”

INVEST IN PRE-K

Dill said the federal government should live up to its legal requirement to fund special-education mandates at the 40 percent level. Most officials estimate federal funding of special education today is around 15 percent, a difference of \$90 million a year for Maine.

Dill went on to question whether the federal government does enough with education overall, especially pre-kindergarten education. She contended that spending more on pre-K schooling would actually decrease special education costs by getting young students better prepared before starting elementary school.

Both King and Dill agreed that Congress needs to fix a legal loophole that allows Internet retailers to bypass state sales-tax laws. Right now in Maine, brick-and-mortar retail sales establishments need to collect a 5 percent sales tax, but when Mainers buy goods on the Internet, sales tax is not collected, creating an unlevel playing field.

Dill and King said Charlie Summers has taken a no-tax-increase pledge that is the brainchild of conservative activist Grover Norquist, who is president of Americans for Tax Reform in Washington, D.C. That tax pledge means Summers does not support collecting sales tax on Internet transactions, they said.

While Summers did not attend the MMA-sponsored forum, a MaineToday Media newspaper report about the event included a spokesman for the

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Summers campaign as saying Dill and King were right, Summers opposes any change to the law that addresses the sales-tax issue.

The discussion then turned back to partisanship in Congress. King said strident partisanship is “the issue” and reminded the audience that is why he’s running for the U.S. Senate. Congress cannot deal with health-care reform and cannot even pass an official federal budget due to partisan rancor, he said.

“This is the least productive Congress in terms of legislation since 1947,” said King.

A NEAR EQUAL DIVIDE

During his two terms of governor, King said Republicans sponsored administration bills about 755 times and Democrats did so about 810 times, a fairly equal divide.

To show his ability to reach consensus on what may have been his best-known piece of legislation – making laptops available to seventh- and

eighth-grade school students statewide – King said he agreed to let a task force look into his idea before moving forward, and laptops initially were made available only to seventh graders.

Dill countered that electing more women to Congress would ease partisanship and help end the gridlock. Currently, she said, women make up 17 percent of Congress, which is the lowest percentage of any developed country “including Rwanda and Afghanistan.”

King had previously said he would support legislation that would halt

the salaries and health-care benefits of members of Congress if they didn’t pass an official budget by Oct. 1 of each year. His statement drew applause from the 125 people in attendance.

Dill, however, said that wouldn’t matter. “The U.S. Congress is a millionaire’s club. They don’t need their salaries and benefits,” Dill said. “That’s not going to fix it.”

Dill was asked a question about a proposal to expand public-safety employees’ collective-bargaining rights to a federal level, giving the federal government authority to set collective-

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bargaining rules, something that has always been left for states to decide.

SUPPORTS BARGAINING

She described herself as a “strong supporter of collective bargaining,” while adding that she would have to look into the details of the federal proposal before developing a firm position. One reason why Dill supports collective bargaining is that women who work for employers that negotiate with labor unions make “significantly more” than women who work elsewhere, she said.

While governor, King periodically asked a rhetorical question about why every town and city in Maine needs a “ladder truck,” a statement that could have suggested municipalities aren’t as efficient or as collaborative as they should be.

King described municipal government as the “most efficient level of government,” but went on to say that all government funding faces this dilemma: There is an undeniable demand for government services by the public, but those same citizens do not want to pay higher taxes.

“The only answer to that dilemma is more efficient delivery of services,” King said.

King directly criticized Summers for not attending the MMA Candidates Forum. Summers had dropped out of six or seven forums in late September and early October, King noted. These are important issues, King said, and municipal officials deserve to know where Summers stands on them.

“It can’t be scheduling conflicts,” he said, “This was scheduled last June.

I think it’s a strategy (withdrawing from public forums) and I think it isn’t right.”

AVAILABLE FOR VIEWING

Maine Municipal Association’s Senate Candidates Forum can be seen through the MMA website: www.memun.org. DVDs are also available upon request. Members interested a DVD of the forum for can contact MMA’s Department of Communication & Educational Services at: 1-800-452-8786. [memun.org](http://www.memun.org)



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 - What is a disqualifying conflict of interest?

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MMA Backs Four Bond Proposals

By Geoff Herman, Director of State & Federal Relations, MMA

Maine voters will be formally presented with five statewide ballot questions during this year's General Election, which concludes on Tuesday, Nov. 6.

As it does each year at this time, the Executive Committee of the Maine Municipal Association reviewed all the ballot questions and identified its position on four proposals it believes will impact local government. As detailed below, the Executive Committee voted to support all four borrowing initiatives. Executive Committee members hope Maine's voters will recognize that these investments are critically necessary and that the method of borrowing to pay for these major capital improvements is both fair and financially prudent given the very favorable interest rates currently available.

Working the list backwards:

Question 5. Drinking Water and Wastewater Systems. Question 5 presents a \$7.925 million bond proposal to capitalize the state's drinking water and wastewater "state revolving fund" programs (SRF). The bond proceeds will be provided over a two-year period. Some \$3.59 million will be provided for drinking water systems and \$4.335 million will be provided for wastewater systems. At the 5:1 federal-state matching rate, this package will generate \$40 million in federal SRF funds. It seems like a no-brainer to so cost-effectively generate tangible federal financial support for these construction projects, which are often mandated (or mandated to be constructed in certain ways) by the federal Clean Water Act.

Question 4. Transportation Infrastructure. Question 4 proposes a \$51.5 million bond issue to be used for highway, bridge and other transportation infrastructure purposes. The \$51.5 million package, which is projected to generate

over \$100 million in federal and other matching funds, is detailed below. It is impossible to overstate the municipal support for this bond proposal. There is a strong feeling on the local level that the quality of the state's transportation infrastructure should be upgraded.

- Highways/Bridges
 - \$41 million for the Department of Transportation's (DOT) highway and bridge reconstruction, repair and maintenance program.
- Ports
 - \$3 million for dredging the established commercial channel at Searsport.
 - \$2 million for material handling equipment for the port at Mack Point.
 - \$1.5 million for warehousing facilities at the port in Eastport.
- Rails/buses
 - \$1 million for transit buses.
 - \$1.5 million for the Industrial Rail Access Program.
- Aviation
 - \$1.2 million for aviation facilities.
 - \$300,000 for the LifeFlight Foundation for weather observation stations and for helipads in rural communities with a history of high use or in remote locations. The bond resources must be matched by at least \$300,000 in funding from local government sources.

Question 3. Land For Maine's Future. Question 3 is a \$5 million bond

proposal to be used for the acquisition of land and interest in land under the Land for Maine's Future program. Municipalities will often participate in this program with other interest groups to protect parcels of land that have been identified, typically through the comprehensive planning process, as critical to the agricultural, working waterfront or other natural resources-based industries in those communities.

Question 2: Higher Education Capital Improvements. Question 2 proposes an \$11.3 million bond for the purpose of providing capital improvements to the University of Maine system (\$7.8 million), the Maine Community College system (\$3 million) and Maine Maritime Academy (\$500,000). Although there was some discussion during the Executive Committee's review of this bond issue about how direct the relationship is between higher education facilities and local government, there are clearly some strong working relationships. In addition, MMA is working to both broaden and strengthen the connections between local government and the programs and projects offered at the community colleges and through the University system. Accordingly, the final vote of the Executive Committee was to weigh in with support on this question as well. [mt](#)



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Advice On Guarding the Public Purse

By Douglas Rooks

The headlines can be unsettling. A town treasurer, clerk or tax collector is suspected of stealing money from municipal accounts. The offense may have happened over many years. It may have been in a small town with few employees, or one where several different people handle money daily.

Whenever it happens, it sends shock waves through the municipal community. As Kennebunk Town Manager Barry Tibbetts puts it: "If one person fails, the whole organization takes a hit. And if one town fails, it reflects on the entire municipality community."

Prosecutions for fraud and misappropriation of funds are uncommon in Maine, but they do happen. Businesses can be victimized but in recent years there have been cases involving Little Leagues, Boy Scouts, snowmobile clubs and other non-profits. No organization seems immune.

Still, there's an added sting when a municipal official or employee is involved. "We don't own this money," said Tibbetts. "We've been entrusted with it by the people, and it's our job to keep it 100 percent safe."

Ron Smith is an auditor whose firm, RHR Smith & Co. of Buxton, does the books for many Maine towns and counties. He's also an expert on forensic audits and has worked with law enforcement agencies on investigations involving Maine municipalities.

He minces no words in describing some of the flaws he's found both in hiring and financial management. "Everybody thinks it can't happen in their town, but it can. These are crimes of opportunity and that opportunity is

there in too many cases," Smith said.

Most people are honest, he agreed, but people can be tempted, and municipal government should take steps to guard against financial misconduct.

Maine towns and cities are required by statute to have annual audits, but Smith said selectmen and councils shouldn't assume that receiving an audit certificate means everything is OK.

"Every town is different. No two are alike," he said. "You have to have systems of financial controls and you have to make sure they work."

MORE EYES = MORE SECURITY

Smith said very small towns, which may have few or no employees, may be more vulnerable to certain kinds of fraud because there are so few checks made on financial transactions.

"If one person is handling all the money and making all the deposits, there's always that possibility, even if the selectmen are signing off," he said.

In fact, until 2009 it wasn't illegal for town treasurers, clerks and tax collectors to deposit municipal funds into their own personal bank accounts.

Smith speculates that, years ago, when it was difficult to get to a bank from remote areas of the state, commingling personal and public funds may have seemed like a reasonable practice. But when his firm helped bring this to the Legislature's attention, he said some lawmakers were "dumfounded" that it wasn't already prohibited.

Now it is. The bill prohibiting the practice was sponsored by Rep. Diane Tilton (R-Harrington), who also works for RHR Smith part-time. When the topic came up at the firm, Tilton listened.

"We'd been lamenting that in some towns the same bad decisions kept

being made even after auditors had told them about the problem," she said. "Then somebody said, 'Maybe we could change the law.'" As a new legislator, she volunteered for the assignment.

She recalls little debate at the State and Local Government Committee, which unanimously endorsed it when the bill came up for a hearing as LD 331. "One of the committee members spoke right up, and said, 'How can they still do this? It should be against the law,'" Tilton recalled.

BILL MOVED QUICKLY

The bill moved swiftly through both houses and was signed by the governor. The relevant sections of the statutes governing treasurers, clerks and tax collectors now state that each "is prohibited from commingling personal funds with any funds collected for a municipality."

Smith says that the new provision is not academic. When he investigated possible frauds earlier, the fact that an official had deposited public money in his or her account could not be used as proof. In some cases, "the perpetrator knew this and knew that it provided an out for them."

Some towns that have professional managers who are trained in financial issues, elect their treasurers and clerks. "I had people tell me that they didn't need to follow the rules the administrators laid down, that they were accountable only to the people," Smith said. "And I couldn't really dispute that."

Rep. Tilton said she's heard discussion among lawmakers about whether towns should be allowed to continue electing treasurers, or instead requiring appointments with specific job requirements. She's not prepared to

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



Ron Smith

sponsor such legislation, though.

“Towns already have the option to appoint treasurers if they want to. I don’t feel like we should be forcing them to change,” she said.

Tibbetts, in Kennebunk, suggests a different approach. “If you have more than one account, require them all to be audited,” he said. “If you’re not auditing all the accounts, there’s the possibility of wrongdoing.”

Along with good financial practices, towns and cities need to look hard at who they’re hiring.

“It all starts there,” said Rick Dacri, an organizational and development consultant from Kennebunkport, who advises municipalities on human resources issues. “You’ve got to hire the right person.”

That should include not only background checks – which are sometimes still neglected – but also a review of credit history and other public record data, he said. “There’s a whole series of check-offs that you need to have for anyone who is going to be touching dollars,” he said.

‘YOU’D NEVER SUSPECT’

In his experience, Dacri said there are certain red flags for an employee who could be mishandling funds, and often it is “the person you’d never suspect.”

One flag is someone who never takes a vacation. What seems like a stellar work ethic might really be caused by an employee realizing that, if someone else took over temporarily, the new person could discover how funds are being misappropriated.

The simplest and best check within an office is to make sure that more than one person is involved with overseeing all transactions, Dacri said. “You

should never have only one person who both writes and sign checks,” he said. “You should always be looking to have multiple people involved.”

Municipal managers say they take the idea of financial stewardship seriously right from day one.

“I wasn’t quite sure what to expect, but I knew I needed to learn quickly,” said Mike Starn, who after a long career at MMA became a city manager for the first time, in Hallowell, last year. “It became clear very quickly how large a responsibility I had to make sure everything financial was done correctly.”

Starn said computers can play a big role in making sure administrators have a handle on day-to-day financial operations.

“There’s a wealth of information in these reports. You don’t have to do the reconciliation yourself. It’s just a lot easier to see what’s going on, and where that might be a problem,” he said. Software packages that can be used in any town’s computer system are readily available, he noted.

Towns sometimes receive outside help, too. A bank where Hallowell maintains its checking account has an officer who sometimes reviews deposits where questions have arisen. “I’m not sure it’s part of her job description, but it does help us,” Starn said.

Hallowell has at least three people handling financial transactions in the clerk’s office, which makes for daily accountability.

Tibbetts, who came to Kennebunk a dozen years ago, said it’s up to towns to constantly review and improve their

systems. Sometimes it may take new funding – always scarce and even more so now – but often it can come from simplifying the system.

CENTRALIZE ACCOUNTS

“When I arrived, the town had a lot of different accounts that were all being managed separately,” he said. “There were accounts for the clerk’s office, the fire department and others.” Under Tibbetts’ direction, the accounts were centralized into one, which makes it easier to scrutinize and review transactions.

Little things count, too. “It used to be you could pay bills in several different departments. People would stop you on the street and say, ‘Could you take this in for me,’ ” offering a permit fee, Tibbetts said. “Now we just tell them they’ll have to bring it to the office.”

Although many more transactions are now made by check or electronic transfer, Tibbetts says many towns still handle cash – which can be vulnerable to diversion without strict controls.

“If you operate a municipal parking lot, you’ll get a lot of cash.” Kennebunk doesn’t charge for parking, but Tibbetts estimated that neighboring Kennebunkport brings in \$250,000 a year and Ogunquit even more, up to \$1 million.

Computer security also needs attention, he said. When a local business lost money when someone acquired their account passwords, Tibbetts asked the bank, where the town also had its deposits, what could be done. The answer: a USB (Universal Serial Bus) interface device that must be plugged in to make a transfer, in addition to the password protection. Kennebunk typically transfers \$60,000 to \$70,000 for each payroll, and only two people – Tibbetts and the finance director – have the USB device.

Both town officials and the financial experts insist that while nothing can be guaranteed 100 percent, municipalities can sharply lower the odds that they’ll be victimized by fraud if they apply basic precautions.

Ron Smith said no town should assume, after a problem occurs, that it won’t happen again on the theory that lightning doesn’t strike in the same place twice.

If the culture and procedures don’t change, it can, he said. m

HOW TO IMPROVE FINANCIAL SECURITY

- Perform rigorous background and credit checks on new employees.
- Have at least two people monitor all financial transactions.
- Pay close attention to financial reports. Ask questions about unusual items.
- Centralize accounts to streamline accountability.
- Handle cash and payments in one office, if possible.
- Read audit reports carefully and follow suggestions for improvement.
- Take advantage of training opportunities.

The Municipal RISK MANAGER

FALL 2012

A Publication of the Maine Municipal Association

Stand & Be Recognized:

Please join the MMA Property & Casualty Pool and Workers Compensation Fund as we recognize our members for their continued dedication to the reduction of risks, exposures and the maintaining of a safe working environment for their employees and citizens.

For the past year employees of MMA Risk Management Services have been traveling the state conducting recognition dinners, delivering plaques of appreciation and discussing the services provided for our members. We are currently celebrating 34 years of success for the Workers Compensation Fund and 25 years of continued success for the Property & Casualty Pool.

Members like you are the owners of the Property & Casualty Pool and

Workers Compensation Fund. You serve on our Board of Directors and share your expertise and experience with us all. Because the Pool and Fund are non-profit and there are no outside stockholders, we can award the savings back to you.

We believe the Property & Casualty Pool and Workers Compensation Fund are shining examples of Maine local governmental cooperation and effectiveness in achieving a common need. The Risk Management Services team thanks you for your commitment to excellence in your town, city or district. We sincerely appreciate the effort you have made toward the ongoing success of the Property & Casualty Pool and Workers Compensation Fund. These are your programs and this is your success. 🏠



Pat Kablitz Director of Risk Management Services presents recognition plaques to Westport Island Selectmen Gerald Bodmer.

Your Coverage Just Got Better

We are always striving to improve the Property & Casualty Pool program to provide you with the broadest and most comprehensive coverage possible. This year we are excited and extremely proud of the additions and update that we were able to bring to our membership.

The highlights include:

- Liability limits have been increased for all members from \$1 million per occurrence to **\$2 million per occurrence with no aggregate** for actions that fall outside the protections of the Maine Tort Claims Act.
- The aggregate limit for Public Officials Liability coverage has been increased from \$3 million to **\$4 million.**
- The automatic limit for Fine Arts has increased to \$50,000.
- The Replacement cost coverage for mobile equipment has been increased to \$5,000.

If you have any questions about the coverage updates or the services offered by Risk Management Services please call 800-590-5583. As we celebrate the 25th anniversary of the Property & Casualty Pool, all of us at Risk Management Services would like to acknowledge our membership for its dedication and participation which has made your program such a success. Thank you for the continued support for all of these years. 🏠

Are You a Mine Operator?

Does your municipality operate a mine? If you own or use a gravel pit to process your winter road sand or to provide gravel, you do. This operation falls under CFR 30, Part 56, Safety and Health Standards – Surface Metal and Nonmetal Mines.

The Mine Safety and Health Administration (MSHA) operates under the authority of the Federal Mine Safety and Health Act of 1977. MSHA was created to help reduce fatalities, injuries and illnesses in the nation's mines through a variety of activities, including on-site mine safety and health inspections and the requirement for employee training. The requirements for compliance with the Mine Safety and Health Act and accompanying regulations differ according to the specific type of mining being conducted. For example, the rules and requirements for underground mining are significantly different from those applicable to surface sand and gravel mining.

Part 46 of CFR 30 sets forth the mandatory requirements for training and

retraining miners and "other persons" at sand, gravel, surface stone and other surface mines. "Other persons" may include commercial over-the-road truck drivers, vendors and maintenance or service workers that do not work at a mine site for frequent or extended periods. At minimum, site-specific training must be provided. For example, a truck driver that visits a pit (surface mine) for a load of sand must be trained in all hazards specific to the task performed (loading the truck) and in all hazards specific to the pit such as signage, road directions, safety practices, etc.

Miner means: Any person, including any operator or supervisor, who works at a mine and who is engaged in mining operations. This definition includes independent contractors and employees of independent contractors who are engaged in mining operations and any construction worker who is exposed to hazards of mining operations. This includes anyone processing materials by screening, crushing, conveying, loading or transport-

ing materials loaded at the pit.

Section 46.3 requires you to develop and implement a written training plan that includes programs for: new miners, newly hired experienced miners, new tasks, annual refresher and site-specific hazard awareness training. The training plan must outline who will do training, how training will be done and its content. Records must be kept including subject area taught, time spent on each area, name and qualifications of the instructor and certification of attendance.

Sample training guide available at: <http://www.msha.gov/training/part46/TrainingPlanGuide3.pdf>

For additional information or training contact:

Clifford Berry, Safety Engineer
Maine Department of Labor
45 State House Station
Augusta, Maine 04333-0045
Direct: (207) 623-7909
Toll-free (877) SAFE-345
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Online Training is Updated and Expanded

Maine Municipal Association Risk Management Services Department offers members of the Workers Compensation Fund and/or Property & Casualty Pool additional training opportunities with our web-based safety courses. We are pleased to announce that we have added eight new courses. The online university now offers 50 courses on safety and human resources. This training is provided at no cost to you, as a value-added service.

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Asbestos Awareness
Aquatic Safety
Basic Construction Safety
Forming Effective Safety Committees
Landscape Safety
Light Truck Series (6)
Welding, Cutting & Brazing Safety



Courses may be taken at any time and you can learn at your own pace. Upon completion, you can print a certificate to provide a record of your training. Some courses may be accepted by Maine Department of Environmental Protection, Maine Drinking Water Program, Maine Emergency Medical Services and other agencies for continuing education credits.

To access online training:

Log on to: www.memun.org/RMS/LC/default.htm

Choose Online Safety Training and follow the easy Instruction. For further assistance contact Jennette Holt, Loss Control Technician at 800-590-5583 ext. 2240 or ask your assigned Loss Control Consultant. 

OVER \$1.1 MILLION AWARDED To Risk Management Services Members

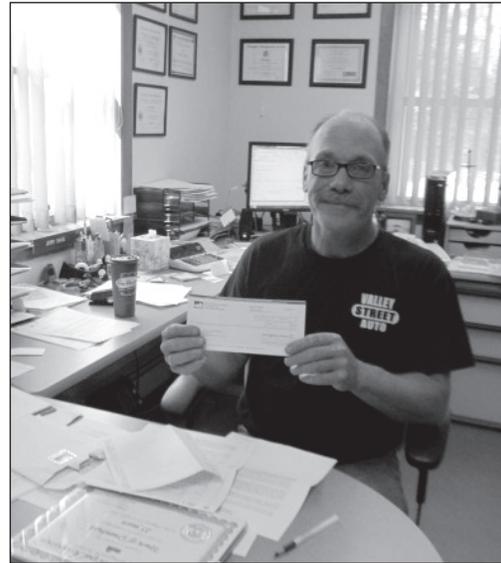
All of us at MMA Risk Management Services (RMS) would like to recognize the extraordinary efforts and continued commitment of our membership. We are pleased to announce that the Property & Casualty Pool and Workers Compensation Fund have awarded dividends to their respective members. Through the efforts of our membership, sound management, responsible underwriting and the favorable loss histories of the Property & Casualty Pool and Workers Compensation Fund, RMS has awarded **\$1,148,950** to its membership in 2012. 🏠

The Property & Casualty Pool distributed **\$549,283** in Dividends to its Members in 2012.

The Workers Compensation Fund distributed **\$599,667** in Dividends to its Members in 2012.



Dawn Adams, Town Manager, Milford.



Jerry Davis, Town Manager, Greenbush.

Welcome New Members

Property & Casualty Pool

- Town of Hiram
- Town of Bowdoinham
- Cary Plantation

Workers Compensation Fund

- Anson & Madison Water District
- Winterville Plantation

Understanding Your Experience Rating

Workers Compensation experience ratings have been updated. In most states including the State of Maine, the National Council on Compensation Insurance (NCCI) calculates an insured's workers compensation experience rating based upon the insured's claims history. In order to determine your experience modification, NCCI compares your loss experience to the losses of similar employers in Maine and nationally. NCCI uses the Losses and payroll history for a 3-year period to calculate the modification factor. The factor is then used to adjust your premium to reflect your entity's specific loss experience. The experience rating model is crafted to encourage sound risk management practices by rewarding those with a better than average loss experience and imposing higher costs on those with poor experience.

The experience modification calculation splits a claim's value into two parts called "Primary Losses" and "Excess Losses". The split is designed to take into account the severity of a loss as well as the frequency of all losses incurred by an insured, so that a single event doesn't have a dramatic influence on the experience mod. This split is referred to as the "split point". Simply put, the "split point" is designed to divide the primary and excess losses under the rating plan.

Effective January 1, 2013, NCCI has announced a change in the calculation of the insured's experience rating. NCCI has decided to increase the "split point" from \$5,000 to approximately \$15,000 over a 3-year period. This change may impact your workers compensation contribution. As the split point increases, more loss dollars are shifted from the excess layer to the primary layer.

Now you may be asking "how will this affect me?" The answer is "it depends". Due to the fact that the experience modification calculation places more weight on the primary losses than the excess losses, the spread of the modification factor will increase with each increase in the split point. Therefore, insureds with a factor of 1.00 (the average) should expect to see even lower experience modifiers, insured's with factors greater than a 1.00 will most likely see the modifiers increase.

Due to the potential effects of this change, it is even more important to control losses and implement sound risk management techniques. Members of MMA Workers Compensation Fund are encouraged to partner with our Loss Control, Claims and Underwriting Departments to identify trends, minimize exposures and create a plan to manage claims.

Key factors to managing claims include:

- Remove of the exposure.
- Reduce the exposure.
- Transfer the exposure to avoid a loss (contracting the activity to an independent contractor).
- Timely claim reporting.
- Use a Preferred Provider.
- Return the employee to work when medically possible
- Good communication with provider and employee.

For more information on experience modification factors, loss control or claims management, please contact Marcus Ballou Senior Member Services Representative at mballou@me-mun.org or call (800) 590-5583. 🏠

THANK YOU



MMA Risk Management Services thanks you for joining us at MMA 2012 Convention as we celebrated the 25th Anniversary of the Property & Casualty Pool.

We would also like to congratulate Craig Worth from Brunswick School Department as the winner of the wireless remote router. 🏠

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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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Towns Consider Merging Police Departments

By Douglas Rooks

The nation's recession and reduced funding for public services are prompting some towns to consider whether municipal police departments are the best way to staff law enforcement.

Bethel disbanded its police department in 2010 and now contracts with the Oxford County Sheriff's Department. Norway and Paris are considering a one-year trial of what would be the first merger between two municipal departments in Maine. And, a new town manager in Damariscotta is exploring a contract with Lincoln County.

But the tradition of local police departments remains strong, and there are often significant obstacles to making other arrangements – even where town officials, and even the police chiefs themselves, support changes.

For Paris Police Chief David Verrier, the issue is clear-cut. "We've had a dramatic increase in demand for our services and funding has decreased," he said. As a result, "We've started to become reactive in our approach to law enforcement rather than pro-active."

Programs in which Verrier strongly believes – community policing, school programs, even traffic patrol – are being neglected in favor of responding to emergency calls, which on some shifts are all the department can handle.

Two years ago, the selectmen of Paris and neighboring Norway met to explore how the two towns could cooperate to offer better services and, where possible, save some money. The two towns, which to travelers present "one long Main Street," in Verrier's words, already have a joint solid waste

facility. Policing was high on the selectmen's list, and this spring Verrier and Norway Chief Robert Federico got together to see what might work.

The two fairly quickly decided that the two departments would be a good match, and that a trial one-year merger was something they could support.

"We've done things together before," Verrier said, including hiring a joint investigator with federal funds. "There are different strengths and

weaknesses but together we could offer a full-service department."

One of the selling points was a three-member investigation division; each town now has just one detective. Verrier said investigations are among the most time-consuming, but also the most important parts of police work in maintaining public confidence. He said there's no question that residents of the two towns would see improved crime-solving under a merger.

NORWAY AT A GLANCE

Year Incorporated: 1797

Population: 4,818

Government: Selectmen/Town Meeting/Manager

Number of Selectmen: Five

Famous Resident: George Lafayette Beal, Colonel and Major General during Civil War and elected Maine State Treasurer

PARIS AT A GLANCE

Year Incorporated: 1793

Population: 4,907

Government: Selectmen/Town Meeting/Manager

Number of Selectmen: Five

Famous Resident: Hannibal Hamlin, U.S. Vice President during Abraham Lincoln's first term in office

COLLABORATION CORNER

This article continues a regular feature in the *Maine Townsman*, highlighting ways that municipalities work together to become more efficient and better serve citizens.

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

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ONE DECISION MADE

One of the difficult decisions – who would be chief – has already been made. Norway's Federico would head the department, with Paris' Verrier playing a supporting role. Under one version of the plan, he would become the school resource officer; in another, he would join the investigations unit. One officer in his department unhappy about his changed assignment was what led to the different configurations, Verrier said. He was willing to accept another job because he believes strongly in the benefits of merging.

Federico said that a merger also makes sense to him because the two departments have similar responsibilities and are of similar size; Norway currently has eight full-time officers, while Paris has six. Norway's police budget is \$606,762, while Paris will spend \$504,733. No staff reductions are planned, and each town would realize savings of \$30,000-\$40,000 a year, mostly from reduced overtime requirements.

But both chiefs emphasized that financial savings aren't what's behind the plan. Improved service is the key,

Federico said.

"When someone calls for assistance, they're sometimes not even sure which department to call. A lot of people in town are new. And when the patrol car arrives, they don't care about the name on the side. They just want someone who's going to help them, professionally, with their problem."

The initial idea was for both towns to move forward simultaneously, according to Norway Town Manager

David Holt. Norway voted at the June primary election to proceed with the merger; townspeople backed the plan overwhelmingly, 430-117. But things proceeded more slowly in Paris, where officials had to deal with distractions, including resignations from the board of selectmen and a vote not to renew the contract of Town Manager Phil Tarr.

The merger was not on the June ballot in Paris, and when a special town

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meeting was held Aug. 13, the result was a 41-41 tie, which defeated the measure.

Verrier isn't convinced that this is the end of the road for the plan.

"A tie vote really isn't a decision," he said. "People in the community should really understand what's at stake. We can't keep going the down the same path."

Any further consideration will have to wait until next year at the earliest. Selectmen declined to place the issue on the November ballot by a 3-2 vote, and a citizen petition that called for reconsideration fell short of the required 243 signatures.

"Selectmen from the two towns have said they want to look at cooperation in all areas – highway, fire, the works. If it works for police, they may want to pursue those areas, too," said Tarr.

In Damariscotta, Town Manager Matt Lutkus had been on the job just a few months when he found "a lot of plans and ideas on the shelf" at the town office. One of them was whether the town should continue to support its six-officer municipal department or use another agency.

With the selectmen's support, Lutkus approached Lincoln County Sheriff Todd Brackett about a proposal, and the county provided some initial figures.

Brackett's proposal, which was received by selectmen on Aug. 29, calls for 24-hour coverage at a cost of \$433,000 annually. Although the current police budget is \$505,000, one officer position is filled for only six months, so annualized expenses for the town would be \$528,000, pro-

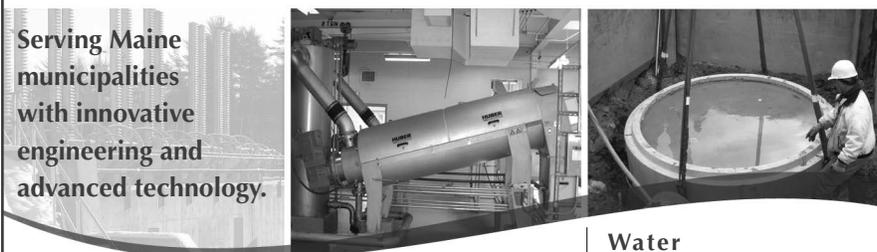
ducing a savings of nearly \$100,000, Lutkus said. The county also provided a bid for 20-hour-a-day coverage at \$392,000.

CHARTER CHANGE NEEDED

By a 5-0 vote, selectmen decided to proceed to public hearings and, potentially, a charter change that would be necessary to disband the police department. Lutkus said discussion was along the lines of, "Let's take a close look at this." The savings

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would be produced by elimination of administration – the chief’s position and that of the department’s secretary, he added.

Lutkus, who most recently served as a deputy city manager in Westminster, Colo., with a population of 110,000, had settled on coastal Maine as a future retirement destination when the town manager job opened up. He believes that public officials have a duty to see if the services towns offer are cost-effective. The police department represents one-fifth of the municipal budget. Police costs are significantly higher than those of the next largest department – highways, at \$321,000.

Recruiting new officers also has become an increasing problem for small departments, he said. Damariscotta currently has one unfilled position.

Police Chief Chad Andrews, however, has voiced displeasure with the idea of his department disbanding, telling a local reporter that he was “shocked and dismayed.”

Lutkus said of Andrews, “He understands why we’re doing this,” and said in a memo to staff, “I apologize in advance for the alarm and concern that this may cause employees.”

Lutkus also said that, if a county contract were signed, he would ask that existing officers get first crack at the new positions Lincoln County would create for Damariscotta.

Standish may have been the first Maine town to disband a municipal department and contract with another agency. Since 1991, Standish has been patrolled by the Cumberland County Sheriff’s Department, an arrangement that Town Manager Gordon Billington says has worked well.

Dissatisfaction with the municipal department played a part in the initial decision to go with the county, Billington said. “The department was down to just the chief and one officer and there were a lot of concerns among townspeople about how things were being investigated.”

Standish does things differently than some towns that have shifted to county policing, where the county provides the patrol cars and equipment.

“We have the same cars that say Standish on the side. We own all the radios, the handcuffs, all the basic equipment,” Billington said. The main difference is that “they’re sheriff’s deputies responding to calls.”

Standish currently contracts for 5.4 deputies – the odd number representing shift overlaps – and each serves exclusively in town, although they can accept overtime work elsewhere. The current police budget is \$526,628, with \$494,003 representing payments to Cumberland County. This year’s total is a bit higher than normal, since two cruisers are being replaced at a cost of \$73,000, Billington said.

PLEASED IN STANDISH

Overall, he believes Standish is getting a bargain. At the least, the county contract has buffered Standish from costs that might otherwise have been incurred through population growth. Since 1990, Standish has grown from 7,500 to 10,000 residents.

Billington said, “I couldn’t speak more highly of the professionalism of county law enforcement. We couldn’t be more pleased.” Standish did consider contracting with State Police at one point, but found that costs would be significantly higher than the county contract.

In recent years, Cumberland County has picked up some new municipal clients, and now provides policing for Harpswell and Harrison. This year, Gray – which had been Maine’s largest municipality without a local police force – contracted for one deputy, which happened to be one of those assigned to Standish. Billington says he will be missed.

The Standish manager said he recognizes that “the local franchise is



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important to people. Local control is what people want.” But he believes it can be achieved in different ways. He suggests that towns looking for alternatives listen not just to local comments, “but take a good look at places where it’s already being done.”

In Norway, Chief Federico spent some time doing just that. In other states, police mergers are more common, he said, and follow a similar pattern – initial resistance, but satisfaction once new arrangements are in place.

He’s spent time talking to the chief of the Western Berks Regional Police Department in Pennsylvania, which was formed in 2010 to replace the municipal departments of Robeson and Wernersville and may expand further.

Federico said the Pennsylvania chief’s only reservations concerned governance by a police commission independent of the two town governments, something not contemplated in Norway and Paris. Contracting with Oxford County would not work for Paris and Norway, he believes, because “these are different kinds of communities. They have different needs than some of the more rural towns in our area.”

The switch to county coverage has worked for Bethel, according to Town Manager Jim Doar, who initially was skeptical but came to see the advantages as discussions with Oxford County Sheriff Wayne Gallant moved forward.

Though it took two separate town meeting votes, there have been two years of experience since the switch was made, and things have gone smoothly. He said there have been “no real issues or problems,” and that what he’s heard from townspeople has been “overwhelmingly positive.”

Like Standish nearly 20 years earlier, Bethel was down to just one full-time officer, who later declined an offer to become a sheriff’s deputy. Recruitment was a problem, Doar said, and what’s been most encouraging about the new arrangement are a greater capability to investigate crimes and the ability to provide “lots of manpower” on certain occasions, such as events at Sunday River.

“There’s no way we could have done that before,” he said.

Bethel currently pays \$295,000 annually to Oxford County, with a 2 percent increase due next year. 

MMA Personnel Services and On-site Consulting Services

MMA Personnel Services offers a wide range of specialized on-site consulting services for our members. Personnel management and labor relations expertise is available for direct assistance or general inquiries through a toll-free telephone line. Direct on-site assistance is available in the following areas:

Labor Relations — Representation of the municipality in labor negotiations, mediation, arbitration and grievance processes.

Executive Search — Assistance with the recruitment of a new city or town manager or department head.

Training — On-site training in a variety of topics.

Testing — Entry level police and fire testing.

For more information on all Personnel Services programs, or general personnel management information, contact David Barrett, Director of Personnel Services and Labor Relations at 1-800-452-8786.

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

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People



Cornell Knight



Michelle Beal



Mark Robinson

Cornell Knight, Mark Robinson and Michelle Beal were winners at the Maine Town, City and County Management Association's annual Institute last August in Newry.

Knight won the association's Linc Stackpole Award, which goes each year to the Manager of the Year. Knight, who serves as manager in the Town of Topsham, is a graduate of the University of Maine's Master's in Public Administration program. He has served as municipal manager for 31 years, including stints in Baileyville, Hallowell, Winthrop and Topsham.

In nominating Knight for the award, Augusta City Manager Bill Bridgeo (among several others) wrote that Knight "is a quiet, unassuming and congenial man" who is "intelligent, dedicated to good local government, loyal to his councils and employees and (is) tremendously generous."

Bridgeo noted that several of the towns where Knight has worked became noted for "competent, low-key, efficient town government."

Robinson, Town Manager in Fayette, won the MTCMA's 2012 Leadership Award. Robinson was nominated for the award by Mary C. Wright, Chair of the Fayette Board of Selectman, who noted that Robinson has served the town since 2004.

Wright credited Robinson with solving a decades-long dispute among citizens and some property owners that involved public access to a local pond. She wrote that Robinson "has been the healer, expeditor, negotiator and friend that the town needed to put this matter behind" it.

Beal, Manager in the City of Ells-

worth, was named the MTCMA's "Rookie of the Year," an award that goes to managers who have served their municipalities for five years or less.

Gary M. Fortier, Chairman of the Ellsworth City Council, cited many accomplishments during Beal's four-plus years on the job including: improvements to the city's Wastewater Treatment Facility; a current project to enhance Knowlton Park; renovating a school building and turning it into a Senior Center; and, fostering economic development throughout the city.

Beal also serves as vice president of MTCMA and on the Executive Committee of Maine Municipal Association.

Longtime Millinocket Town Manager **Eugene Conlogue** accepted the top administrative job for the town of Houlton in Aroostook County. He will replace **Doug Hazlett**, who resigned in March after seven years as manager. Conlogue, a native of Houlton, resigned in September after 13 years. During his tenure he watched both paper mills in Millinocket and East Millinocket close, but helped lure new companies to re-fashion the mills and get them running again. He was known for his opposition to a proposed new national park in the Millinocket area. Former Maine Senate President **Charles Pray** was named interim manager as selectmen work with Maine Municipal Association to recruit a permanent manager.

A longtime Belfast maintenance worker won \$100,000 in the Maine lottery in September, but said he intends to keep doing what he's been doing for more than 20 years - working for the city. **Norman Gilmore**, 45, said the cash (\$70,000 after taxes) would "ease up a whole bunch of burdens," according to the Bangor Daily News.



(The Weekly Packet)

Janet Torrey

Blue Hill residents and town leaders were stunned in September when two well-known municipal officials died. Selectman **Duane Gray** was 66 and deputy town clerk **Janet Torrey** was 51. Both died at their homes; Torrey on Sept. 15 and Gray on Sept. 16.

Blue Hill's municipal staff consists of three selectmen and three full-time office workers, so, in the words of Selectman Jim Schatz: "This is like losing a third of our family." Gray was serving his third term as selectman and Torrey had worked seven years at the town office. The cause of death in both cases was not immediately determined. Both Gray and Torrey are survived by large families.

Marlowe LeBarge, a well-known Kennebunk businessman and civic leader, died Sept. 3 at the age of 84. In addition to serving on numerous municipal boards, including the school and zoning appeals boards, LeBarge worked as a volunteer firefighter and ambulance driver for the town for more than 50 years. He enlisted in the U.S. Navy as soon as he graduated from high school to serve during World War II.

Bath City Councilor **Ruthe Pagurko** died Sept. 28 at the age of 63. Pagurko, known for her volunteer efforts in the city, was serving her eighth year on the council. Municipal leaders expressed shock at Pagurko's unexpected death. She apparently died in her sleep at home.

Brewer Fire Chief **Gary Parent** resigned, effective Sept. 28, after serving the city's fire department since 1984. Parent was promoted to captain in 1999 and to chief in 2010. Parent said he plans to move to Florida for his retirement. During the same meeting, named Police Chief **Perry Antone** as the city's first Public Safety Director, with responsibility to manage both the fire and police departments. Councilors named Captain **Jason Moffitt** deputy police chief and veteran firefighter **Ralph Cammack** as deputy fire chief.

Eugene Skibitsky has resigned as Dixfield town manager after four years. Skibitsky, also a former town selectman, will work until Jan. 3, 2013. He plans to use accumulated vacation days leading up to his final day. In resigning, Skibitsky said he wanted a change. [mt](#)



(The Weekly Packet)

Duane Gray

Brewer: Police are helping pharmacy employees and operators learn how to prevent and respond to robberies, which have tripled in Maine over last year with several months still left in 2012. The free training program also was provided to 150 employees at Eastern Maine Medical Center. Brewer police Lieutenant Chris Martin said pharmacy robberies have increased 1,200 percent from 2008 to 2011, the Bangor Daily News reported in September. The sluggish economy and increasing abuse of prescription drugs are major factors in the increase of robberies and attempted robberies, officials said.

Eastport: Maine's most eastern city, home to one of the nation's deepest seaports, has been selected as one of only 15 communities nationwide to receive help from a group of planners to find ways to protect and improve the city's economy and history in a sustainable and business-friendly way. Also selected was the Northern Maine Development Commission in Caribou, which aids municipalities in Aroostook and Washington counties with planning efforts and projects. The U.S. Environmental Protection Agency provided a grant for the program and hired the Washington D.C.-based Smart Growth America. The consultants held workshops in Eastport in September to identify needs, problems and solutions to various issues, ranging from housing to energy use to climate change.

Jay: The town borrowed far less for sewer line replacement than expected, deciding to pay off interim financing and getting a bond through the Maine Municipal Bond Bank for \$295,000. The board won approval to borrow up to \$685,000 for the joint Jay-Livermore Falls project along Route 4.

Leeds: An abandoned scrap metal recovery operation was added to the federal Superfund National Priority list last month. The Leeds Metal Site operated from 1969 to 1984. Both local and federal officials believe the site could pose a threat to people nearby, the town in general and the environment. State environmental experts have removed drums of waste and other contaminants and paid for water filtration systems for

five homes. The fire department has been called to the site many times to douse fires believed to be connected to the waste. Gas and other vehicle fluids were dumped directly onto the ground, officials said.

Limestone: Eight years and \$23 million later, the northern Maine town, once home to Loring Air Force Base, celebrated the opening of a new more efficient sewer wastewater treatment plant. The new facility replaces two smaller plants and was completed in phases in a federal, state and municipal partnership.

Portland: The city is seeking a consultant to thoroughly review the fire department operation after its overtime budget exceeded \$2 million in 2011 and two fire boat accidents caused nearly \$130,000 in damage. The city has sent eight consultants a request for proposals that would also include a review of department policies, equipment and whether working on a regional basis would be best for Maine's largest city. Meanwhile, city officials learned in September that the federal Economic Development Administration had awarded the city a \$1.5 million grant toward the \$105 million cost of a multi-use project that will include a hotel, event center and parking garage and office buildings, among other major features.

TOWN REPORT COMPETITION

For over 50 years, Maine Municipal Association has conducted an annual "Municipal Report Competition". Winners of the 2011 Municipal Report Competition, by population category and in the order placement – Supreme, Superior and Excellence, were as follows:

Pop.	Municipality
0-499	North Haven Carrabassett Valley Winterville Plantation
500-999	Southport South Bristol Winter Harbor
1,000-2,499	Phippsburg Mount Desert Union
2,500-4,999	Mechanic Falls China Dover-Foxcroft
5,000 & over	Freeport Camden South Portland

The judges for this year's competition included Douglas Rooks, Lee Burnett, and Liz Mockler, all freelance journalists and regular contributors to the Maine Townsman, and Jaime Clark, Graphic Designer/Marketing Coordinator, Maine Municipal Association. mmma.org

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*.

- **Healthy Small Towns.** The Maine Development Foundation was awarded a \$1.6 million Community Transformation Grant from the U.S. Department of Health and Human Services to start MDF's Healthy Maine Streets program. The program is aimed at improving public health in Maine's smaller communities.
- **Charting Maine's Future.** GrowSmart Maine released a new report, Charting Maine's Future: Making Headway, which includes many references to municipal government and community development.
- **Land Trusts Come Together.** Ten land trusts and associations in Midcoast Maine formed the 12 Rivers Collaborative, a network of network of preserved lands. Officials behind the effort want to maintain and promote biodiversity, wildlife habitat protection and integrated trail networks.
- **Corrections Report.** The State Board of Corrections released a 16-page report that evaluates how county financial reporting relates to prison and jail systems. The report also looks at communications and other structural concerns.



Municipal Bulletin Board

EOW: AUGUSTA, HOULTON

MMA officials will hold Elected Officials Workshops on Oct. 23 at the Maine Municipal Association Conference Center in Augusta and on Nov. 27 at the Center for Community Health Education in Houlton. The workshops will run from 4:30 to 8:30 p.m. and include 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.

MFCFA ANNUAL MEETING & CONFERENCE

The Maine Fire Chiefs’ Association will hold its Annual Meeting & Conference from Oct. 24-26 at the Sunday River Grand Summit Resort Hotel & Conference Center in Newry. John F. Sullivan, Deputy Chief of the Worcester, Mass. Fire Department, will be a featured speaker and will talk about the organizational transformation of his city’s fire department following the tragic line-of-duty deaths of six firefighters in 1999.

Dr. Mike McEvoy, EMS Coordinator for Saratoga County, N.Y. and EMS Director on the board of the New York Association of Fire Chiefs, will speak on Oct. 26 about firefighter rehabilitation and medical monitoring. This will be a special event as the MFCFA celebrates 100 years of service with the theme: “History & Tradition.”

LABOR & EMPLOYMENT LAW

MMA will host a one-day workshop of Labor and Employment Law on Oct. 30 at the MMA Conference Center in Augusta. The workshop will feature speakers: Linda D. McGill, Glenn Israel

and Matt Tarasevich, attorneys with Bernstein Shur; Suzanne Benoit of Benoit Consulting; and, David Barrett, head of Labor Relations and Personnel Services at MMA.

The workshop is a “must” for people who manage municipal personnel and need up-to-date legal and practical approaches on personnel issues and problems. It begins with registration at 8:30 a.m. and will conclude at 2:30 p.m.

GRANT FUNDING & WRITING

Just about every municipality is in the mode of searching for grant money these days and MMA will host a workshop on this very topic from 8 a.m. to 4 p.m. on Nov. 13 at the MMA Conference Center in Augusta. Speakers include: Ronald Lambert, of the U.S. Department of Agriculture Rural Development office; Deborah Johnson, with the State of Maine; and, Chris Shrum of Shrum Associates.

The workshop will address: commitment to rural communities; finding and leveraging grants for community development; and, block grants. Speakers will be available for consultation starting at 3:15 p.m.

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.

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. [\[m\]](#)

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Free or nominal rate distribution		
Outside County	183	223
In-County	35	49
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Outside the mail	38	38
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Total distribution	4,201	4,265
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I certify that the statements made by me above are correct and complete.

Eric Conrad, Editor

STILL GIVING A QUITCLAIM TO CLEAR AN OLD TAX LIEN?

We learned recently that some municipalities are still giving a quitclaim deed in order to clear title to property where there is an old tax lien that was timely paid off but no discharge was ever recorded. This is no longer necessary, as we reported several years ago. Moreover, at least one registry of deeds is now requiring property owners to pay the transfer tax in such cases even though the oversight (failure to record a discharge) was the municipality's.

In 2002 the Maine Title Standards were amended to clarify that where inquiry shows the taxes were paid before foreclosure, a tax lien discharge reciting that taxes were timely paid will suffice to clear title. (The discharge is effective even if recorded after the 18-month redemption period has expired.) This should satisfy the title bar since it is the date of payment, not the date the discharge was recorded, that is material (see 36 M.R.S.A. § 943, third paragraph).

So if a title attorney (or anyone else for that matter) demands a quitclaim deed in order to clear title where there is an undischarged tax lien that was nevertheless timely paid, tell them to read Maine Title Standard 901 as revised in 2002. For full details, see "Undischarged Tax Liens – Quitclaim or Discharge?," *Maine Townsman*, "Legal Notes," January 2007. (By R.P.F.)

CHARTER REQUIRED FOR ALL-REFERENDUM VOTING

The Maine Supreme Court held recently that a requirement for all-referendum voting in municipal elections is legally binding only if imposed by municipal *charter*.

In *Blanchet v. Town of Waldoboro*, Mem-11-605 (Aug. 16, 2012), plaintiffs challenged the legality of the town's budget because it was not approved by secret ballot referendum, which ostensibly was required by a 2008 ordinance enacted after a voter petition. The town countered that the municipal voting process is controlled by Titles 21-A and 30-A unless a charter provides for a different method (see 30-A

M.R.S.A. § 2501). The Law Court agreed, noting that the town does not have a charter and that nothing in Title 21-A or Title 30-A prohibited the town's use of a traditional "open" town meeting vote in this case.

The Court's holding in *Blanchet* (which, because it is a memorandum of decision, is not technically legal precedent) is consistent with our advice on at least two previous occasions (see "All-Referendum Voting," *Maine Townsman*, "Legal Notes," January 2006; "Why a Municipal Charter?," *Maine Townsman*, "Legal Notes," April 2009). Only a charter can effectively require all future voting to be by referendum; an ordinance or town meeting vote purporting to mandate all-referendum voting is advisory at best.

Former MMA staff attorney Kristin McHenry Collins, now with the law firm of Kelly & Collins in Belfast, successfully represented Waldoboro in this case. (By R.P.F.)

TAX LIEN FEES REPRISED

Although we wrote about this subject just two years ago (see "Update: Tax Lien Fees," *Maine Townsman*, "Legal Notes," August-September 2010), apparently there is some lingering confusion about what exactly municipalities can charge for processing real estate tax liens, so let's recap.

For sending the 30-day "demand" notice, the fee is \$3 to the tax collector plus certified mail, return receipt, fees (currently \$5.75 per 1 oz. letter).

Once a tax lien has been recorded in the registry of deeds, the fees are:

A \$13 municipal fee, which is a composite of \$3 to the tax collector for sending the 30-day demand notice (see above), \$1 to the tax collector for recording the tax lien, and \$9 to the municipality. (If the tax collector is paid a salary as total compensation, the \$3 and \$1 fees are payable to the municipality instead.)

A \$26 registry fee, or \$13 for re-

 MMA Municipal Calendar

BY NOVEMBER 1 — Any governmental subdivision holding tangible or intangible property presumed abandoned under 33 MRSA §1953 must make report to the Administrator of Abandoned Property of the State Treasury Department, pursuant to 33 MRSA §1958.

BY NOVEMBER 1 — Or 30 days after the date of commitment, whichever is later, the municipal assessors and assessors of primary assessing areas shall make return to the State Tax Assessor all information as to the assessment of property and collection of taxes. The forms of such return shall be supplied by the State Tax Assessor (36 MRSA §383)

NOTE: Failure to file this return in a timely manner could result in loss of tree growth reimbursement (36 MRSA §578).

PRIOR TO NOVEMBER 6 — Election Day. Registrars of voters shall accept registration prior to the November 3 election according to the time schedule of their population group (21-A §122[6]).

— The Registrar shall publish his/her

time and hourly schedules in a newspaper having general circulation in the municipality at least 7 days before it becomes effective. In municipalities of 2,500 or less population, this publication is discretionary rather than compulsory (21-A MRSA §125).

— The hourly schedule for voter registration established by 21-A MRSA §122 may be changed by the municipal officer according to the needs of the municipality (21-A MRSA §122[8]).

NOVEMBER 12 — Veteran's Day Observed. A legal holiday (4 MRSA §1051).

ON OR BEFORE NOVEMBER 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 [22 MRSA §4311].

NOVEMBER 22 — Thanksgiving Day, a legal holiday (4 MRSA §1051; 20-A §4802)



ording and \$13 for discharging the tax lien (provided each is no more than one page).

A \$3 fee to the municipality if the notice of impending foreclosure has also been sent.

Plus all certified mail, return receipt, fees (again, currently \$5.75 per 1 oz. letter). The cost of special envelopes or other services not directly paid to the United States Postal Service should not be included in these fees.

Tax lien fees are fixed by statute (see 36 M.R.S.A. §§ 942, 943) and cannot be increased, decreased or waived except by abatement (see 36 M.R.S.A. §841). Unless all fees, together with unpaid taxes and accrued interest, are paid in full before the expiration of the 18-month period following recording of the tax lien, the lien will foreclose automatically and title to the property will pass automatically to the municipality. (By R.P.F.)

A TAX LIEN NEED NOT BE RECORDED WITHIN 1 YEAR

Despite our best efforts, the rumor persists that a property tax lien must be recorded in the registry of deeds within one year following the date of the tax commitment. It's simply not true.

As we advised last month, it's the 30-day notice of lien that must be sent to the taxpayer within this one-year period (see "Too Late for a Tax Lien?" *Maine Townsman*, "Legal Notes," August-September 2012). The tax lien itself need not be recorded within this period provided it is recorded within 10 days following the expiration of the 30-day notice of lien (see 36 M.R.S.A. § 942). In theory, this could be as late as the start of the 14th month following the date of the tax commitment, though we would never advise tax collectors to wait that long before beginning the tax lien process.

For complete details, see MMA's *Municipal Liens Manual*, available free to members at www.memun.org. (By R.P.F.)

SELLING SURPLUS PROPERTY

Question: Do we need authorization from our municipal legislative body to sell surplus personal property such

as motor vehicles, office furniture, computers, etc.?

Answer: Yes, you do. Since town-owned personal property – even outmoded or surplus property – is considered a municipal asset just like real estate, we've always advised that before it may be sold or transferred, the legislative body (town meeting or town or city council) must authorize the sale or disposition.

This is not to suggest that the legislative body must specifically authorize each and every transaction, though. In fact, many towns include a standard article in their annual town meeting warrant authorizing the municipal officers to sell or dispose of surplus personal property on such terms and conditions as they deem in the best interests of the town. A blanket article such as this would prospectively authorize all such sales for the ensuing year.

Sometimes these articles include a

cap on value, authorizing the municipal officers to sell surplus personal property only if it has an estimated value of less than \$_____. This effectively limits the municipal officers' authority to less valuable property, thus giving town meeting direct authority to decide in the case of more valuable property. Also, these articles sometimes require competitive bidding for property exceeding a certain estimated value. Whether a warrant article authorizing the sale of surplus personal property includes a cap on value, a bidding requirement or other limitations are local policy matters as there is no governing State law.

Finally, instead of a warrant article, the authority to sell or dispose of surplus personal property can be conferred by ordinance, thus avoiding the need for an annual vote. For basic ordinance enactment procedures, see 30-A M.R.S.A. § 3002. (By R.P.F.) 

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