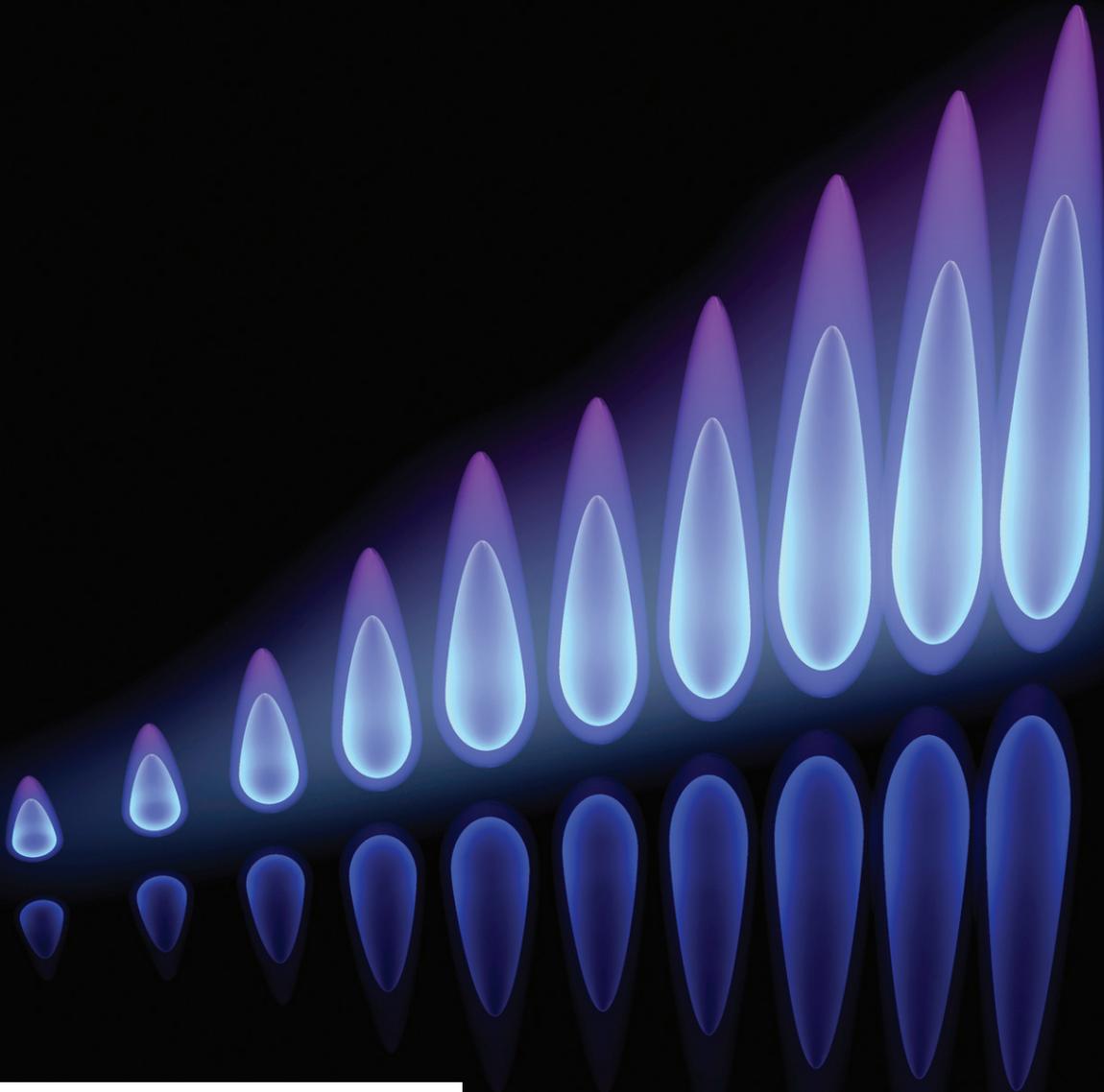


January 2012

# maine townsman

The Magazine of the Maine Municipal Association

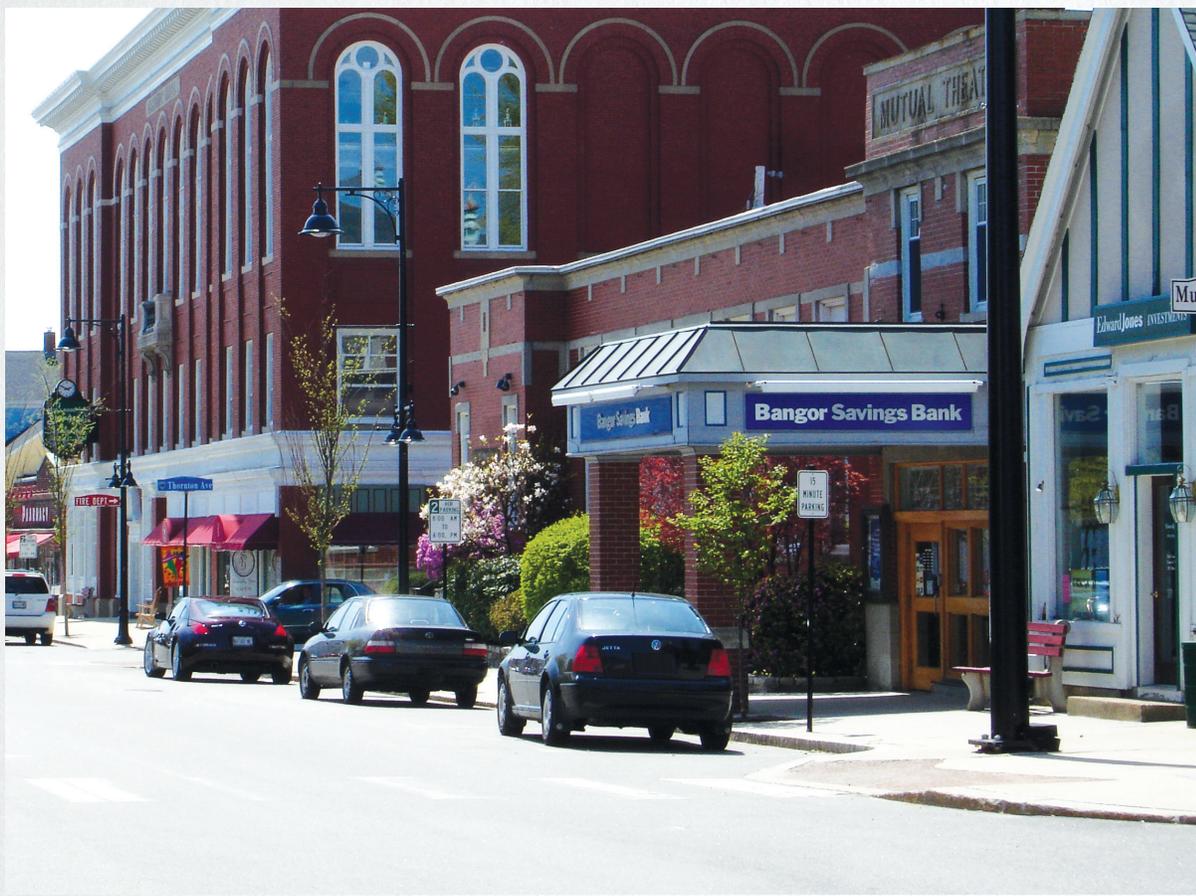


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Vol. 74, No. 1

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# Flexible Employee Benefit Options

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# A Message From MMA



by Eric Conrad, Editor

## Municipal Training in 2012: Something for Everyone

The annual Municipal Technology Conference serves to underscore the importance of technology in the workplace. We use computers to meet payroll, monitor bank accounts, set employee time schedules and map flood plains. We use them to take minutes at public meetings, keep abreast of municipal news and inform citizens about what our towns and cities are doing. In short, technology in the municipal workplace is indispensable.

We hope the **2012 Municipal Technology Conference** proves to be indispensable as well.

This year's Technology Conference will be held at Portland's Holiday Inn by the Bay on Thursday, March 1. After years of staging the event at the Augusta Civic Center, Maine Municipal Association and its event co-sponsor, the Maine GIS User Group, moved it to the Bangor Civic Center in 2011 – and attendance surged. We now plan to rotate the event annually in southern Maine, Augusta and the Greater Bangor area.

Greg McNeal, Chief Technology Officer for the State of Maine, will keynote this year's conference. He will speak on "Technology in Government," including how broadband Internet access is influencing government at the local, state and federal levels.

The Technology Conference is a unique event in that it caters to sophisticated users – namely, the members of the Maine GIS User Group and municipal technology officers – and to office workers in small municipalities, where basic Microsoft Excel and Word software both remain quite in vogue.

This year's conference offers many diverse workshops. The GIS User Group will host sessions on flood plain mapping, land-use suitability and the future of the 911 system, among other topics. The ConnectME Authority has worked closely with Maine Municipal Association this year and it plans to host workshops on the broadband "revolution," broadband infrastructure and strategies for expansion.

MMA has organized workshops on how emails and other forms of communication are subject to the state's Freedom of Access law, liability issues surrounding technology, transparency in local government and how state and municipal librarians are embracing technology to the benefit of citizens. We feel there's something for everyone at this year's Technology Conference. We'd love to see you in Portland on March 1. (Please see Page 30 of this month's Townsman for the draft program.) Registration and the latest program information are available online by clicking on the conference logo at the MMA home page ([www.memun.org](http://www.memun.org)).

### MMA TRAINING IN 2012

In addition to maintaining our time-honored programs,

such as our Elected Officials Workshop and Basic Municipal Budgeting, we will expand on our 2011 decision to offer training programs that address current events and trends in municipal government. Attendance at several of our programs last year – such as trends in wind power and customer service during challenging times – reached capacity, so we knew the idea was being well received.

On Dec. 14, MMA held an Elected Officials II pilot workshop in Bangor that was designed primarily for elected officials in larger municipalities with city or town managers. The event was well attended by officials and managers from Bangor, Brewer, Hampden, Old Town and Orono.

The workshop covered a lot of ground. It dealt with: Maine's Freedom of Access Act; legislative issues and updates; news reporters and direct communication to citizens; potential conflicts of interest; and, manager-council relations. The feedback was positive and we will offer the session twice more in 2012, tentatively in Scarborough and Augusta.

We're developing a new Freedom of Access workshop to address the recent trend in which municipalities have been challenged by dozens of document or email requests from a single person or small group of citizens. We plan to offer this workshop in Aroostook County this spring and in Brunswick in August.

Wind power remains a hot topic in many areas of the state. Attorney Jim Katsiaticas and industry expert Brooke Barnes will present a workshop in Farmington on wind power on March 21. They are careful not to be pro or anti wind power. They present information on the scope of wind power proposals, what issues confront municipalities when projects come along and what legal authority municipal officers have in regulating them.

Two other workshops that debuted last year – Customer Service Excellence and Roles of Councilors, Selectmen and Managers – will return in 2012. Margaret Noel, MMA's Manager of Educational Services and Andrew Gilmore, town manager in Sabattus, present the customer service workshop. The workshop addressing municipal roles is presented by: Pam Plumb, a former city councilor and mayor in Portland; Don Gerrish, former manager in Brunswick and Gorham who works with Eaton Peabody Consultants; and, David Barrett, director of Personnel Services & Labor Relations at MMA.

MMA and our municipal Affiliate Groups are scheduled to host 64 workshops and conferences throughout 2012, from St. Agatha to Old Orchard Beach and from Carrabassett Valley to Bar Harbor. To see the complete list of 2012 workshops and training offerings, please go to: <http://www.memun.org/public/MMA/svc/wksp/2012.pdf>. We hope you like what you see. 

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# Pipeline Has Promise, But Will It Happen?

By Douglas Rooks

Will Maine town and cities build a natural gas pipeline or will they help finance one?

That's one way of looking at attempts to bring the nation's hottest fossil fuel to the Kennebec Valley, potentially involving 12 towns and cities from Richmond to Madison. And it is only one of several such plans, taking advantage of abundant supplies and a significant price advantage against competing fuels, such as petroleum.

The proposal currently getting most of the attention comes from Kennebec Valley Gas Co. (KVGCC), a partnership of three old hands in the energy business. It received the go-ahead to seek financing in August from the Maine Public Utilities Commission. According to the latest estimates, the pipeline would run more than 52 miles from Richmond to Madison and involve up to 120 miles of transmission and distribution lines, at a cost of \$85 million.

The Town of Madison would also like to build the same pipeline, in part as a means to bring a reliable source of generation to its municipal electric company – one of only two municipally owned electric utilities in Maine. The other is in Kennebunk.

But Madison's plan to seek a \$72 million bond to finance the pipeline was narrowly rejected by voters on Nov. 8, 2011, with 724 "nays" and 697 "ayes." The vote followed a contentious campaign that included half a dozen mailings from KVGCC opposing the town's plan, fliers that Madison officials say contained inaccurate information.

Since the Nov. 8 vote, KVGCC's plan has emerged as the leading contender, though it is still far from a sure thing,

---

*Douglas Rooks is a freelance writer from West Gardiner and regular contributor to the Townsman, [drooks@tds.net](mailto:drooks@tds.net)*

as Richard Silkman, one of its partners, readily acknowledges.

"We think this is a viable project that has significant public benefits," Silkman said. "But the world can change rapidly, and the energy market has been particularly volatile."

Silkman was director of the State Planning Office during the McKernan administration and now is managing partner of Competitive Energy Services in Portland. He is joined by Tony Buxton, a veteran lawyer-lobbyist for industrial power users, and Mark Isaacson, who has planned and operated hydroelectric facilities around the state.

## TIF PARAMETERS

The designated municipal role in KVGCC's pipeline plan, if all goes well for the company, is to rebate much of the property-tax revenue during the pipeline's first 15 years of operation back to the company, giving it a better shot at gaining construction financing.

Acting on a suggestion from Augusta Economic Development Director Mike Duguay, most of the 12 municipalities that would host the pipeline met over the summer under the auspices of the Kennebec Valley Council of Governments to devise a standardized Tax Increment Financing (TIF) deal.

KVGCC had asked for a 100 percent rebate over 20 years. What the towns ended up offering was an 80 percent rebate for the first 10 years and 60 percent for the next five years. After that, the pipeline could be taxed at full value, although municipalities can set the TIF district terms for a longer period, continuing to shelter the value from state aid formulas. At least one municipality – Hallowell – intends to do that. It approved a 30-year TIF by a 4-3 vote of the city council.

Silkman is straightforward about

why so much of the initial tax revenue needs to be funneled back to the project.

"With a pipeline, you have huge construction costs, but minimal operating costs," he said. "Once the line is built, taxes will be one of the biggest expenses we have." The TIFs, if approved by all 12 towns and cities, would amount to an annual \$1.3 million municipal subsidy.

So far, results are mixed concerning the TIFs, which must be approved by each council or during a special town meeting. Three municipalities have approved the TIF, Farmingdale has rejected it and Madison has said it won't be submitted to the voters.

## NO GO IN RICHMOND

The TIF also faces tough sledding in Richmond, where a survey of residents conducted by selectmen produced what Town Manager Marian Anderson called "a resounding no."

The plan calls for the Kennebec pipeline to tap into the existing Maritimes & Northeast pipeline at the Richmond compressor station. The main pipeline was completed in 1999 and carries gas from Sable Island, located off the coast of Nova Scotia, to the Boston market, with significant distribution in Maine along the way, including in the Bangor area.

It is clear that, at least in Richmond, KVGCC does not compare well to the earlier and much larger pipeline project.

Maritimes & Northeast "has been a good corporate neighbor," Anderson said. "They're great at cooperating with our fire and rescue departments, and they always give plenty of notice of any changes." The gas utility has never asked for a tax break, she noted.

There's a reason for that, according

to Silkman.

The Maritimes & Northeast pipeline was built, and is owned, by a consortium of large utilities and energy companies, he said. "They had the deep pockets to do this kind of project. We don't. Plus, they were building for a much more lucrative market in Boston."

If Silkman had his wish, the Kennebec line would already be in operation. It was proposed as a lateral line, probably connecting through Augusta, at the time the original pipeline was constructed. But at the time, natural gas and petroleum had nearly equal costs, and there wasn't an obvious incentive to build a line into central Maine.

### COMPARISON SHOPPING

Much has changed since then. Over the past decade, petroleum prices have soared, at times to well over \$100 a barrel, while gas prices have plunged, partly in anticipation of expanded domestic production through hydraulic fracturing, or "fracking," a deep-drilling technique that has unlocked new supplies.

At current prices, Silkman expects to be able to deliver gas at the equivalent of \$2.30 a gallon of heating oil, and even less for large industrial cus-

tomers. This comes at a time when retail heating oil prices are pushing \$3.50 a gallon.

The difference in price has spawned proposals to bring gas to many new sites in Maine, including Millinocket, Freeport and Rockland. The Finance Authority of Maine recently guaranteed a \$5 million loan that will connect the Baileyville pulp mill to the Maritimes & Northeast pipeline.

But the Kennebec line is the biggest proposal currently on tap, in part because it would have major industrial customers, including two paper mills in Madison and Skowhegan and the Huhtamaki packaging plant in Waterville. By some estimates, these anchor customers could use as much as half of all the gas carried by the proposed KVGCC line.

That factor, according to Madison Economic Development Director Joy Hikel, could be her town's ace in the hole.

"We already have assurances from two of our biggest customers, Madison Industries and Backyard Farms (a major vegetable greenhouse operation). They don't," she said, of KVGCC.

Madison's search for natural gas began with a quest for a reliable generating source for the municipal electric

utility. "We have lower rates than CMP, but we don't generate our own electricity and we'd like to," Hikel said.

Madison looked at a variety of possibilities, including biomass and establishing a "heating district" downtown that could use a central boiler, as many European cities do. Natural gas emerged as the best choice and that means a pipeline is needed.

### NOT SO FAR-FETCHED

Indeed, natural gas requires expensive infrastructure, but having a town or towns finance the venture may be more likely than it seems.

"Municipal gas utilities are common in other parts of the country," as are electric utilities, Hikel said. The nearest one to Maine is in Holyoke, Mass. Hikel believes municipal ownership could make good sense here.

"Municipally owned utilities are more responsive to customers, they generally have lower rates and they offer significant advantages for town budgets," she said.

One of the selling points of the \$72 million bond issue was that, potentially, pipeline revenues could pay for the \$3.2 million municipal share of Madison's annual budget.

Hikel and Silkman present sharply

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contrasting cases for whether KVGC or Madison would be the better choice as builder.

Hikel said TIFs have traditionally been used for spending on municipal infrastructure and other projects, “but why can’t we use them for projects that improve the revenue stream? We’re certainly not getting property-tax relief from the state.”

She also references lower municipal borrowing costs, greater local control and the lack of a need to forgo tax revenue through TIFs.

Hikel isn’t sure what to make of a new petition in Madison aimed at calling another referendum on the pipeline bond. She says such an ambitious project needs strong, not marginal, support from the community.

“In that sense, it was probably better to lose by 27 votes than win by 27 votes,” she said.

#### BUSINESSES TAKE RISKS

Silkman asserts that projects with a high degree of financial risk are tradi-

tionally built by private investors, not the public sector.

“A business is putting its assets at risk by borrowing money. Is that something a municipality really wants to do?” he asked.

The jousting over that point created friction during the bond issue campaign in Madison. Hikel said KVGC’s contention that residents could lose their homes if the pipeline went bankrupt was hitting below the belt.

“They were talking about Harrisburg (Pa.), which declared bankruptcy over a trash incinerator” that failed, she said. “But nobody lost their home. That isn’t how bankruptcy works.”

KVGC stands by its fliers. “We intend to communicate with citizens and tell them what we think are relevant facts,” Tony Buxton told the Waterville Morning Sentinel newspaper shortly before the vote.

Though there’s disagreement over who should build the line, nearly everyone seems to think the Kennebec Valley needs natural gas.

Not having it “places us at a serious competitive disadvantage to other parts of the state,” said Bill Bridgeo, Augusta’s city manager. His city council unanimously voted for the proposed TIF. “It’s something Brunswick and Portland and Lewiston can offer and

we need it, too.”

#### AUGUSTA SEES BENEFIT

Augusta is also one of the places where gas would be distributed, not just piped through. Currently, the plan calls for the line to go up State Street, where state buildings could be tied in, and up Western Avenue, with its dozens of businesses and adjacent neighborhoods. From there, the line would extend to the new MaineGeneral facility, a regional hospital now under construction.

Municipal buildings could benefit, too. Bridgeo said the city has not so far calculated potential savings.

The sailing for KVGC has not been entirely smooth. Farmingdale residents overwhelmingly rejected the TIF agreement, even though selectmen recommended it. Silkman said that some of the arguments used at the special town meeting were misleading.

One prominent contention was that the Maine Avenue corridor (Route 201) would have to be completely dug up just months after the state finished a reconstruction project that included lengthy traffic delays.

“It’s just a three- or four-foot trench we’re talking about,” Silkman said. “And if that’s a problem, we can drill the line instead of digging.”

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#### Proposed 15-Year Pipeline TIF Agreements

City/Town	Pipeline Assessed Value	TIF Benefits To Developer	Taxes To Municipality
Augusta	\$10.87 million	\$2.04 million	\$741,333
Fairfield	\$12.52m	\$2.64m	\$961,152
Farmingdale	\$4.55m	\$736,230	\$267,720
Gardiner	\$8.45m	\$1.78m	\$648,960
Hallowell	\$4.81m	\$809,523	\$294,372
Madison	\$2m	NA	NA
Norridgewock	\$10.68m	\$2.47m	\$897,120
Oakland	\$8.02m	\$1.15m	\$418,644
Richmond	\$4.8m	\$646,800	\$235,200
Sidney	\$9m	\$970,200	\$352,800
Skowhegan	\$4.67m	\$796,235	\$289,540
Waterville	\$4m	\$1.06m	\$386,400
<b>TOTALS</b>	<b>\$84.67M</b>	<b>\$15.11M</b>	<b>\$5.49M</b>

Source: Kennebec Valley Council of Governments

On the other hand, after first saying that a June 2012 town meeting would be the first chance for a TIF vote, Skowhegan selectmen decided to schedule a special meeting for Feb. 14. Town Manager John Doucette said selectmen haven't decided whether to support the TIF, however.

"A lot depends on whether SAP-PI buys into it," he said, referring to the Somerset paper mill that is Skowhegan's biggest employer. The mill's potential use dwarfs the financial impact on the town. The pipeline section through Skowhegan would likely be assessed at \$4 million, potentially producing \$110,000 in annual revenue.

Skowhegan, like most of the larger municipalities along the proposed line, is familiar with TIFs, and has used them for infrastructure at the industrial park and for downtown sewer lines. Most recently, selectmen committed \$250,000 to jumpstart the "Run of River" project, an effort to bring Olympic-class white-water kayaking and canoeing to a spectacular stretch of the Kennebec River below the downtown dam.

In Hallowell, City Manager Mike Starn said that when he first heard about the pipeline last summer, it struck him as a no-brainer. "We may be getting 20 percent at first," he said, "but that's a whole lot better than 100 percent of nothing."

### LOW MAINTENANCE

Pipelines don't represent any ongoing expense for towns and cities, he said. "It's not like a road that needs

to be plowed or wires that need to be maintained. It just sits in the ground."

Silkman has said that KVGC needs all 12 municipalities to approve the TIFs, and that now seems unlikely. After Farmingdale turned down the

plan, Silkman said that the company would find a way to reroute the pipeline around its borders. Yet if neighboring Gardiner and Hallowell remain on the route, things may be difficult.

Now, Silkman says, "We'll do what

## KEY PLAYERS

Here is a quick look at three important players involved with the natural gas pipeline proposals in Central Maine.

### Kennebec Valley Gas Co.

Three key partners behind the Kennebec Valley Gas Co. propose to deliver natural gas to various customers in Kennebec and Somerset counties. Potentially affected municipalities include: Richmond, Gardiner, Farmingdale, Hallowell, Readfield, Augusta, Sidney, Oakland, Waterville, Fairfield, Norridgewock, Skowhegan and Madison. The source of the gas would be a Maritimes & Northeast pipeline that runs from Baileyville to Kittery, where it crosses the west side of the Kennebec River at Richmond. Approximately \$85 million would be invested in this project.

### Maritimes & Northeast Pipeline

Maritimes & Northeast Pipeline is an interstate pipeline transmission system that brings natural gas from diverse supply sources to Atlantic Canada and the Northeast U.S. Maritimes' pipeline extends from Goldboro, Nova Scotia, to New Brunswick, Maine, New Hampshire and Massachusetts. The company operates 543 miles of pipeline in Canada and 343 miles of pipeline in the U.S. as well as seven compressor stations, including one in Richmond, ME. It is owned by affiliates of Spectra Energy Corp., Emera Inc. and Exxon Mobil.

### Town of Madison

Originally known as Barnardstown after the principal landowner Moses Barnard, it is said that Madison was later named for James Madison, who became U.S. President five years later. Madison, a town of 4,579 residents, operates one of only two municipally owned utilities in Maine. It has a Selectmen/Town Meeting/Manager form of government. Madison also is home to two potentially important users of natural gas, the Sappi paper mill and Backyard Farms.

Sources: Kennebec Valley Council of Governments; Business Week; Town of Madison website; MMA Municipal Directory.

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works best economically, whatever that is.”

He makes it clear there’s a window of opportunity that won’t last long – one reason why he pushed to have the Skowhegan vote moved up.

One issue that won’t affect the pipeline is rights of way. KVGC, and probably Madison, intends to use existing rights of way for the entire line.

“As I understand it, a town can decide whether the pipeline goes up the left side, the middle or the right side of the road,” Starn said. “It can’t vote not to let the company have access.” Much of the route will follow the Route 201 corridor as it winds along the Kennebec River.

If the KVGC plan doesn’t ultimately come together, Hikel in Madison believes there may still be a chance for a municipal plan, possibly involving a consortium of towns and cities.

At the Kennebec Valley Council of Governments, Executive Director Ken Young said his organization is helping move the project forward, but doesn’t advocate any particular builder.

“The arguments in favor of the pipeline are very strong, but our interest is that it be built, not whether a par-

ticular plan is chosen,” he said.

### HUHTAMAKI EXAMPLE

For anyone who doubts the importance of energy costs, Young mentions the Huhtamaki plant, which is part of a large national corporation where individual plants compete for production.

“They ended up losing a contract to one of their other plants in Illinois,” he said. “The main reason is that the Illinois plant has gas and this one doesn’t.”

Augusta’s Bridgeo remains a big advocate of a diverse energy mix, even though he says the price differential between gas and oil will eventually shrink.

“When I was a new city manager back in 1998, a certain gas pipeline was being built that was going to pass through Windsor, just eight miles from Augusta.” Bridgeo advocated that the city build a lateral to the line, bonding the expense, largely as an economic development tool.

“Everybody lobbied against it – CMP, the oil dealers. I got a lot of flak.” The city council made it clear it wasn’t interested then.

Bridgeo said he’d make the same argument today. “This is just too important to our future, as a community and as a state. We need to make this investment.” 



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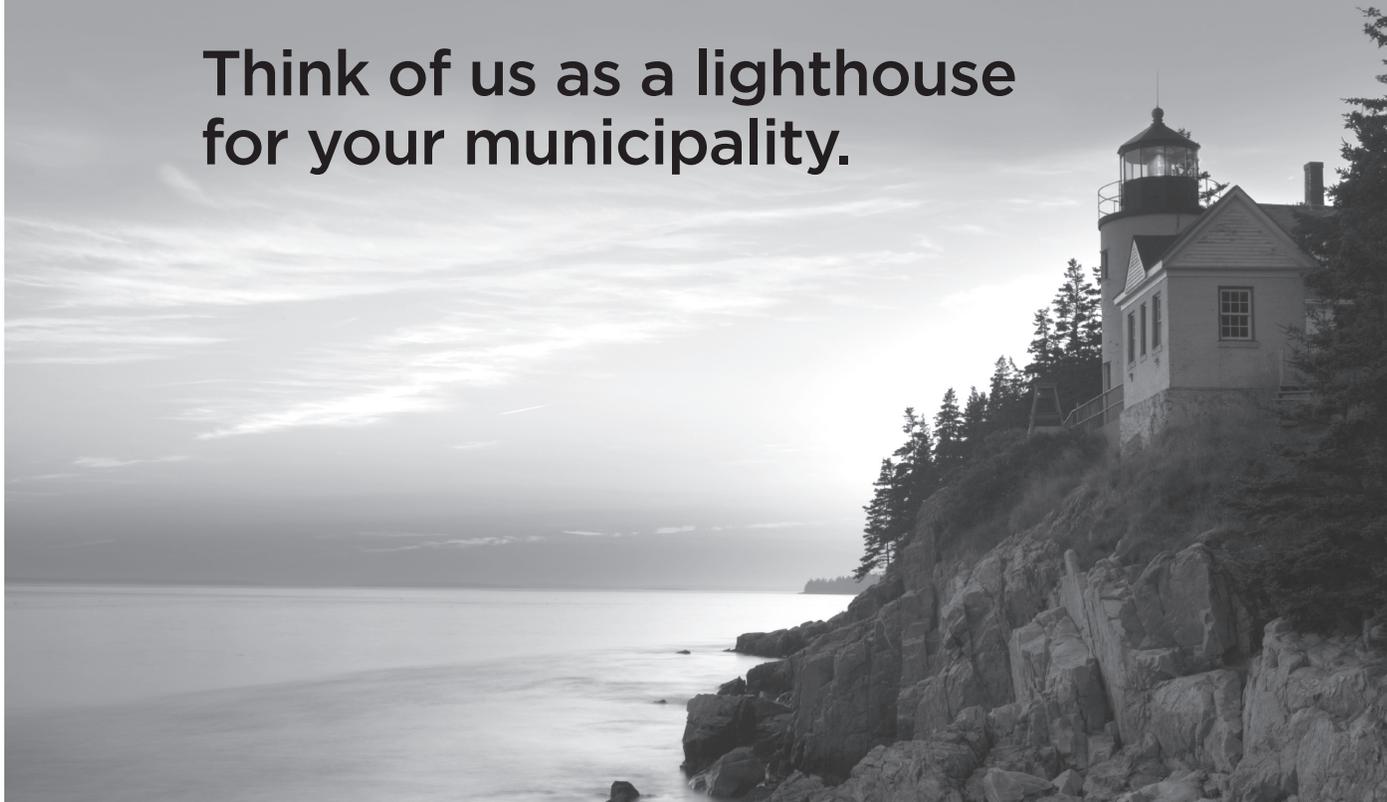
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# More Eligible For Energy Aggregation

By Jeff Clark

When the Maine Legislature deregulated the electricity market more than a decade ago, it created both headaches and opportunities for Maine municipalities.

On the one hand, town officials found themselves wrestling with new responsibilities regarding energy purchases. On the other, deregulation presented new opportunities to save money, or at the least stabilize costs, through the use of so-called energy aggregators, companies that pull together groups of towns to use their combined buying power to negotiate lower electricity prices from suppliers.

Call them Sam's Clubs for electricity. The buyers' groups are not cooperatives as such, but rather ad hoc membership organizations devoted to bargain power purchases. Similar groups have been organized among the business and non-profit communities in Maine. They are served by dozens of brokers and suppliers who have met standards set by the Maine Public Utilities Commission.

Until recently, the potential savings were available only to large- and medium-sized municipalities with power usage large enough to make aggregation attractive. That has changed, according to Robert O. Lenna, executive director of Augusta-based Maine Power Options, by far the largest energy aggregator in the municipal market with some 250 cities and towns among its 800 members.

"When the market first evolved, everyone wanted to serve the large and medium-sized customers," he explained. "The small towns weren't

large enough (power consumers) to make them attractive. That is no longer the case. There is now a lot of opportunity for small towns, and we've been looking at them much more closely than in the past."

Maine Power Options (MPO), which is co-sponsored by the Maine Municipal Bond Bank and the Maine Health and Higher Education Facilities Authority, serves both municipalities and nonprofits as an energy-buying consortium for electricity and fuel oil. It, like most aggregators, is essentially a broker that helps individual towns negotiate electricity prices. Other companies, such as Freedom Energy Logistics, out of Manchester, N.H., organize customers into a cooperative group that buys power directly and then redistributes it to members. To date that model has been more successful among businesses rather than municipalities, according to Freedom Energy representative Jerry Tudan.

"We enter into an agreement with a power provider – Constellation Energy is our current supplier – and negotiate contracts to provide our eligible members with electricity," Lenna said. "Because we're bringing a large group of buyers to Constellation, we're able to get a price lower than the standard offer."

## ADDING STREET LIGHTS

Complicating the issue is the fact that towns may have up to a dozen or more different electricity accounts for everything from the local water district to street lights. Some accounts were large enough to attract aggregator attention from the beginning, while others are only now becoming eligible.

The Town of Eliot, for example,

was recently able to add its smaller street light accounts to its aggregator contract after several years of buying energy for its larger accounts through an MPO contract.

## INCREASED SCRUTINY

With every penny in municipal budgets coming under increased scrutiny, town officials who may have dismissed power aggregators in the past are re-examining earlier decisions to stay with power utilities' standard offers.

"If I could reduce our power bill by even \$10 to \$20 a month, I'd consider signing up with an aggregator," said Lamoine Administrative Assistant Stu Marckoon. "We pay about \$225 a month now for town accounts and another \$150 for the fire station, but that's split among six different accounts. We get six bills a month from Bangor Hydro."

Marckoon adds that the town already partners with neighboring Hancock to buy fuel oil to heat the town hall and the fire station. "We're certainly not opposed to the idea."

Aggregator companies emphasize that saving money isn't the only or even the chief benefit. "It eliminates risk," said Jonathan Youde, program director at MPO. "Towns are not exposed to price increases due to market forces, for example."

Most towns opt for fixed-price contracts, which allow them a sturdier platform for budget planning, too. "If they know what their usage is month-to-month, they can anticipate electricity costs much more clearly," Youde said.

Town officials and aggregators alike say that another benefit of the process is that it makes towns more

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energy conscious. Turner Town Manager Eva Leavitt began monitoring the town's electrical costs three years ago, when the selectmen first considered signing up with an aggregator.

"We would have saved about \$2,300 if we had signed up with Glacial Energy three years ago," she said. The town's total electrical bill last year was \$20,529. "It's something we'll look at again, certainly," she said.

Nonetheless, saving money is a primary motivator for towns looking at signing up with aggregators.

"Whenever we've renewed our contract, the price has been lower than the standard offer from Central Maine Power," said Dan Blanchette, the veteran administrative assistant in Eliot. Blanchette said savings have ranged from 5 to 10 percent.

"The savings have been in the hundreds or maybe low thousands of dollars," he allowed. "It's not huge but it's certainly something."

In Leeds, administrative assistant Joyce Pratt said the town recently began buying its electricity through a contract with Glacial Energy. "I'm working now to see how it has affected us in terms of savings," she said.

She added that the shift has allowed the town to take a closer look at its electrical consumption and plan conservation measures.

### SAVINGS IN BREWER

Brewer has conducted several municipal energy audits over the years, and while not directly responsible for prompting the city to sign up with an aggregator, the audits have come in handy not only for reducing energy usage but also for comparing costs.

The city first signed a fixed-rate contract with Constellation in June 2010 for its medium-sized accounts, including school buildings, and added street lights later, City Manager Steve Bost said.

Bost said the variable nature of standard power pricing — it can change monthly for some customers — means "some months show major savings while other months show very small losses." The overall trend is lower costs.

For example, their streetlight accounts are fixed at 6.15 cents per kilowatt hour, compared to the standard offer price in November of 8.25 cents. "Although the standard offer price will

likely come down, it has never fallen below our fixed price," Bost said.

The city's fixed price for its medium-class accounts is 6.43 cents per kilowatt hour, while Bangor Hydro is charging 7.561 for December 2011, 8.771 for January 2012 and 8.52 for February.

Bost says the transition to using an outside energy supplier went smoothly, despite some early bumps over billing. "We've been very happy so far," he said. "We have no plans to change."

While aggregation contracts are by far the most common method of buying electricity, the potential savings have encouraged several Maine municipalities to investigate creating their own power companies.

### BUCKSPORT EXPERIENCE

Several years ago, Bucksport seriously considered building its own energy generation system using wind turbines and waste steam from the Verso Paper mill. Madison has operated a town-owned electric utility company for more than a century, a factor that attracted a commercial greenhouse operation to the community.

In 2010 the City of South Portland looked into creating its own nonprofit energy supply company, encouraged by the potential of saving upward of 40 percent on its electricity costs. The company would buy electricity at wholesale prices from the New England Power Pool and distribute it to residents and businesses.

"Energy is one of the biggest costs for business in Maine," said Assistant City Manager Erik Carson, who took the lead on the project. "Bringing

down that cost would have been a major advantage for businesses here."

A public survey and talks with neighboring Scarborough and Cape Elizabeth to join the effort were both positive, Carson said, but two major barriers emerged in early 2011.

"The standard offer from Central Maine Power (negotiated through Maine Power Options) came in at a surprisingly low 8.4 cents per kilowatt hour," Carson said. "The savings over the wholesale rate were kind of skinny, only 5 to 10 percent."

Additionally, initial estimates of \$25,000 to \$40,000 to set up the company proved far too optimistic. "The start-up costs mounted to almost \$1 million to establish the accounts with the New England Power Pool," Carson said. "It would have taken two to three years to break even. Because taxpayer funds were involved, we wanted to make sure it was a reasonable process."

The city has put the project on hold but it has not closed any doors. "It's worth holding as an option if prices go up in the future," Carson said. "It's not in the normal scheme of things for municipal government to be entrepreneurial, but this would have allowed us to be creative in a way that would have benefitted the taxpayers and enhanced the city's attractiveness for business."

Keeping their options open might well be the key focus for town officials as the energy markets in all their aspects seem to grow more volatile by the week.

As Eliot's Dan Blanchette put it: "Nothing is simple any more, not even buying electricity." 

## Before Signing a Power Contract

- Always, always ask for and check references of suppliers and brokers.
- Make sure suppliers and brokers are licensed with the Maine Public Utilities Commission. A list of approved companies is available on the PUC's website.
- Contract terms vary and municipalities should carefully consider fixed versus variable rate price schedules, length of the contract, and fees, if any, involved in early cancellation. Payment schedules and methods also should be determined early in the process.
- Understand the difference between electricity suppliers, which buy electricity and then resell it to customers, and brokers, which act as agents for their clients in negotiating the deal with power suppliers.

# Clerks: Supervising Elections Always Vital

By Douglas Rooks

It's not often that town and city clerks are in the spotlight, as they were during the debate over the people's veto question last Nov. 8 that restored Election Day voter registration. And it's not a position they like to be in, for that matter.

"As an association, we don't take positions on election laws because we're responsible for conducting them," said Deanna Hallett, Hallowell's city clerk and current president of the Maine Town & City Clerks' Association.

Voting in Maine, one of the nation's highest turnout states, does pose significant challenges for clerks. But among the issues that emerged from an informal survey of clerks around the state, Election Day registration isn't high on the list.

"It's always gone very smoothly here," said Lewiston's Kathy Montejo. "I can't say that we've ever encountered any problems."

Like her counterparts, Montejo definitely plans ahead. Lewiston calls on a wide variety of city personnel to assist at polling places – public works, the fire department and assessing. "These are people who already deal with the public regularly, and they're used to problem-solving as well," she said.

Montejo holds a one-hour refresher course before each election on voting procedures. Using city employees allows Lewiston, for the most part, to avoid hiring additional staff for Election Day.

Wanda Thomas, town clerk in Orono, said that requiring voters to reg-

ister at least two business days before elections wouldn't have allowed significant checking by clerks – the stated rationale for LD 1376, the object of the people's veto.

"Our procedure is to mail a postcard to the address the voter gives," requiring them to respond to stay on the voter rolls. Two business days wouldn't have made any difference, she said.

## STUDENTS WELCOME

Nor do most clerks see registering college students – another focus of the LD 1376 debate – as presenting any special difficulties.

Montejo said that at least 1,000 students at Bates College are potentially eligible to vote in Lewiston and many do, with some registering on Election Day. They usually bring their student IDs, which are tamper-proof and include a photo. Names can be checked against the student directory and other sources.

"It's been clear for many years that federal law allows them to vote here or in their home community," she said. "The Secretary of State's definition of domicile makes that clear."

In Orono, Wanda Thomas said there's a polling place on the University of Maine campus and she believes students "are encouraged to vote" if they haven't cast ballots elsewhere. Student voters are serious. "Sometimes they have to stand in line for more than an hour," she said.

Clerks did see advantages in another provision of LD 1376 that was not challenged – setting the same deadline, the Thursday prior to an election, for submission of absentee ballots. Late return of absentee ballots, often on Monday, can disrupt business at the clerk's office.

"Depending on the election, we can have lines out the door," Thomas said.

Since the Legislature changed the law by permitting voters to request absentee ballots without giving a reason, the number of absentee ballots has mushroomed, with clerks saying many people are using them mostly for convenience.

## SMALL TOWN FAMILIARITY

In small towns like Peru, Election Day registration wasn't much of an issue before or during the campaign, said Town Clerk Vera Parent. "You tend to know everybody anyway, and if someone is new to town, they've usually made a trip to the town office already," she said.

While Parent understands the thinking behind the new deadline for absentee ballots, she thinks it could have been Friday rather than Thursday. "People realize at the last minute that they haven't voted. Before they could stop in and get a ballot but now they can't."

It's less likely that people will miss the deadline in future elections, Parent said. "They'll grumble a bit, but once the word gets out, most of them will adjust."

In Lewiston, Montejo said the city made a major effort to inform voters of the change in news releases, columns and public service announcement, all of which she said helped.

Several clerks noted that the law still provides for absentee ballots in emergencies, such as if a voter is hospitalized or unexpectedly has to leave town.

"We all felt it was helpful," said South Portland's Susan Mooney of the earlier deadline for absentee ballots.

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Sue Mooney

She also reports voters lining up on the Monday before Election Day. Because of the volume of ballots, her staff would frequently work until midnight on Monday, only to return at 5 a.m.

Tuesday.

She said, "It's funny that people are willing to line up on Monday, when they vote more easily the following day." As it is, tabulating absentee ballots takes most of Election Day. "We plow right through them, but it sometimes takes until 10 or 11 p.m. to finish."

Mooney said that, while Election Day registration does require additional work, she doesn't see it as a problem. "It's all in the way you organize your efforts. It's important to provide a good level of customer service to voters."

**A RECENT REGRET**

She is one of the clerks who regrets, however, the failure of a constitutional amendment in 2009 that

would have given clerks another week to certify petitions for statewide elections – most commonly, initiated questions or people's vetoes. The amendment fell just short of passage; it was defeated by 25,000 votes, with 52 percent voting no.

Clerks were handicapped in getting the message out about the rea-

sons for the proposal.

"We're not allowed to advocate for changes in the law," said Deanna Hallett, adding that next time perhaps a non-partisan group could provide the information.

At the time clerks were interviewed, most of them were hard at work on petitions from a group try-

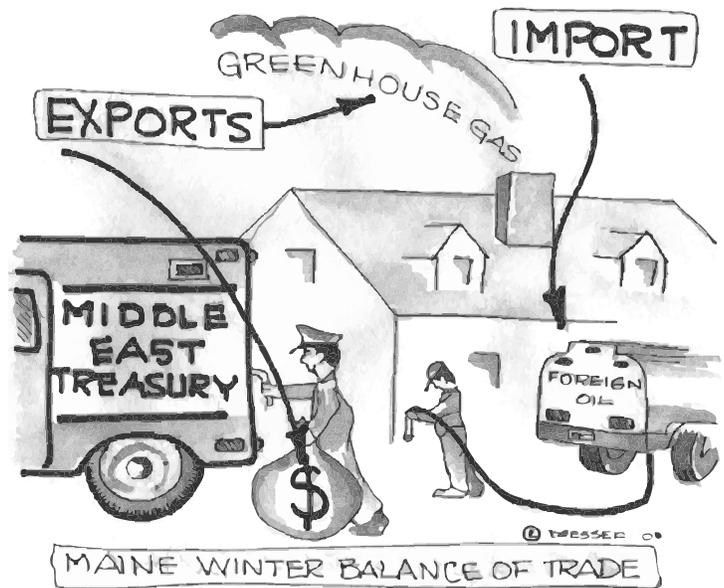


Deanna Hallett at work in Hallowell. (Photo by Jeff Pouland)

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ing to create a ballot slot for an independent candidate by organizing a new political party. "We've seen a lot of those petitions and a lot of them came in at the deadline," Mooney said.



**Patti Dubois**

While she doesn't consider petitions a burden, they became so in neighboring Portland, whose former clerk, Linda Cohen, requested the bill that led to the proposed amendment.

"Portland has a lot of outdoor fairs and events, so it becomes a great place to gather signatures," Mooney said. "It isn't easy to meet the deadlines under those circumstances."

Most clerks are fairly philosophical about petition certification, even though they have only five business days to check them – a labor-intensive task. In Bangor, Patti Dubois has four full-time and two part-time staff members. When petitions come in, that may be all they're working on. (Dubois will begin duties as city clerk in Waterville this month.)

"We're used to dropping everything and working on them until they're done," she said. "But yes, we could have used some more time."

Vera Parent agrees, saying of petitioners: "They have their deadlines and we have ours. We just have to make it work."

### OTHER CONCERNS

Other election issues less familiar to voters are of concern to clerks.

Susan Mooney wonders about the federal requirement, under the Americans with Disabilities Act, that all polling places be equipped for voting by the disabled. The difficulty, she said, is that the equipment is expensive and cumbersome. It takes time to set up, and only a handful of voters use it. She thinks it should be sufficient to require that each municipality provide at least one place for the disabled to vote, not at every polling place.

It's not that clerks don't support the principle of voter access, she said. Her own daughter is blind, uses the voting equipment "but probably wouldn't mind if it was just at one site," Mooney said. "It's important that they be able to vote without assistance,

and without anyone knowing how they voted – just like any voter – but maybe we could find a better way."

One change that could potentially ease the lines and reduce the workload caused by increased absentee ballots would be early voting, which is already in use in several other states. Instead of being issued a paper absentee ballot that is counted later, voters use a machine, in a secure location, any time during several weeks leading up to an election.

In Maine, the Bureau of Elections ran a pilot project using special voting machines the state provided and

asked municipalities to volunteer for the experiment. Hallowell was one of them.

"Voters really loved it," said Deanna Hallett. "They loved the convenience and also the privacy."

Hallett said Julie Flynn, director of the Bureau of Elections, told her the state would attempt to expand early voting statewide, but there's been no word of such an initiative.

In the meantime, the machines remain in Hallett's office, awaiting a future assignment. She would welcome their return to use, saying, "We'd run every election that way if we could." **mt**

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# The Municipal RISK MANAGER

WINTER 2012

A Publication of the Maine Municipal Association

## The Town Covers Us, Right?

Many Towns provide support for various volunteer organizations by appropriating funding at a Town Meeting or by an action of the Town Council. As a result of such funding endeavors, MMA Risk Management Services staff commonly receives questions about whether the Town's coverage extends to these organizations that have a connection to the Town but are not a department or directly under the Town's jurisdiction.

For example, many Towns in Maine have some type of "Old Home Days" or "Homecoming" events during the summer. These events are often organized by a group of volunteers, who hold the event on Town owned property, and receive some funding from the Town. These volunteer groups commonly raise additional independent funds through event sales, donations and vendors fees. The volunteers have the ultimate discretion to manage the event and all of the funds. It is often assumed by both the members of such volunteer groups, and sometimes by Boards of Selectmen and Councils as well, that these groups and the event are covered under the Town's insurance. That is not automatically the case, whether the Town participates in the MMA Property & Casualty Pool or purchases commercial insurance.

Independent volunteer groups commonly ask to be included in the Town's coverage, by name, on commercial insurance policies. When a Town does that, it is important to understand what it means and the potential dangers presented. Typically a standard commercial insurance poli-

cy provides an occurrence limit of liability and an annual aggregate limit of liability. When another group is named as an insured, they have been added to the policy. As a result, the per occurrence limit as well as the annual aggregate limit is now shared by the Town and the Volunteer Group. Simply put, if a claim is presented as a result of the event that had involvement from both the Town (held on Town property) and the Volunteer Group (organizers of the activity), it is likely that both the Town and the Volunteer Group will be named by a claimant as being responsible for the property damage or bodily injury alleged in the claim. Under such circumstances, there is generally one liability limit available to pay the claim. Should a damage award result for the Town and for the Volunteer Group, there is only the single limit of liability to pay the awards. It is quite possible that the single liability limit will not be sufficient to pay both awards, thereby leaving each with additional, uncovered, payments due.

For municipal MMA members participating in the Property & Casualty Pool, coverage for these independent volunteer groups is not included. To be included under the Town's Property & Casualty Pool coverage, an organization must truly be under the jurisdiction of the Town. It cannot be a separate legal entity from the Town. Its funds must be accounted for in the Town's annual audit, and the Selectmen or Council must appoint or confirm the group or committee and have the ultimate authority and responsibility for the event.

Municipalities should always attempt to define relationships between internal and external groups. If the municipality works with outside groups, independent contractors or other entities to perform some service on their behalf or conduct events on municipal property, it is recommended that the municipality obtain Certificates of Insurance from every independent party. The Town will also want to be named on the other entity's insurance policy as an Additional Insured to protect the Town in claim situations where the other entity is responsible for the loss. ■

## Welcome New Members

### Workers Compensation Fund

Town of Hammond

Town of Kingfield

Kingsbury Plantation

Town of Ludlow

### Property & Casualty Pool

Gorham Economic Development

Town of Northport

West Forks Plantation

## Workers Compensation Payroll Audit Begins....

Each fall, members of the MMA Workers Compensation Fund are asked to complete an exposure questionnaire to identify potential hazards and to determine coverage needs. At that time, we request your anticipated payroll so we can calculate the estimated Workers Compensation contribution for the coming year.

The projected payroll of an entity is a useful tool to evaluate future exposures and to ensure that adequate coverage is present. Actual payroll figures can vary considerably from estimates made over a year earlier. A special project may come to an end earlier than expected, a severe weather incident may occur that requires additional employees, or a position may remain vacant for a long period while you search for the ideal candidate.

No matter the reason for variation in estimated payroll, we are committed to treating each member fairly. Workers Compensation contributions are calculated based on each employee's payroll, and job classifications are reviewed individually so employers are properly classified.

Each year the Workers Compensation Fund conducts an actual payroll audit from January to April for the prior year. You will be contacted by Risk Management Services (who handles some audits in house), or by one of our auditors at GEM Associates who will complete the data and forward it to us to process. It would be appreciated if all the necessary paperwork can be available for the auditor to review or is mailed promptly to them for review. The State of Maine mandates that all audits are completed by May 1<sup>st</sup> of each year, for the WC Fund.

An important part of this review is to ensure that any independent contractors you have hired are properly insured and do not need to be considered your employees and included in your payroll audit. Certificates of Insurance show proof that independent contractors have the required

Workers Compensation coverage. We recommend that you have these Certificates of Insurance available for review. If the contractor is actually not required by the State to have Workers Compensation coverage, we recommend that they provide you with a Certificate of Insurance showing General Liability coverage. Another option is to complete a Predetermination of Independent Contractor Status form located at <http://www.maine.gov/wcb/petitions/wcb261.pdf> and forward it to the Maine Workers Compensation Board for a determination of their independent contractor status. A copy of the response should be retained and made available during the payroll audit.

If you have any questions, please contact the MMA Risk Management Services Underwriting Department at 1-800-590-5583. 

The Property & Casualty Pool is celebrating its 25<sup>th</sup> Anniversary in 2012



### 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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# Safe Winter Driving

Winter driving in Maine can be hazardous and scary while navigating through snow, sleet and freezing rain. Simple preparation can help make your trip safer and aid you in the event of an emergency.

## Prepare

Conducting a pre-trip inspection of your vehicle is a safety measure that is often overlooked. Especially during the winter season it is important to visually inspect your vehicle to ensure the proper functioning of your headlights, brake lights, directional lights, wipers, tires, fluids, etc. We also recommend that you periodically check your battery, wiring, hoses, belts, filters and spark plugs. Corroded battery terminals commonly create poor connections resulting in a vehicle's inability to maintain a charge and ultimately failing to start in cold conditions. A pre-trip plan and inspection should also include some emergency provisions and tools. Have on hand and readily available:

- Shovel
- Flashlight
- Jumper cables,
- Sand, salt or litter (abrasive material)
- Food and water,
- Cell phone,
- Blankets, and
- Warning devices.

Pre-trip preparation can prevent accidents from occurring while providing assistance in the event of an emergency.

## Stopped, Stalled or Stuck

If you are ever caught in a situation where your vehicle has become stalled or stuck, you should attempt to remain calm and consider all of your options. A first step in any emergency

is to call for help and alert people of your location. The National Highway Traffic Safety Administration recommends that you stay with your car and place bright markers on windows and the antenna. If you run your car, ensure that you clear the exhaust pipe and run your vehicle only long enough to stay warm.

If you are stuck in the snow, clear away as much of the snow as possible from around the vehicle and tires but remember not to over exert. Then, if available, spread sand, salt or any other abrasive material around your tires. You can even utilize your floor mats by placing them under your tires to give the tires some improved traction. Once the area has been cleared of snow and the surface prepped, attempt to accelerate the vehicle slowly pointing the front wheels straight ahead while avoiding the spin of your tires. If these efforts do not work, remain calm and attempt to call or flag down assistance.

## Controlling the Vehicle

During inclement weather, it is important to understand how your vehicle responds, plan your route and advise others of your route and your intended arrival time.

- It is always recommended to practice winter driving:
- During daylight rehearse slowly in

large open areas

- Steer into a skid
- Determine stopping distances
- Learn what type of brakes you have and use them according to manufacturer's recommendations.

While driving in wintery conditions it is important to be cautious, drive more slowly and allow greater distance between other vehicles. By driving slower, you allow greater distance and time for stopping and for avoiding unforeseen obstacles. It can take three to nine times more distance to stop on wet, icy or snow covered roadways. Always accelerate, brake and steer as gently and smoothly as possible.

## Additional Tips

- Never drink and drive.
- Always buckle your seat belt and the seat belts of others in your vehicle.
- Do not drive when you are tired. Avoid fatigue, get plenty of rest before a trip, and stop to take breaks and alternate drivers if possible.
- Do not talk or text on a cell phone

Winter driving can indeed be trying and hazardous at times. However, if we recognize the dangers and take the proper precautions we can all have a safe and enjoyable ride. 🚗

## Did you know .....

At no cost to you, Risk Management Services offers all MMA members the opportunity to consult with our professional staff on risk management insurance matters specific to your municipality. We will assist you in identifying your exposures and evaluating the coverage you need to protect your community. We will provide an unbiased comparison of coverage and identify potential coverage gaps. Call us today at 1-800-590-5583 and set up an appointment. 🚗

## Over \$267,000 Awarded for Safety

Maine Municipal Association Risk Management Services has been awarding safety grants to members of the Workers Compensation Fund since 1999. The Grant program has assisted municipalities by awarding more than **\$2,248,900** through the funding of Safety Enhancement Grants and Scholarship Grants. Since the inception of the grant programs, MMA Risk Management Services has approved 1921 grants. Ed MacDonald, Loss Control Manager for MMA Risk Management Services, is pleased to report that the program received **124** grant applications for the October 2011 period and that 102 were approved, funding a total of **\$114,002**.

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

### Congratulations to the October 2011 Grant recipients

Albion	Gray	Penobscot County
Androscoggin County	Greater Augusta Utility District	Perham
Androscoggin Valley Council	Hallowell	Phillips
Arrowsic	Hampden	Piscataquis County
Augusta	Hampden Water District	Pittston
Baileyville	Harmony	Princeton
Bath	Harpwell	Rangeley
Belfast Water District	Hermon	Richmond
Belfast	Hermon Volunteer Rescue Squad	Rockport
Bowdoinham	Hodgdon	St. Agatha
Bradford	Howland	Sabattus Sanitary District
Brewer	Kennebunk	Sabattus
Brunswick	Liberty	Sanford
Bucksport	Lincoln	Scarborough
Buxton	Lincoln County	South Berwick
Central Maine Community College	Lincolntonville	Starks
Chesterville	Livermore Falls	Stetson
Clinton	Lovell	Sumner
Corinth	Madison	Union
Denmark	Mattawamkeag	Vassalboro
Ellsworth	Mexico	Veazie
Farmingdale	Millinocket	Warren
Farmington	Mount Vernon	Wells
Fayette	Naples	Westbrook
Fort Kent	Newport	Westport Island
Franklin County	Northern Oxford Regional Ambulance Service	Wilton
Frenchville		Winslow
Fryeburg	Old Town	Woolwich
Goodwin Mills Fire Department	Orono	York County

The Grant Recipients have put their funds to use by purchasing such equipment as Gas Detectors, Ergonomics Devices, Lockout / Tagout Stations, Training Aids, Material Handling Equipment, and Traffic Control Signage to assist in reducing the frequency and severity of workplace injuries.

For more information about any of the Maine Municipal Association Risk Management Service programs, including Safety Enhancement Grants eligibility and applications, please visit our website at [www.memun.org](http://www.memun.org) and click on the Risk Management Services link, or call us at 1-800-590-5583.

# Managing Is Hard: Provide Needed Tools

By Rick Dacri, Dacri & Associates, LLC

City and town managers understand that organizational success is dependent upon having motivated and engaged employees – employees who are willing to do whatever it takes to get the job done. These hard-working, passionate workers drive your municipality forward.

While we understand that the level of productivity in your municipality correlates directly to the level of employee engagement, both productivity and engagement are dependent upon having good front-line supervisors. Study after study shows that organizational excellence requires supervisors who are best at getting the most from their people.

Imagine what it would be like for your municipality to be experiencing:

- Productivity that trends upward.
- Workers who are motivated and engaged.
- Employees who constantly perform at exceptional levels.
- External job candidates who are lining up to join your organization.
- Communication that is open and honest.
- Employees who get along.
- Unions that are supportive.

Unfortunately, for many municipalities this is a dream. Supervisors focus their time on toxic employees who drain much of the energy and life out of the workplace and unions that defend them. And while supervisors are consumed with these non-performers, the

star performers are ignored and often taken for granted – a recipe for disaster and a mistake many supervisors make.

Managing people is hard and complicated because we often spend so much time addressing the same problems repeatedly. Let's face it, managers and supervisors spend too much of their precious time addressing the same problems, the same people.

These same managers lament that they squander 90 percent of their hours dealing with the bottom 10 percent of their workforce. When they are not counseling or disciplining them or somehow trying to compensate for them, they find themselves creating new, complicated, tamper proof systems and procedures or hiring redundant people to compensate for poor performers. In all my years in consulting, working with the Fortune 500 companies or municipalities, managers and supervisors regularly tell me how exasperated they are by trying to manage poorly performing employees. Why? Why do managers continue to do this? What was it that Einstein said about doing the same things over and over again and expecting different results?

## STRATEGIES TO SUCCEED

Let's look at some strategies for success. Focus on things that provide your municipality the biggest bang for their buck. Whether they are new innovations or services, your limited and precious time must be directed toward things that will generate the greatest benefit and value for your community.

The same principle must be applied when dealing with employees. Your top performing employees generate more productivity, better performance, new ideas, and they usually do it without turning the municipality and you upside down. Why upset everyone?

Yet, these stars often get the least attention from their supervisors who are more focused on problem employees. This equation must be changed.

Managers need to reassess their thought processes. Stop trying to fix the unfixable. To be successful, managers and supervisors need to emphasize raising the bar in their departments and municipal government. When your focus and attention are directed toward your stars, you'll find your organization soaring upward.

To make matters worse, we often show our best performers our appreciation by promoting them to become front-line supervisors or department heads, tossing them a few coins in the process. Then we throw them into the battle without providing the tools, training and guidance critical to managing well.

Municipalities are only as strong as their supervisors. It is here where most organizations break down. And without seasoning and knowledge, these new supervisors can make mistakes that hurt many organizations: make bad hires, tolerate poor performers, keep dead wood, avoid confrontation, say dumb things, get confused by employment laws, alienate the union and over-think and over-complicate things. Bottom line: These once promising performers become unprepared supervisors, never understanding how to deal with people and destined to fail.

As managers, you rightfully preach the importance of creating workplaces where talent is developed, appreciated and respected. You know that in such an environment performance and retention soar. Putting supervisors on the line without training is like building a sand castle at low tide. It will stand for a while, but we all know what happens when the first wave hits.

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*Rick Dacri is a management consultant, featured speaker at MMA conferences, and author of the book "Uncomplicating Management: Focus On Your Stars & Your Company Will Soar." Since 1995 his firm, Dacri & Associates has helped municipalities in Maine improve individual and organizational performance. He can be reached at 207-967-0837, rick@dacri.com, www.dacri.com.*

## NOT AUTOMATIC

Knowing how to supervise is not something that naturally comes to people. It is learned and developed and with good training, lots of coaching and mentoring, along with experience and time, one can become good at it. It takes a lot of time to develop a new supervisor but it takes even more time to deal with the effects of poor management.

Managing people is about forging strong relationships with your staff and being able to engage in honest, genuine conversations with them. Only when people believe in their boss will they follow her or him. Surveys consistently show that the relationship between supervisors and workers can make or break an organization. In fact, strong front line supervisors, more than the manager or other top-level department heads, is the most critical factor in engaging their workforce.

Management development initiatives must emphasize coaching, counseling and relationships. Credibility and caring are two essential ingredients in managerial effectiveness. Supervisors must understand that they can only gain their employees' trust over time through forging strong relation-

ships. When employees firmly believe their boss genuinely cares about them, then and only then will they be willing to follow. When front line supervisors develop functional expertise and relational competence, then municipalities hum.

But how can you ensure that your training efforts will be successful? To begin, follow a few basic steps:

**1. Training must be relevant.** Theoretical approaches often miss the mark. New supervisors should understand the "whys" and the theories behind the training, but more importantly, they need to understand the "how to." How are they going to apply what they just learned? When are they going to apply it? And, when they try it, what can they

expect the results to be? If training isn't "real," it won't be used.

**2. Training should be linked to organizational strategies and day-to-day behavior.** This gets back to the issue of relevance. Learning for the sake of learning is good, but will it help the supervisor do the job better today and tomorrow? Will it benefit the organization today and tomorrow? What is learned in the classroom must be relevant and immediately applicable. If the supervisor can't use the information right away, studies show that it will be forgotten.

**3. Training must be followed up with on-the-job coaching and support.** If managers do not reinforce what is learned in the classroom, the learned

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behaviors will be extinguished. Supervisors often leave the classroom motivated and eager to “try out” what they just learned. However, without ongoing support and reinforcement, supervisors often revert back to their comfort zones and “do things the way we always have.” For this reason, the new supervisor’s boss must play an active role in training each new supervisor.

**4. The manager must also actively support the training efforts.** In most cases, the manager should attend the trainings. If supervisors believe it is not important enough for “the big boss” to be there, it probably is not important at all.

**5. Performance appraisals should be used to hold managers and supervisors accountable for applying principles learned in these sessions.** If you are not going to incorporate what you’ve learned in the training session, why attend the training? By holding department managers and supervisors accountable, there will be a greater likelihood of application.

**6. Training must build around organizational objectives.** This makes training more relevant and shows supervisors the importance of their new skills.

**7. Include the union.** By inviting union leaders into the training, you can begin to break down any “us versus them” mentality that may exist and forge a stronger, positive partnership.

As we’ve previously stated, managing is hard. By providing your supervisors ongoing training and coaching, they will immediately be more effective in their jobs, adding real value to the municipality. Performance will im-

prove. Better decisions will be made. Tough employee issues, including attitude, performance and behavior will be resolved faster. And supervisors will be more comfortable providing their employees honest feedback, praise and recognition.

The issue is simple. Managing does not have to be a struggle or complicated as long as you have competent, well-trained front-line supervisors. 

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## **The Annual Backyard Composting Bin Sale starts February 2012**

It is estimated that 25% of an average household's waste is kitchen scraps and yard trimmings.

The MRRRA, is pleased to offer **The Earth Machine™** backyard compost bins at reduced costs to you and your residents.

Municipalities can sign up to receive a packet to help get their residents composting or download the forms from our website starting February 1.

Offered this year will be the Earth Machine backyard composting unit, the Kitchen Pail to haul the food scraps from the table to the backyard, the Wingdigger for turning the pile, the rain barrel to catch that precious water, and new this year a handy thermometer so you can see how your composter is working.



Residents will also receive a "how to" guide FREE with each compost bin!

For more information or a participation packet, contact Victor Horton at (207-942-6772) or email [victor.horton@mrra.net](mailto:victor.horton@mrra.net). Forms will also be available for download at [www.mrra.net](http://www.mrra.net) by February 2012.

**The sale runs from Feb 1, 2012 to April 28, 2012 with orders and payment due by May 4, 2012.**

Deliveries will be during the week of **May 21, 2012.**

Early bird orders will be accepted by **April 6, 2012** for delivery the week of April 20, 2012.

**Sign your town or organization up today  
See our website for pricing and minimum quantities**

# Accounting for Small Water Systems

By Hatsy Cutshall, Certified Public Accountant

A cascade of bad economic news since late 2008 has focused nearly every citizen's concern on finance, certainly at home and often at the public level. Many who are struggling to pay their bills are looking to municipal leaders and asking valid questions about how their tax money is being spent.

A water or wastewater system is often the single largest asset owned by a small community. Like a homeowner with his property, all the stakeholders of those systems are best served if that asset is well managed and maintained to get the longest and best use at the lowest cost to all concerned. It is imperative that the board and the system managers understand and appreciate the value of the financial aspect of running the system. With that understanding they are then prepared to address public questions and concerns to help them understand how and why many decisions are made.

Financial management is not just about depositing cash in the bank and paying the bills. When used as part of an effective overall management strategy, it helps managers plan for the future to avoid unpleasant surprises like a compliance order or the sudden and unplanned need for significant infrastructure replacement. It also prepares management to explain to the rate-paying constituents how the decisions are made that go into setting the rates that keep the system going.

*Harriet S. "Hatsy" Cutshall, CPA, is a former finance director for the Rural Community Assistance Partnership and has worked with nonprofits for more than 15 years. She is currently the manager of the Washington, D.C. office of Your Part-Time Controller, a firm that offers financial advisory services to nonprofit organizations.*

Without sound financial information, it is easy for the public to make incorrect assumptions about how much it costs to provide safe, reliable drinking water. Often, the first target for public scrutiny is the staffing expense. In response, many small system managers and governing boards are tempted to short change the accounting and finance function in favor of technical staff. By doing so, they risk problems that could cost them far more in the long run than the salary or accounting fees they have opted to avoid.

Furthermore, when a system does face the need for additional investment or maintenance costs, managers will find that there is less money flowing overall, fewer grants and more loans. Funders are imposing stricter reporting requirements on systems to prove their capacity to manage the money they're borrowing.

There has never been a better time for small systems to take a look at their financial management and make sure it can stand up to this heightened scrutiny. In doing so, they

likely will also discover ways that their financial information can help them decide how to make better use of the income and other resources for which they are responsible.

To help system managers and board members form a strategy for improving their financial management, I've compiled some ideas for how to get started. I've had the good fortune to talk with a number of technical assistance providers and other consultants who work with small systems. They've highlighted some common situations that they find when they begin work with a small system, as well as solutions that can help resolve some difficult situations.

## TEN TIPS FOR WATER AND WASTEWATER SYSTEMS

**Get organized.** Before you can begin to create or improve a financial system you have to be able to find your expense bills, receipts records, bank statements and payroll records. Create a filing system and get your paper records in order so that when you need to refer to a document, you



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can find it easily. If many of your records are in electronic format, create an electronic filing system for those records as well.

**Review and document the system's rules and policies** for income, expenses and setting aside reserves. Read the minutes of board meetings for policies that may need to be formalized into the operating procedures. Board members and management should consider policies for handling late payments, whether to apply for a credit card, and board policy for setting aside a percentage of all fee income for capital needs reserves, to

name a few.

**Find the right person to do the accounting work.** If the system has a staff member who can take on the work and is willing to learn, get him or her some training. If the system cannot afford or does not need even a part-time bookkeeper on staff, consider hiring a local bookkeeping or accounting firm to do this work on a contract basis. Ask if the contractor has staff members who are willing to attend board meetings to help managers and board members read and interpret the reports.

**Talk to some trusted and experienced advisers** about the system's accounting needs before you buy software. Often small systems buy ac-

counting packages that are far more expensive and complex than they really need. The accounting software must be able to track the water system's activity separate and apart from that of any other government activity. If the system is small enough (e.g. 50 to 100 connections) a simple Excel spreadsheet may be able to handle all the tracking and reporting you need. For larger systems or those that are ready for a more comprehensive solution, QuickBooks is affordable and can handle most, if not all, of the accounting functions that many small systems need.

**Build a budget.** Start with the actual results of the prior year's operations and consider what is likely

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

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to change, as well as what the board and constituents wish to change and put it in writing. Once approved, enter this budget into the reporting system so that reports can compare the actual financial activity to what was expected. Comparing the two will help managers and constituents plan for the future.

**Find and file any records** you can that show how much was paid for pipe, pumps, meters and other system infrastructure. Identify what the system owns and adopt an asset management plan. This survey of the system's physical components then informs the financial planning and budgeting process to reduce the risk of unplanned expenditures. This summary of what the system owns and how much it cost will also give you the information you'll need to record the value of the system's fixed assets on the balance sheet as required by the Governmental Accounting Standards Board (GASB) 34 rule, which address-

es financial reporting requirements for infrastructure assets.

**Consider offering training for the system's board.** Members of a utility's oversight board are often volunteers and may need assistance in making informed decisions and communicating the reasons for those decisions to the public. This type of training, as well as more generalized financial management training, is often offered through the state's primacy (drinking water or wastewater agency) as well as through non-profit organizations such as the Rural Community Assistance Partnership (RCAP) and the National Rural Water Association (NRWA).

**Make sure your accounting system can track** and classify income by type such as fees for water service, hookup fees, late fees and so forth. It should also provide reports on aged receivables: how much the system is owed and how much is overdue by 30, 60, 90 or more days.

**Classify expenses** in such a way that a report reader can easily compare how money is being spent to the board's approved budget. Expense line items such as telephone, rent, electricity, salaries, supplies and other routine costs should be created. As payments are made and entered into the system, those payments should be categorized according to their purpose. The system should also be able to provide a report on how much is owed to outside vendors and when those payments are due. This report is called an "accounts payable aging" report.

**Record financial activity** in the system regularly and often, at least once per month. If you let bookkeeping work pile up for months at a time, it is very easy to forget information that is important to the financial reports, such as the purpose of an expenditure or to which fund it should be charged. Monthly (or more frequent) reporting also helps managers see problems in time to solve them before they become more expensive to solve.

Make the decision that financial management is as important as maintaining the plant and equipment. Whether you decide to do it to meet regulatory requirements, citizen demand, or management needs, it's a great idea. [\[m\]](#)



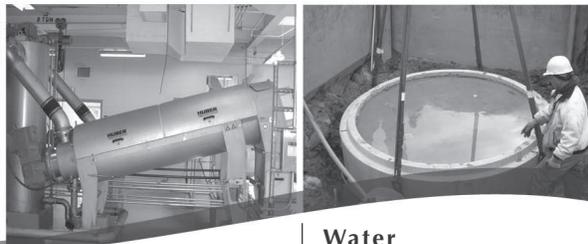
## HELP IS AVAILABLE

For more information or for advice and help getting started, contact your region's Rural Community Assistance Partnership office ([www.rcap.org](http://www.rcap.org)), the National Rural Water Association ([www.nrwa.org](http://www.nrwa.org)) or your state primacy agency that deals with drinking water or wastewater systems.

The RCAP and the National Environmental Services Center (NESC) offer water and wastewater training and assistance to small and rural communities, tribes and water utilities. NESC ([www.nesc.wvu.edu](http://www.nesc.wvu.edu); 800-624-8301) offers information, technical assistance via telephone, educational resources, and magazines and newsletters addressing water and wastewater issues for these same audiences.

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**PRELIMINARY AGENDA**

# Preliminary Timeline and Topic Sessions

## 8:00-8:45 Registration & Continental Breakfast

## 8:45-9:45 Keynote Address

### Technology for Local Government

Delivering Government Services... Faster, Better, Cheaper. This keynote address will highlight key areas where technology is helping local governments deliver services... faster, better and cheaper. Greg McNeal, Chief Technology Officer for the State of Maine, will give examples of best practices being used by local governments in many areas of government service: finance, public safety, social services, transportation, etc. Greg will also highlight technology being provided Statewide that local governments can benefit from, such as the Broadband initiative (ConnectME Authority) and geographic information systems initiatives coordinated through the Maine GeoLibrary Board).

*Presented by Greg McNeal, Chief Technology Officer, State of Maine*

## 9:45-10:00 Break

## 10:00-10:45 Concurrent Sessions

### Online Training Offerings from MMA

*Presented by Margaret Noel, Educational Services Manager, Maine Municipal Association*

### E-mail Archiving and Records Retention:

Since passage of the Freedom of Access Act (FOAA), both State and local governments have received requests from citizens and the media for information that they hold. Some of these requests have asked for specific documents, and other requests have been broad-spanning, asking for a mass amount of e-mails or other electronic documents. This workshop will start with a quick overview of FOAA, using the frequently asked questions (FAQ) section of the State's website. The majority of the time will be a hands-on tutorial on how to archive e-mail using Microsoft Outlook. The tutorial will include demonstration of tips for searching those archive files for responding to FOAA requests. As a take-away for workshop attendees to share with others in their local government offices, a 9-minute video and tutorial will be previewed. Leading the workshop/ tutorial will be Eric Stout from the State of Maine's Office of Information Technology. One of Eric's duties is to be FOAA coordinator, helping State agencies in doing electronic searches in response to FOAA requests.

*Presented by Eric Stout, PMP, IT Project Manager, State of Maine's Office of Information Technology*

### Maine's Broadband Revolution

The adoption and use of broadband is critical to Maine's rural and regional growth. How might the new changes in the federal universal service fund and state telecommunications regulations impact broadband adoption on all levels? What can infrastructure bring to the table? This session lays the foundation for discussions throughout the day.

*Presented by: Phil Lindley, Executive Director, ConnectME Authority, Susan Corbett, CEO, Axiom Technologies, Tom Welch, Chairman, Maine PUC, and Fletcher Kittredge, CEO, GWI*

### ESRI Intro Session Part I

*Presented by MEGUG*

### Understanding Maine's Broadband Landscape

This session provides an overview of the ConnectME Authority's ARRA Mapping and Planning projects. Methods and tools utilized for tracking and mapping the impact of broadband over time with households and industry sectors will be highlighted. The capability of technically integrating planning results into the existing mapping project should be a very

powerful tool for long-term development of Maine's broadband needs. *Presented by Clarence Young, Sr. Project Manager, James W. Sewall Co. and Randy Claar, Project Manager, James W. Sewall Co.*

## 10:45-11:00 Break

## Concurrent Sessions 11:00-11:45

### Liability and Security Issues Involving Personal Information – with Recommendations on Preventing Security Breaches

There are many risks and legal ramifications of not securing personal information that local governments have in their possession. Attorney Peter Lowe will discuss the liability and legal ramifications of not securing personal information on municipal computers. Victor Chakravarty from the State of Maine's Office of Information Technology will present recommendations on basic security measures that should be taken to protect personally identifiable information, and some recent case studies involving hacking attempts.

*Peter D. Lowe is a partner at Brann & Isaacson in Lewiston and his practice focuses on labor and employment law, B. Victor Chakravarty, Enterprise Architect, Maine Office of Information Technology*

### Education's Role in Broadband Availability and Adoption

Education is the central pillar to broadband adoption and growth. Maine is building a robust outreach program from one to one beginner level assistance to the GigU powered by 37 universities and their host communities. This session will focus on new directions, applications and programs happening now, to benefit our rural and urban citizens.

*Presented by Bob Mcintire, Adult Education Team, Dept. of Education, Jeff Letourneau, Exec. Director, Networkmaine, and Janet McKenney, Director of Library Development, Maine State Library*

### ESRI Intro session part 2

*Presented by MEGUG*

### Orthoimagery

*Presented by Woolpert*

## 10:45-12:00 Mail Merge with Word 2010

This session will describe the use and benefits of Word 2010's Mail Merge capabilities. It will lay out the basic purposes and components of a mail merge operation. The instructor will show the students how to construct a template document and discuss what kinds of sources can be used to obtain the data to be merged into the template document. Then the students will practice both the automated mechanism available in 2010 for constructing a mail merge project and how each of the components can be created separately on a manual basis if needed.

*Presented by New Horizons Computer Learning Centers*

## 12:00-1:30 Luncheon & Speaker

Dave Hobbins, professor of Forestry and Environmental studies at the University of Maine at Fort Kent.

## 1:45-2:30 Concurrent Sessions

### Tools for Transparency - How to Find Success Using Facebook

This workshop will educate participants about how to use Facebook to communicate more efficiently. He will discuss the different capabilities between a personal page and a business page, explain how to better engage your audience and how to manage and utilize the social media site.

*Presented by Greg Glynn from Nancy Marshall Communications*

# Preliminary Timeline and Topic Sessions

## Reaching Out: Community Digital Inclusion through the Maine State Library's \$1.36 million BTOP (Broadband Technology Opportunities Program)

Presented by Linda Lord, Maine State Librarian, Maine State Library

## Economic Development and Innovation

Why is broadband critical to rural communities? What best practices exist for economic models and modeling? How is innovation being fueled through broadband? This session will discuss the public-private partnership between municipalities and providers with funding and use of broadband as a focus.

Presented by Josh Broder, President, Tilson Technology, Melinda Poore, VP of Government Relations, Time Warner Cable, Denise Garland, Director of Business and Community Development, DECD, Tom Murray, Manager of State Govt. Affairs, TDS, and Mike Reed, President, FairPoint Communications

## Land Use Codes

Presented by Dan Walters, Geospatial Liaison for Maine, USGS

## Land Use Suitability Model

Presented by Spencer Meyer, Ph.D. Fellow, Sustainability Solutions Initiative at University of Maine

## Flood Inundation

Presented by Pam Lombard, USGS Maine Water Center

## Flood Plain

Presented by Joe Young, Maine State Planning Office

## Importing Excel Data into PowerPoint 2010

This session will focus on the integration capabilities between PowerPoint 2010 and other Microsoft Office applications. Specifically, the students will learn to bring data into a PowerPoint slide show which is either currently available in an Excel workbook or can be easily or quickly created and or formatted in an Excel workbook. The students will learn how to place both data tables and charts into a PowerPoint slide. The students will also learn how once that Excel "object" is present in the slide; it can be linked back to the source workbook so that any changes or updates to the original data will automatically be reflected in the PowerPoint slide.

Presented by New Horizons Computer Learning Centers

## 2:30-2:45 Break

## 2:45-3:30 Concurrent Sessions

### Economics of Technology and How to Justify and Plan for the Long-Term

This will be a panel discussion led by Greg McNeal, the State of Maine's Chief Technology Officer, and others to be invited to share specific experiences with how technology has been a good return on investment.

Greg will highlight the experiences from Maine Revenue Services. The panel will discuss how these experiences can be applied to the local government setting.

Presented by Greg McNeal, Chief Technology Officer, State of Maine

### Health Information Technology

Real life experiences in implementing Electronic Health Records (EHR) systems and the exchange of health care data and results and telehealth: the advantages and challenges, and opportunities for improved efficiency and health care outcomes. The session will begin with the big picture view of Maine's Health Information Technology initiative including federal and State policies and available funding, to a local provider leveraging a ConnectME Authority grant and then to the hands on implementation of utilizing the technologies.

Presented by Dawn Gallagher, Social Service Program Manager, DHHS, Mary McCarthy, Manager of Tele-Medicine, EMMC, and Ralph Johnson CIO, Franklin Community Health Network

### NextGen 911

Presented by Bob White, Spatial Database Manager for the Maine E-911

### COP - Common Operating Picture

Presented by Christopher Kroot, Enterprise GIS Analyst for the Maine Office of GIS

### GovOffice User Group

A major system upgrade and other new features will be discussed at the GovOffice User Group Session. This informative session will also include Best Practices Tips to allow you to improve your site appearance and functionality. If your community has a new site administrator, this session is a must. The event is also open to those considering moving their websites to GovOffice.

Presented by Ross Heupel, Marketing Dir., GovOffice Web Solutions

### Formulas in Excel 2010

This session will focus on the basics of how Excel uses mathematical formulas to calculate various mathematical values. The students will learn how to enter basic data and then use cell references to construct a formula to produce the desired result. It will cover the differences between relative and absolute cell references and students will learn how to use each in constructing formulas. Students will then learn how to use Excel's extensive library of Functions which are preconstructed formulas designed to make creating more complex mathematical equations faster and easier.

Presented by New Horizons Computer Learning Centers

## 3:30-3:45 Networking Opportunities/Break

## 3:45-4:00 MEGUG Scholarship/Grant Recipient Presentations

## 4:00-4:15 MEGUG Business Meeting

**Registration:** \$65.00 (MMA Members, Non-profit, Gov't Agencies, MEGUG) / \$90.00 (Business Reps)

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**Questions & Cancellations:** If you have any questions regarding registration, please call Educational Services at 1-800-452-8786 (Augusta area, 623-8428). Notification must be given at least 72 hours before the conference to receive a refund (minus processing fee). **All** cancellations are subject to a \$10 administrative fee for processing.

# Election Results

By Liz Chapman Mockler

Following are among the people elected as selectmen or councilors during Nov. 8, 2011 balloting. Uncontested races are not included.

*Bath:* **Meadow Rue Merrill** defeated Ward 1 incumbent Councilor **James Omo** by a vote of 218-210. Incumbent at-large Councilor **Andrew Winglass** defeated two challengers, with 1,156 votes.

*Dexter:* Incumbent Councilor **Dave Clukey** and newcomer **Michelle Smith** won election against two other candidates, including former Councilors **Fred Banks** and **Charles "Chip" Merrill**. Clukey won the most votes at 815; Smith initially held an eight-vote lead over Banks until a Nov. 18 recount slightly increased her total, to 511 votes.

*Ellsworth:* Incumbent Councilors **John Moore** and **John Phillips** received 1,399 and 1,235 votes respectively, to win new three-year terms, fending off a challenger who received 582 votes.

*Hampden:* **Bill Shakespeare** was defeated for re-election to the town council when **Jeremy Williams** garnered 443 votes to Shakespeare's 231. **Tom Brann** beat back a challenge to win another term with 304 votes. Jean Lawlis held her seat against two opponents by winning 287 votes.

*Houlton:* Incumbent **Susan Tortello** received the most votes with 1,033, while two other candidates, **Paul Cleary** and **Robert Hannigan**, also defeated challenger **Carl Lord**, a former one-term councilor, to win three open seats. Incumbent Councilor **Mike Jenkins** defeated former Councilor **Phil Bernaiche**, 800-414, for a one-year term.

*Old Orchard Beach:* Incumbents **Sharri MacDonald** and **Michael Coleman** won two-year terms in a five-way race for two seats. MacDonald received 1,874 votes, while Coleman collected 1,327.

*Old Town:* Incumbent Councilor **David Mahan** placed fourth in a six-way race for three open seats on the board. He missed re-election by 77

votes. The top three vote-getters were: **William Lovejoy** with 1,188 votes; **Stanley Peterson** with 1,148 votes; and, **Linda McLeod**, with 990 votes. Lovejoy is a former councilor.

*Pittsfield:* **Donna Chale** defeated Crystal Witham by a vote of 145-114, to win the seat vacated by **Bill Bradshaw** last July.

*Portland:* In her first contested race since 2008, Councilor **Cheryl Leeman** won a 10<sup>th</sup> term by easily defeating her challenger, 2,771-1,124.

*Presque Isle:* Incumbent Councilor **Don Gardner** and three other candidates were defeated by **Peter Hallowell** and **Micah Demond** to win two four-year terms on the council. Hallowell was filling the unexpired one-year term of Jennifer Trombley, who resigned in 2010. Meanwhile, in a race for two one-year terms on the council, **Richard Engles** and **Jessica Chase Smith** defeated a third candidate with 1,379 and 1,322 votes respectively.

*Sabattus:* **James Wood** defeated

Scott Lansley, 666-577, to win an open seat on the Board of Selectmen.

*Saco:* Incumbent Councilors **Mark Johnston** and **Marston Lovell** prevailed over challengers to win with 3,249 and 2,255 votes, respectively. Johnston defeated former Councilor **Jeffrey Christenbury**, while Lovell bested Johnston's son, **Nathan**, who made his first foray into a municipal election.

*Westbrook:* Incumbent **Colleen Hilton** defeated mayoral challenger **Bruce Chuluda**, 2,659-2,350, in a rematch of their 2009 race. Chuluda had served as mayor for six years before losing to Hilton two years ago.

*Windham:* Incumbent Councilor **Tommy Gleason** defeated challenger Patrick Corey, 2,036-1,801, to earn a three-year term on the board. Gleason was elected for the first time last year to a 1-year term. **David Nadeau** and **Dennis Welch** also won election against write-in candidates and will fill three-year terms. [mc](#)

## New Year's Resolutions



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**Peter Barton**, a 29-year police officer for the Town of Farmington, announced he would retire effective Dec. 29, although he will remain on the force until early this month as he uses up vacation time. Barton, who will retire as a sergeant, started with the Farmington force in the late 1970s after working for two years for the Town of Pittsfield.

Former state representative and Caribou City Councilor **Wilfred Bell** died at the age of 84 on Dec. 23 while visiting in Bangor. Bell was elected to the Maine House for two terms, but served many more years on the city council, being named mayor in numerous years. In the 1960s, Bell served on the city's first charter commission. He won many national prizes in his work in the grocery business, but cherished his record of attendance as a public official.

**Paul Callaghan** has been named the new Kittery police chief after working for 24 years for the Rochester, N.H., police department. Callaghan, 47, who left the New Hampshire department as a captain, was expected to start his new duties on Jan. 3. He replaces **Ed Strong**, who retired at the end of 2011.

Former Lincoln County Sheriff **William Carter** died Dec. 21 at the age of 72. Carter was elected sheriff 14 times for a total of 37 years of service. He retired in 2002 and is believed to be the longest-serving sheriff in Maine history.



(Kennbec Journal)

**John Charest**

Former Augusta Public Works Director **John Charest**, who retired after 41 years with the city in December 2010, died Dec. 25 after a long fight with cancer. He was 65. A Vietnam Navy veteran, Charest worked in various public works

divisions until his promotion to director nearly 30 years ago.

The November election of **Doreen Christ** was voided by the Lewiston City Council in December after officials learned Christ had moved into the

ward in which she ran successfully about three weeks after the residency deadline passed. A special election is set for Feb. 7 and Christ, who can legally run again for the seat, said she intends to do so.

**Robert "Bob" Macdonald** was elected mayor of Lewiston in December, collecting 2,543 votes in a run-off election against **Mark Paradis**, who died on the Friday before the special election on Dec. 13. Paradis, whose name remained on the ballot, garnered 2,473 votes. Paradis, who had recently told the public he had been diagnosed with cancer, died from complications due to pneumonia. Paradis had served the city for 14 years before his death, first joining the planning board in 1997 before winning his first council election in 2002. He resigned in 2007 and lost a bid for mayor against **Larry Gilbert** in 2009.

**Roland Drew**, former selectman for two towns, died Nov. 25 at the age of 83. Drew served as selectmen for nine years in Kennebunkport and 12 in Arundel. He died after his truck careened off a bridge and fell 15 feet into a brook. "He was a self-made man who really lived the American dream," one of his daughters told the Press Herald. "He believed in giving back to the community. He wanted to share his success with other people. He was very inspirational in that regard."

Newport officials recently honored **Allen Graves** for 25 years of service as a part-time police officer. Graves retired after joining the department in 1986, filling in on vacation and sick days – and weekends and holidays. Graves, 47, who retired as a Newport police corporal, worked full-time for the Air National Guard until his 2010 retirement as chief of security. He also worked part-time for the University of Maine at Orono, where he retired in 2010. He said the high point of his career was saving the life of a girl who nearly drowned in Sebasticook Lake. Graves revived the girl using CPR.

Former Portland City Manager **Joseph Gray** and Bridgton Town Manager **Mitchell Berkowitz** were named

to the new Cumberland County Civic Center Board of Trustees after filling unexpected vacancies in 2011. The civic center, nearly 35 years old, will be redesigned and renovated following passage last November of a \$33 million bond for the project. The reconstruction is expected to begin this summer. Gray and Berkowitz join five other members on the trustees' board.

Veteran Buxton firefighter **Bernard Groves** died Dec. 4 of cancer at the age of 68. Groves was hired by the fire department in 1985 and worked his way up the department ladder to achieve the rank of captain in the early 1990s. He was seriously injured in 2002 while testing hoses on a fire truck. He underwent multiple surgeries before returning to the department in a more administrative role.

Stockton Springs Town Manager **Joseph Hayes** officially announced his resignation on Dec. 15 and will assume the duties as Veazie manager beginning this month. Hayes was feted with a farewell party in late December. He served as Stockton Springs manager since 2004.

Buckfield Town Manager **Glenn Holmes** resigned, effective Feb. 3, to begin his new job as executive director of the Western Maine Economic Development Council in nearby Paris. Holmes has managed Buckfield for seven years and said the town's municipal staff "has by far (been) the best group of people I could ever hope" to work with, according to the Sun Journal.

Long-time Turner Town Manager **Eva Leavitt** announced she will retire effective June 30 after 25 years of service. Leavitt wants to travel and spend more time with her family and friends when she retires, she told selectmen in December.

Outgoing Saco Mayor **Ron Michaud** was elected to a four-year term on the regional school committee in November. First elected to the city council in 1993, Michaud served the past four years as mayor. Before his election to the council, Michaud was appointed to the planning board, on which he served for eight years. [mf](#)

**Bethel:** Selectmen in December accepted the report of a special ad-hoc committee which concluded that creating a municipal entity to distribute natural gas to businesses was not feasible. The committee was most concerned about the financial investment the venture would require from the town and the impact on town finances should such an effort fail.

**Gardiner:** Months of hard work paid off big for city staff in December, when they learned the city won a \$100,000 community planning grant from the Orton Family Foundation Heart & Soul program. Foundation members and advisers visited the city in November and talked to business owners, community leaders and municipal staff. The grant will be used to develop a vision for the city that will guide future policymakers.

**Harpwell:** The town is growing older and island demographics influenced numerous policy decisions in 2011. The new Census numbers show the median age of residents at 52.9 years, compared to 45.2 years in 2000. Residents aged 20 to 59 dropped over the past 10 years by 19 percent, while people over the age of 60 grew by 25 percent. At the same time, overall population decreased by 10 percent. The population trend affected decisions about closing an elementary school and prompted officials to consider privatizing emergency medical services, both because of increased 911 calls and a lack of volunteers.

**Milo:** The state transportation department will spend \$1.14 million to repair nearly two miles of road, which runs through the downtown village, where three main state roads intersect.

**Owls Head:** Special town meeting voters in December agreed to spend as much as \$50,000 to defend a lawsuit that aims to overturn the town's easement on a road that leads to the ocean. Both selectmen and residents want to fight the suit in order to set a precedent for future legal action by homeowners who want to block public access to the waterfront.

**Scarborough:** The city has accepted the low bidder, Comstar Ambulance Billing of Rowley, Mass., to handle ambulance bills rather than city staff. The company will receive 4 percent of payments received. Comstar also will study Scarborough ambulance rates, which are lower than the cost of service, in an effort to increase insurance payments and lower the cost to taxpayers.

**South Portland:** City councilors were presented a petition with 131 signatures in December asking the council to voluntarily stop taking free health care insurance. At least two councilors, including Mayor Patti Smith, want the issue to be decided by voters. One resident threatened to sue the city if the insurance coverage, which cost \$55,000 in 2011 to cover four councilors, is not suspended. Proponents of the benefit argue it is allowed by law, while others said councilors who don't take the insurance are essentially getting paid less than the others. Some residents expressed anger that a public service such as street lighting is being cut while councilors get insurance coverage.

**Topsham:** As is the case in many Maine cities and towns, Topsham officials are bracing for a potential further decline in revenue for the 2013 fiscal year, which begins July 1, 2012. Revenue dropped from \$3.9 million in 2010 to \$3.6 million in the current fiscal year. Officials cited cuts in state revenue sharing funds and slow growth in excise tax funds as ongoing problem areas.

**Tremont:** The town is working with delinquent property owners to arrange payment plans to avoid their homes being taken for back taxes. Under a proposal endorsed by selectmen in December, delinquent taxpayers will be given until spring to bring their tax accounts current.

**Windham:** Public works crews are using magnesium chloride to replace the more corrosive calcium chloride on winter roads this season. In addition to causing less damage to vehicles, the town switched for financial reasons: The magnesium de-icer costs three cents less per gallon. Windham uses 12,000 gallons of the liquid annually. [mml](#)

## NEW ON THE WEB

Here are some highlights of what's been added at [www.memun.org](http://www.memun.org) since the last edition of the *Maine Townsman*.

- **Finance Survey.** The Local Government Finance Survey recently went in the mail, but it can be saved on your computer by following the directions on the MMA home page. After filling in the three sheets, please save and email the file to Kate Dufour of MMA's State & Federal Relations staff, [kdufour@memun.org](mailto:kdufour@memun.org).
- **Celebrating Service.** MMA, as part of its 75th Anniversary, recognized officials last year for their tireless years of public service. Kathy Littlefield, First Selectwoman in Waldo, was the subject of the final profile article and oral history. Her audio interview was posted on the website in December.
- **Erosion Control.** The Maine Department of Environmental Protection will offer a course on Basic and Advanced Erosion Control at the Kittery Town Hall on Feb. 22. The course is for contractors, landscapers, site evaluators and federal, state and municipal officials.
- **LD 1.** The latest LD 1 worksheet – for 2012 – is now available. The two-page document shows how to calculate your municipality's property tax levy limit.



# Municipal Bulletin Board

## TECHNOLOGY CONFERENCE: PORTLAND

The MMA Technology Conference this year moves from Bangor to Portland, and will be held on Thursday, March 1 at Holiday Inn by the Bay.

The event, co-sponsored by the Maine GIS User Group, begins with registration at 8 a.m. and concludes at 4:30 p.m. Greg McNeal, Chief Technology Officer for the State of Maine, will deliver a keynote speech on "Technology in Government" starting at 8:45 a.m.

Among the other topics to be covered: Broadband Expansion and Strategy; Tools for Government Transparency; Libraries and Technology; Flood Inundation and Flood Plain mapping; and, Liability Issues with Information Management.

The Tech Conference is considered MMA's second-largest event, as it typically draws upward of 300 attendees and 15 to 20 exhibitors. Cost to attend is: \$65 for MMA and MEGUG members and employees from non-profit government agencies; \$90 for businesses; and, \$35 for students who show college identification. Registration can be done through the MMA website.

## ELECTIONS (TITLE 30-A)

The Maine Town and City Clerks' Association will offer workshops on Elections and Title 30-A at the Augusta Civic Center on Feb. 9 and at the Bangor Hilton Garden Inn on Feb. 13. Both sessions will run, from 8:30 a.m. until 3:30 p.m. Michael Stultz of the MMA Legal Services' staff and April Dufoe, Clerk in Kennebunkport, will co-present.

The workshops are designed principally for clerks, including deputies and assistants, but selectmen and moderators also benefit from the information presented and are encouraged to attend.

Attendees should bring with them copies of MMA's Town Meeting and Elections Manual, which can be ordered by calling 1-800-452-8786 and asking for Jane Tondreau. It can be printed out at: [www.memun.org/public/mmmapub/OrderForm.cfm](http://www.memun.org/public/mmmapub/OrderForm.cfm).

Cost for the workshop, which is necessary for MTCCA certification,

is \$50 for members and \$60 for non-members.

## BASIC MUNICIPAL BUDGETING

James Bennett, City Manager in Presque Isle, and John Eldridge, Finance Director in Brunswick, will co-present a workshop on municipal budgeting on Feb. 14 at the Maine Municipal Association conference center. 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.

## PLANNING BOARD/BOA: BELFAST

MMA's Legal Services Department will host sessions for local Planning Board and land use Boards of Appeal members from 4 to 9 p.m. on Feb. 29 at the Hutchinson Center in Belfast.

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 \$60 for non-members.

## MANAGERS INTERCHANGE

The 33rd Annual Statewide Manager Interchange will be held on Friday,

March 2 at the Hilton Garden Inn in Bangor. The day-long event, sponsored by the Maine Town & City Management Association, begins with registration at 8 a.m. and ends at 3:30 p.m.

Cost to attend is \$60, if pre-registered or postmarked by Feb. 25, or \$85 after that day. There also is a \$30 first-time attendee registration offer for MTCMA new managers. Registration is available through the MMA website.

MTCMA has blocked rooms at the Hilton Garden Inn. In making reservations, be sure to mention that you are with MTCMA. The telephone number at the inn is: 207-262-0099.

## TAX LIEN PROCEDURES

The Maine Tax Collectors' and Treasurers' Association will sponsor one-day workshops on Tax Lien Procedures March 8 at Hollywood Slots in Bangor and on March 14 at the Captain's Galley in Old Orchard Beach. The workshops start at 8:30 a.m. and conclude at 3:30 p.m.

The program focuses on proper procedures in the tax lien process as well as the proper completion of necessary forms. The emphasis is on the "how to" rather than the legal aspects of tax liens. Instructors are: and Gilberte Mayo, Treasurer in Lincoln; and, Stu Marckoon, Treasurer in Lamoine.

It is important that attendees have Municipal Liens Manuals and bring them to the workshop, which costs \$50 for MMTCTA members and \$60 for non-members. Municipal Liens Manuals can be purchased by calling MMA at 1-800-452-8786, ext. 2295. [mtcma](http://www.mtcma.org)

### 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](http://www.memun.org)

## CONSENT AGREEMENTS

Last month we wrote that local officials cannot impose fines or penalties for ordinance violations without a voluntary consent agreement with a willing violator (see “Imposing Fines & Penalties,” *Maine Townsman*, “Legal Notes,” December 2011). This prompted some additional questions about consent agreements which we’ll try to answer below.

*Do local officials have inherent authority to enter into consent agreements?* While some municipal attorneys may disagree, we think the municipal officers (selectmen or councilors) do unless they have been denied this authority by applicable law, charter or ordinance. We hold this view because the municipal officers are usually responsible for initiating legal action to enforce ordinances, and they have the prosecutorial discretion as to whether and how to proceed. In our opinion this includes the authority to negotiate and execute out-of-court settlements with willing violators. (Although code enforcement officers are often active participants in this process too, we recommend that consent agreements be signed by the municipal officers unless the CEO has been expressly authorized to do so on their behalf.)

*What terms may or must be included in a consent agreement?* Some ordinances require that consent agreements mandate the removal of illegal structures or the discontinuance of illegal activities unless doing so will result in a threat or hazard to public health or safety or will result in substantial environmental damage. (Most shoreland zoning ordinances, for instance, have this provision.) Other than such ordinance requirements, however, the terms of a consent agreement are for the parties to negotiate. As a general rule, we recommend that, at a minimum, consent agreements (1) require the removal of illegal structures or the discontinuance of illegal activities, (2) require payment of a fine, (3) specify a deadline for compliance, and (4) waive court action unless the agreement is breached, in which case the municipality may prosecute the violator. The amount of the fine should strike a balance between what a court could impose, including

attorney fees and court costs (see 30-A M.R.S.A. § 4452(3)), and what the violator is willing to pay in order to avoid court action and court-imposed fines and penalties.

*May or must a consent agreement be recorded in the registry?* There is no requirement generally that consent agreements be recorded, but we think it is advisable in most cases to put the world (especially prospective buyers and lenders) on notice that there is a violation on the premises and that the owner has agreed, among other things, to correct it within a certain time.

*How are consent agreements enforced?* A consent agreement is a contract between the municipality and the violator in which the violator agrees to certain terms in exchange for the municipality waiving its right to prosecute. If the violator fails to fully comply with the terms, the municipality may set aside the agreement and prosecute the violation in court in the same manner as though there never had been any agreement.

Because a consent agreement is a legal document creating enforceable

rights and duties on both parties, we recommend that the municipal attorney become involved at an early stage. For additional advice and sample agreements, see MMA’s *Code Enforcement Officers Manual*, available free to members at [www.memun.org](http://www.memun.org). (By R.P.F.)

## NO BOARD OF APPEALS?

*Question:* Due to vacancies, absences, lack of interest and so on, we can no longer muster a quorum of our board of appeals. Is there any legal alternative?

*Answer:* Unfortunately perhaps, no. Any municipality with a zoning ordinance, including shoreland zoning, *must* have a board of appeals to hear and decide zoning variance appeals, at a minimum (see 30-A M.R.S.A. § 4353). Appeals from the decision of a code enforcement officer or a planning board in the administration of a zoning ordinance (“administrative appeals”) must also be heard first by a local board of appeals unless the ordinance provides for a direct appeal to superior court. (Incidentally, a planning board is *not* required by State law, see “Planning Boards – Are They Required By Law?”

 MMA Municipal Calendar

**ON OR BEFORE FEBRUARY 15** — Written statements, as prescribed by State Tax Assessor, of wages withheld in the previous calendar year is to be furnished each employee (36 MRSA § 5251).

— Monthly/Quarterly expenditure statement and claim for General Assistance reimbursement to be sent to Department of Human Services, General Assistance Unit, DHS #11, Augusta, ME 04333-0011 [22 MRSA §4311].

**FEBRUARY 20** — Presidents’ Day, the third Monday in February, is a legal holiday (4 MRSA § 1051); and shall be observed as a school holiday in the absence of any vote of the superintending school committee designating how the day shall be observed (20-A MRSA § 4802).

**BEFORE TOWN MEETING** — Selectmen must have a warrant posted at least 7 days before town meeting and have a constable or designated resident make return (30-A MRSA §2523). If adoption of an

ordinance is proposed, make sure of compliance with 30-A MRSA §3002. Send copy of town report to the following: MAINE MUNICIPAL ASSOCIATION, State Tax Assessor, State Auditor, State Department of Transportation, and State Librarian.

— Town Meeting voter registration and voting list requirements. The registrar shall accept the registration and enrollment of voters prior to the municipal election according to the time schedule prescribed by 21-A MRSA § 122 unless changed by municipal officers.

— Copies of annual report are to be deposited in the municipal office or a convenient place of business for distribution to voters at least 3 days prior to the annual meeting (30-A MRSA § 2801)

— Check 30-A MRSA § 5823 for audits, and § 2801 for town reports.

**BY MARCH 1** — Solid Waste Municipal Reporting forms are due back to the State Planning Office, 38 State House Station, Augusta Me 04333 [38 MRSA §2125(1)].



*Maine Townsman*, “Legal Notes,” January 2011.)

Whether a board of appeals has never been legally established, or whether a board has been established but an insufficient number of members has been appointed or remains, a court must dismiss a direct appeal from the code enforcement officer or the planning board in a zoning matter for “failure to exhaust administrative remedies” (see *Cushing v. Smith*, 457 A.2d 816 (Me. 1983)). This dismissal may be coupled with an order requiring the municipality to establish the board and/or appoint a sufficient number of members (see *Fletcher v. Feeney*, 400 A.2d 1084 (Me. 1979)).

The strict adherence to the doctrine of exhaustion of administrative remedies represents a strong judicial deference both to local decision-makers and to the Legislature. As *Fletcher* put it, “The courts should not establish themselves as zoning boards for municipalities, and immediate recourse to the courts must be avoided both to prevent circumvention of the statutory scheme and to allow interested parties the fuller opportunities for participation offered by local boards.”

Serving on a board of appeals is one of the more difficult roles in municipal government. MMA’s comprehensive *Board of Appeals Manual* can make the job considerably easier. Our manual is available free and online to members at [www.memun.org](http://www.memun.org).

MMA also sponsors at least half a dozen workshops each year for boards of appeals at various locations around the state. For information on when and where, see the annual training calendar under “Training & Workshops” at [www.memun.org](http://www.memun.org). (By R.P.F.)

### TAX EXEMPTIONS & BURDEN OF PROOF

In a significant decision for municipal assessors, the Maine Supreme Court held last month that a taxpayer always has the burden of proving entitlement to a property tax exemption, even when an exemption has been granted in prior years, if the assessor challenges the taxpayer’s continued eligibility.

In *Humboldt Field Research Institute*

*v. Town of Steuben*, 2011 ME 130, the taxpayer (a non-profit environmental research organization) argued that because Maine law provides that an exemption, once granted, remains in effect until the assessor determines the taxpayer no longer qualifies (see 36 M.R.S.A. § 652(1)), the assessor bears the burden of proving ineligibility once an exemption has been granted. The Law Court, however, was unpersuaded.

Citing longstanding common law principles such as “[t]axation is the rule; exemption... is the exception” (*Advanced Med. Research Found. v. Town of Cushing*, 555 A.2d 1040, 1041 (Me. 1989)) and “[t]he party claiming it must bring his case unmistakably within the spirit and intent of... the exemption” (*Hurricane Island Outward Bound v. Town of Vinalhaven*, 372 A.2d 1043, 1046 (Me. 1977)), the Court firmly concluded that “the burden of establishing entitlement to a tax exemption *always* remains with the taxpayer” (emphasis added). As the taxpayer in this case also failed to meet its burden of proof, its property was returned to the town’s tax rolls.

*Humboldt* should encourage assessors to take another look at current but doubtful tax exemptions since, in the words of the Court, “the burden remains with the taxpayer to prove entitlement to the exemption, just as if it were applying for the exemption for the first time.”

For a detailed description of eligibility requirements for property tax exemption under Maine law, see Chapter 7 of MMA’s *Municipal Assessment Manual*, available free to members at [www.memun.org](http://www.memun.org). (By R.P.F.)

### NOMINATION PAPERS ARE PUBLIC RECORDS

*Question:* Are nomination papers public records?

*Answer:* Yes, once they have been filed with the municipal clerk. And as with all public records, the public has the right to inspect and copy them during the regular business hours of the agency or official having custody of them within a reasonable time after making a request (see 1 M.R.S.A. § 408(1)). Unless the records are made available immediately, the agency or official must acknowledge receipt of the request within a reasonable time. If a copy is requested, the agency or official may charge a reasonable fee to cover the cost of copying (see 1 M.R.S.A. § 408(3)).

Because nomination papers are integral to the election process and are not easily replaced if defaced, we recommend that, if there is a request to inspect them, they remain under the direct custody or control of the custodian at all times and that the requester be prohibited from carrying any pen, marker or other device that could be used to spoil the original. Better yet, the custodian could simply give the requester a copy and avoid this risk altogether. This is consistent with the requirement that public inspection of nomination papers be “under proper protective regulations” (30-A M.R.S.A. § 2528(4)(C)).

Incidentally, municipal nomination papers must be kept in the clerk’s office for six months, after which they may be destroyed (see 30-A M.R.S.A. § 2528(4)(C)). (By R.P.F.) [mt](#)



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