

March 2011

# maine townsman

The Magazine of the Maine Municipal Association



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# maine townsman

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## Updates Slated for MMA Training 5

Responses from a recent survey sent to 2,700 municipal officials around the state provided important direction for changes in Maine Municipal Association training planned for this year and 2012. New topics, workshops, locations and expanded web-based training are all in the offing.

## Flurry Over Adult Entertainment 7

What often follows when an adult-oriented announces plans to open in a municipality? Generally, a great amount of activity on the municipal front – in the affected community and others nearby. Officials in Waterville, Vassalboro and Carrabassett Valley discuss their varied approaches to adult entertainment after recent events there.

## No Go for Municipal Power Supply 11

Sometimes, when municipalities consider collaborating, the timing isn't right. That was the case in Cape Elizabeth, Scarborough and South Portland recently, where officials considered starting a municipal power supply company but backed off after questions about up-front costs and financial risk.

## Under Pressure: Municipal GA 15

Conflicting trend lines of increasing need and dwindling financial resources are putting tremendous pressure on municipal General Assistance administrators. Many veteran welfare directors are seeing examples of housing and heating requests the likes of which they've never encountered before.

## Learning to Love Technology 19

OK, it may be an acquired taste, but municipal officials can learn to appreciate the value of computers in the workplace by following a few simple rules and principles. IT consultant Rick Barton lays those out in a reader-friendly article that you don't have to know computer codes and jargon to understand.

## Scenes of Success: Bangor 25

The 2011 Municipal Technology Conference was held at the Bangor Civic Center on March 3, where attendance rose by 30 percent over 2010. See photos from the event.

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**COVER PHOTO:** Power lines that can be found along Interstate 95 just north of the Topsham exit, taken by MMA's Jaime Clark.



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# A Message From MMA



by Eric Conrad, Editor

## Updating MMA training, to better serve you —

One of Maine Municipal Association's most important services is providing training to elected officials, managers, department heads and municipal employees. We are in the process of reviewing all MMA training, from the annual convention to dozens of workshops presented and organized by MMA and held around the state each year. We will expand web-based training, also known as "e-training," this year and into 2012.

**Member surveys:** Late last year, MMA sent 2,700 survey forms electronically to municipal officials statewide. We asked members to assess our training efforts, speak to preferences such as classroom or web-based training and cite priorities for future workshops and programs. The survey appeared in print in the December *Maine Townsman*.

Well over 600 officials replied, an excellent response rate of about 25 percent. Also good was the fact that a quarter of those respondents were elected officials. We know how difficult it is for local leaders to find time to complete optional surveys like this one. We appreciate the effort put forth by those who did.

Results? An overwhelming number of respondents – 85 percent – prefer in-classroom training held in their region of the state. However, there were a number of requests for more web-based training, something members seek as they try to reduce staff time away from the office, paid mileage and other costs. Among the training topics most commonly requested: anything to do with money and finance; leadership; technology; and, distinct programs tailored to new and veteran elected officials.

One of the nicest outcomes from MMA's point of view was how many members took the time, in open-ended parts of the survey, to compliment MMA for the quality of the training we provide. Those kind words were much appreciated by staff, I assure you.

**2011 training and workshops:** The traditional MMA training calendar for the year is well developed at this point and was printed in the January and February *Townsman*s. We are going to places where certain workshops haven't been offered the past few years – Millinocket, Presque Isle and Bethel in June, for example. We are responding when we sense pent-up demand, too. Our past three Personnel Practices workshops, for example, were so well-attended that we will offer this program twice more, in May and November.

We may tinker with our venerable and respected Elected Officials Workshops, which typically are led by attorneys Bill Livengood and Richard Flewelling of our Legal Services Department. Bill and Richard do a great job educating newly elected officials and reminding more seasoned ones about their rights and responsibilities in areas such as Freedom of Access, conflicts of interest and personal liability.

We want to serve all elected officials, newcomers and long-timers, from small communities and large cities and towns. On April 6, veteran municipal leaders Pam Plumb of Portland and

Don Gerrish of Brunswick will present a workshop in Union that could develop into a "second track" for elected officials. We are eager to see what Pam and Don do, how their presentation is received and where we might be able to take things from there.

**Online training.** Margaret Noel, our Manager of Educational Services, has been busy of late doing many things. One of the most exciting is contacting potential partners and vendors who can offer courses – some of which can be taken at any hour of the day or night – online, through the MMA website.

We don't have signed contracts or all the details yet, but we are confident that we will roll out new online programs and workshops soon, certainly by July 1. We expect to offer online training as basic as how to use Microsoft Word, Excel and Outlook and as advanced as courses on evaluating key personnel and exploring the qualities possessed by effective leaders. Stay tuned for more details.

**Convention:** While fall may seem like a long time away (especially this winter!), planning for the 2011 Convention is well under way. The event will be held Oct. 5-6 at the Augusta Civic Center. Without giving away too many details, our keynote speaker will be Scott Paine, a former three-term City Councilor from Tampa, Fla. who talks about what inspires people to commit themselves to municipal service, something that Scott feels is the most important role a citizen can play. Scott also chairs the Communications Department at the University of Tampa. Along with his keynote, he will present a workshop on how the information revolution is reshaping municipal government.

Another important feature for the 2011 convention involves elected officials. During a typical convention, there are three or four program "tracks" dedicated to different subject areas. Last year, for example, we offered a money and finances track that was devoted to raising revenue and controlling spending during these tight financial times. That track will be repeated in 2011.

We're dedicating a second track to elected officials. Workshops in this track will address effective leadership, running productive meetings, dealing with citizen groups and pressure, and what newly elected officials can expect after winning their first elections. This track is in response to evaluations from last year's convention and to the training survey that I referenced earlier in the column.

Add it up, and we hope you agree that we are taking a fresh and healthy new look at one of the most important services that MMA provides. We will keep the programs that work well and will help local leaders keep up with an ever-changing world. To that end, if you have specific ideas or suggestions, this is a great time to offer them. Please contact me at: 1-800-452-8786 or email [econrad@memun.org](mailto:econrad@memun.org).

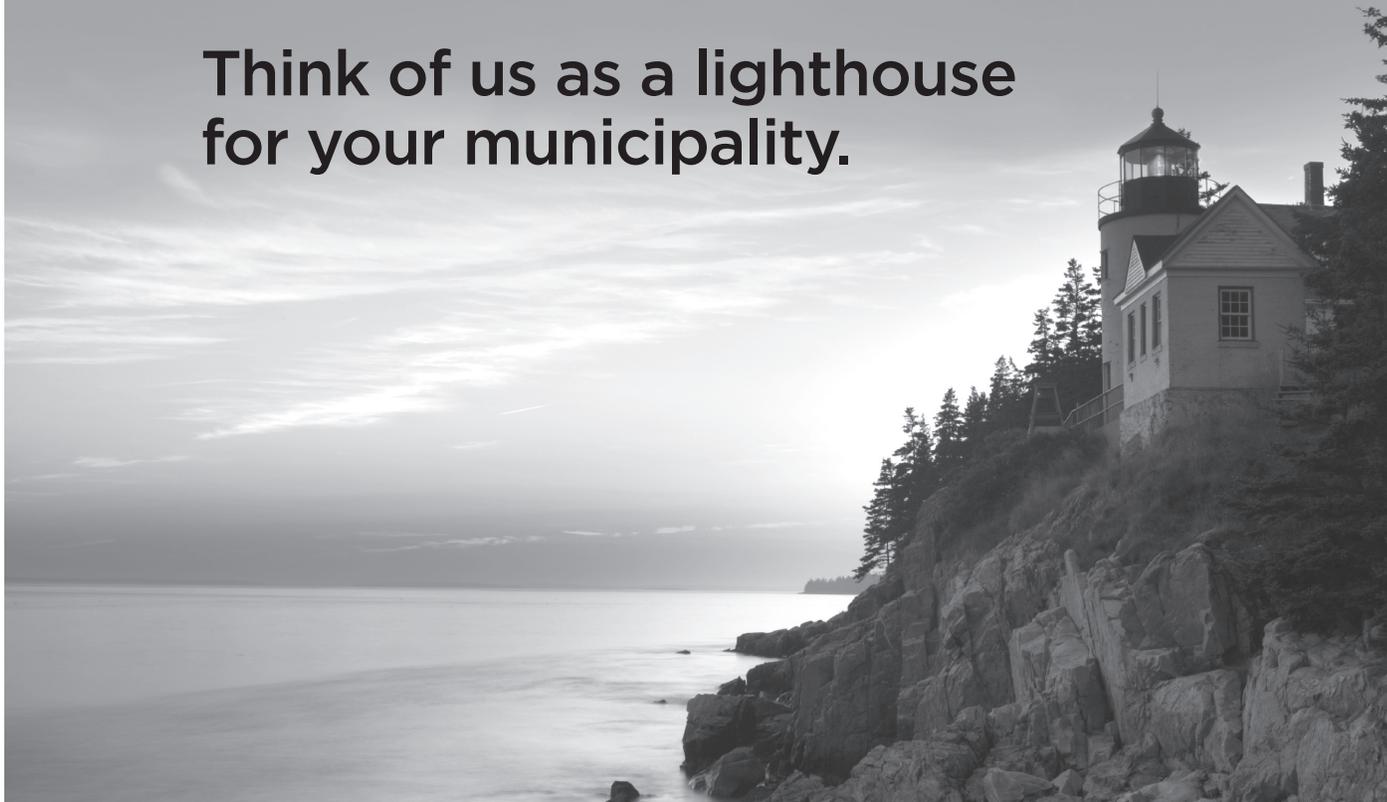
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# Adult Entertainment Sparks Responses

By Douglas Rooks

When an adult entertainment business arrives in town, it often causes a commotion. But Maine municipalities vary widely in their approaches to regulating these businesses.

Some deal with the issues surrounding adult entertainment with zoning ordinances. Others rely primarily on setbacks from other businesses, residences and institutions where children are present.

Another approach is to allow activities such as semi-nude dancing, but not allow liquor to be served at the same establishment. Other ordinances focus on not allowing contact between dancers and patrons.

And, some municipalities choose not to adopt any regulations at all.

One community that spent nearly two years debating the merits of these different approaches was Waterville, which was initially responding to a request from Shannon Haines, director of Waterville Main Street, an association representing many downtown businesses.

Haines told the council that a number of vacant storefronts might influence adult-oriented businesses to locate there, and asked for regulations barring such businesses from locating downtown.

What ensued were lengthy discussions at city council and planning board meetings, plus a task force to draft a proposal.

Not everyone was in favor of a downtown ban. Shortly after being elected governor, but while still serving as mayor, Paul LePage called the proposed regulations “silly,” and said, “You’re legislating morality and I have

a problem with that. If you’re going to do it, do it for the whole city.”

Planning Board Chairman David Geller agreed with LePage but they were in the minority as the planning board voted 5-1 for regulations and the city council followed suit in late January.

## WHERE ‘DOWNTOWN’ ENDS

City Manager Mike Roy explained that the ordinance ultimately adopted differs significantly from the zoning amendments that were the original focus.

“We started out trying to draw the boundaries and that proved to be very complicated. It was hard to define downtown on a map in a way that satisfied everyone,” he said.

Instead, on advice of the city attorney, the council adopted a separate ordinance that relies on setbacks to separate any adult businesses from downtown stores and from most residential areas.

Waterville already has two adult bookstores on the north side of town, on College Avenue heading toward Fairfield, but no live entertainment. The Bob-In, which had frequent clashes with police and city officials over that issue a few years ago, no longer attempts to offer such shows, Roy said.

“The council thought the effect on downtown was a real concern and acted accordingly,” Roy said. “But they thought that residential areas needed protection too, so that was added to the ordinance.

Augusta once had a controversial adult bookstore on Water Street that was cited as contributing to the poor reputation of the north end of the main downtown street. It later moved to Farmingdale, next to the town office on Maine Avenue, where it was dubbed

“The First Amendment.”

It operated for several years in the 1990s before another adult shop opened on Maine Avenue, which prompted a citizen petition from those concerned about a proliferation of such stores.

Farmingdale’s town meeting passed an ordinance that required any adult businesses to be located more than a half mile from Maine Avenue, leading to the closing of both stores. The First Amendment later reopened at its current location in Waterville.

## INDUSTRIAL ZONE ONLY

Augusta City Manager Bill Bridgeo said there have been no applications for adult businesses in the more than a decade he’s been on the job and, if there are any in the future, they will be confined to the city’s industrial zones.

Planning director Matt Nazar said the Maine Commerce Center and the Augusta Business Park – both west of the Augusta Civic Center, along Route 27 – are possible locations for adult businesses, as is a city-owned parcel where the Edwards Mill used to stand.

“The Supreme Court says you can’t ban them but you can control where they are located,” Bridgeo said.

That’s been true since the U.S. Supreme Court issued its ruling in *Schad v. Borough of Mount Ephraim* in 1981, a case in which a New Jersey municipality had attempted to ban nude dancing anywhere in town. That provision, the court found, violated First Amendment rights to free expression.

Despite notable changes in the makeup of the high court since then, it has generally adhered to that reasoning in subsequent rulings. In a 2000 case, Justice Anthony Kennedy wrote that, “The history of the law of free expression is one of vindication

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

in cases involving speech that many citizens may find shabby, offensive or even ugly.”

In late 2008, Vassalboro discovered that an operation that became known as the “topless doughnut shop” had opened at a defunct motel on Route 202, just over the town line from Augusta.

### NOTORIETY IN VASSALBORO

The opening gained national and even international notoriety, much to the chagrin of townspeople. Vassalboro does not have a zoning ordinance, and no regulations were on the books that would have restricted such a venture.

The doughnut shop’s owner raised eyebrows further by suggesting he wanted to expand from morning and afternoon hours to evening shows – more like the entertainment generally offered only in Maine’s largest cities.

In June 2009, the store burned to the ground in a fire that investigators ruled was arson. The disgruntled boyfriend of a female dancer was subsequently charged with the crime.

Town Manager Mary Sabins discussed events surrounding the doughnut shop, which ultimately led to adoption of an ordinance later in 2009.

“The excitement has definitely died down,” she said. While townspeople were unaccustomed to “seeing their town in the international news,” she said that, “Once the initial notori-

ety wears off, people lose interest.

Indeed, the town’s major concern with the business at the moment is whether it complies with the building code.

## VASSALBORO ORDINANCE

The Town of Vassalboro’s adult-entertainment ordinance starts this way: “The Citizens of the Town of Vassalboro believe that sexually oriented businesses, because of their very nature, have negative secondary effects on surrounding areas.”

**From there, the eight-page ordinance includes the following sections:**

- Findings
- Purpose
- Definitions
- License Required
- Application; Investigation and Issuance of License
- Standards of Denial
- Standards for Suspension; Revocation
- Age Restriction
- Prominent Display of License; Price Charges and Names of Owners or Officers
- Prohibited Sites; Site Requirements
- Signs and Exterior Layout of Sexually Oriented Businesses
- Prohibited Activities
- Enforcement
- Penalties
- Severability
- Conflict with Other Ordinances
- Appeals
- Effective Date

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The shop's owner, who was living in part of the old motel, subsequently reopened in a tent, and then a 30-by-126-foot structure termed a temporary building, according to Code Enforcement Officer Dan Feeney. The permit for the temporary building has expired and Feeney said it's not clear whether the owner intends to build a permanent structure. He noted that there's a "for sale" sign on the property.

Vassalboro's ordinance, modeled on several used elsewhere, states that, "The regulations of the Ordinance are not directed at the content of speech but are directed at the negative secondary effects of sexually oriented businesses." It bars adult entertainment establishment from locating within 500 of another business, or within 1,000 feet of a church, school, day care center, public park or any residence.

There have been no applications under the ordinance yet, but the topless doughnut shop did spur activity in nearby communities.

### NEARBY TOWNS TAKE ACTION

China and Winslow both enacted adult entertainment ordinances, and in Sidney, which borders Vassalboro across the Kennebec River to the west, residents petitioned selectmen for a six-month moratorium on adult businesses while the town drafts an ordinance. A town meeting vote on the proposed moratorium was scheduled for March 19.

A similar approach is being taken by the Piscataquis County town of Guilford, which was responding not to an operating business but one proposed for neighboring Sangerville that was later withdrawn.

Town Manager Tom Goulette explained that townspeople are traditionally skeptical of land use regulation, but that this may be an exception.

"A lot of work went into crafting a comprehensive plan back in the 1980s, but people overwhelmingly voted it down at town meeting," he said. Since then, though, Guilford has been willing to adopt ordinances regulating lot sizes and restricting the keeping of livestock in certain parts of town.

Adult businesses do propose a challenge to any town trying to regulate them, Goulette said.

"What about private parties in restaurants with live entertainment?

We've had a few of those," Goulette said.

Not long ago, the town fielded an inquiry about a "head shop" that might feature items sometimes considered drug paraphernalia. But "are you really going to try to regulate anyone carrying candles, or tapestries or incense?" he said. "A lot of stores sell those kinds of items."

In the end, the planning board voted to propose a six-month moratorium that town meeting was set to consider March 16. If adopted, Goulette noted, selectmen could extend the moratorium another six months, which would allow any proposed ordinance to be considered at the 2012 town meeting, or a special town meeting earlier.

### RESORT AREA TOLERANT

"We probably wouldn't call a special meeting just for that," he said. In some communities, controversy about adult entertainment leads to no regulations at all. That was the case in Carrabassett Valley, home to the Sugarloaf ski area and widely known as a resort community.

"About 90 percent of our taxpayers are non-residents," Town Manager David Cota observed.

There was a flurry of interest from townspeople after a prominent story in the *Maine Sunday Telegram* last March described after-hours show on Sat-

urday nights at the Carrabassett Inn, put on an outfit called "PartyDancers USA" and featuring nude dancers.

The inn's owner called his decision to stage the shows "my economic stimulus package," and said, "I had to do something to keep my doors open."

Cota called the newspaper story "a bit over the top" and said the inn's owner had approached selectmen a little over a year earlier when he was considering offering the shows.

"The understanding was that there would be no big signs, no flashing red lights, nothing that would call undue attention to the place," said Cota. The shows "are only three hours a week, on Saturday nights, and they always end promptly at midnight, from what we hear," he said.

After the article ran, residents did appear at town meeting seeking to discuss the issue, with some suggesting a written survey of town residents. But selectmen ultimately decided that no action was necessary.

"We're a resort town, and our businesses reflect that," Cota said. He noted that the Carrabassett Inn had been closed for several years before the current owner reopened it, and said, "We have another restaurant, with reasonably priced meals, that we probably wouldn't have otherwise." As long as the inn keeps to the agreement, he doesn't foresee any action by the town. [mtl](#)



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# Timing Not Right for Power Supply Company

By Liz Chapman Mockler

As energy costs climb, a proposal to create a municipal power supply company has stalled but will continue to be studied and may one day be implemented by a number of Maine cities and towns – or perhaps even the state, officials say.

“The real message here is that we’re constantly needing to seek ways to improve our residents’ lives,” said Scarborough Town Manager Thomas Hall.

In mid-February, councilors and other officials from the towns of Cape Elizabeth and Scarborough talked with their counterparts from South Portland about an ambitious proposal to create and oversee a public electricity company. The idea was put on hold.

Hall said the three communities have “a rich history of collaboration” and the recent decision was strictly a financial one, based on a model proposal that would require as much as \$1.1 million to launch.

“Although our (energy proposal) has been put on hold, I don’t think our discussion was futile or time wasted at all,” Hall said. “We are trying to be innovative and creative and trying to save money for our taxpayers.

“The conversation had to start somewhere,” he added.

The essential idea of a public electricity supply company would be to save municipalities, residents and small businesses money on their light bills. There are a number of hurdles to such a plan, but most important is the rate of savings.

In today’s market, the difference is too small between what people now pay under the “standard offer” and

how much wholesale electricity would cost municipalities.

In order for a public power company to be successful in recruiting credit-worthy customers, the savings needed to be higher than the estimated 5 percent to 10 percent. The electricity would have been purchased from ISO-New England, the operator of the region’s bulk power system and wholesale electricity markets.

“The difference in the price of the

standard offer and the wholesale price is closer than it’s ever been,” Hall said.

## ‘VERY VALID’

If and when the market changes and the savings increase, the proposal “can be dusted off ... and the model will still be very valid,” Hall said.

A municipal power company would be a first for Maine and otherwise has been rarely tried in other parts of the country. As a “bottom-line issue,” of-



*This photo shows power lines near Rangeley, where freelance photographer Jeff Pouland traveled recently with his family.*

## COLLABORATION CORNER

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

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ficials from the three communities decided the financial risk and uncertainty was too great for the “narrow” rate of return – at least for now.

“At the end of the day, it was a good example” of how Maine cities and towns continually try to find more efficiencies and save taxpayers money,” said Erik Carson, assistant manager of South Portland, who led the effort in his city and is eager to get other cities and towns involved.

“It was a great forum as far as that goes,” Carson said of the recent talks.

Although South Portland and Scarborough councilors haven’t given up on the proposal, they agreed not to move forward but to further study the idea, Carson said. They also will monitor the energy trends and costs for a better time to talk seriously about a publicly owned electricity company.

Cape Elizabeth officials, meanwhile, decided outright that the initial investment of \$200,000 was, at this time, too expensive for the projected savings and the years it could take to realize them.

“It’s not going to happen,” Cape Elizabeth Town Manger Michael McGovern said. “The potential benefits

are just so narrow compared to the risk.”

He added, “It was clear to me the council is not interested in taking the risk.”

In addition to the financial risk,

Carson, who also directs economic development in South Portland, explained another hurdle: Convincing elected officials and voters that investing \$900,000 to \$1.1 million to start the project is a sound idea.

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Much of the money would be needed for cash flow to cover costs from the time the communities buy the wholesale electricity until customers start paying the initial bills. The money, which would be required by law, Carson said, would be put in escrow.

In addition to the wholesale price and winning voter approval, another hurdle would be deciding how many customers could be served, Carson said.

“Those three things are a real challenge,” he said. “Municipalities are not entrepreneurial by nature.”

### ECONOMIC DEVELOPMENT

Carson said he considers a public power operation to be an economic development tool that could both lure more businesses and jobs to the state, or stem their departure because of the high cost of energy in Maine.

Maine cities and towns are ill-equipped to take big risks right now, the officials agreed, because a lot of people have lost or are losing their jobs and homes at the same time the federal and state governments are pushing more fiscal pressures onto local governments so the feds and state can balance their budgets.

McGovern said Cape Elizabeth councilors raised many issues and questions during the February get-together. They were particularly interested in how many other cities and towns across the U.S. have tried such a venture; they also wondered if “public money should be used for something like this,” McGovern said.

For Hall in Scarborough, the prospect of generating income for municipal services from something other than property taxes is both “intriguing and exciting.”

“This was the first time in my professional career that we’ve talked about (a venture) that would not cost the taxpayer” after the initial investment, he said.

Carson agreed. “The councils appreciate the fact we are trying to reduce general fund liabilities” by finding new ways to raise money for municipal services while also saving residents on their power bills.

“But at the same time, there is a risk,” he said.

For now, officials said, none of the communities is ready to take it. 

## Working Together

Here are some of the collaboration efforts developed and carried out by the Metro Regional Coalition since its inception in 2006. The coalition is comprised of six Greater Portland communities: Cape Elizabeth, Falmouth, Portland, Scarborough, South Portland and Westbrook:

- Regional financial services group to procure common accounting software
- PACTS regional transportation plan
- Greater Portland Council of Governments purchasing program
- Cumberland County Community Development Block Grant entitlement initiative
- Reorganization of Regional Waste Systems as EcoMaine and increased community recycling participation
- Formation of sub-regional corridor coalitions to facilitate municipal collaboration and planning
- South Portland/Westbrook share assessing staff
- Public Works directors’ equipment-sharing program
- Falmouth/Portland coordination agreement re: “silver bullet” recycling containers
- Regional aerial mapping and data imagery
- Casco Bay Interlocal Stormwater Working Group involving 14 municipalities to cost effectively plan and manage unfunded, federal stormwater management requirements
- Scarborough/Saco sharing staff recycling coordinator
- Regional household hazardous waste-collection programs




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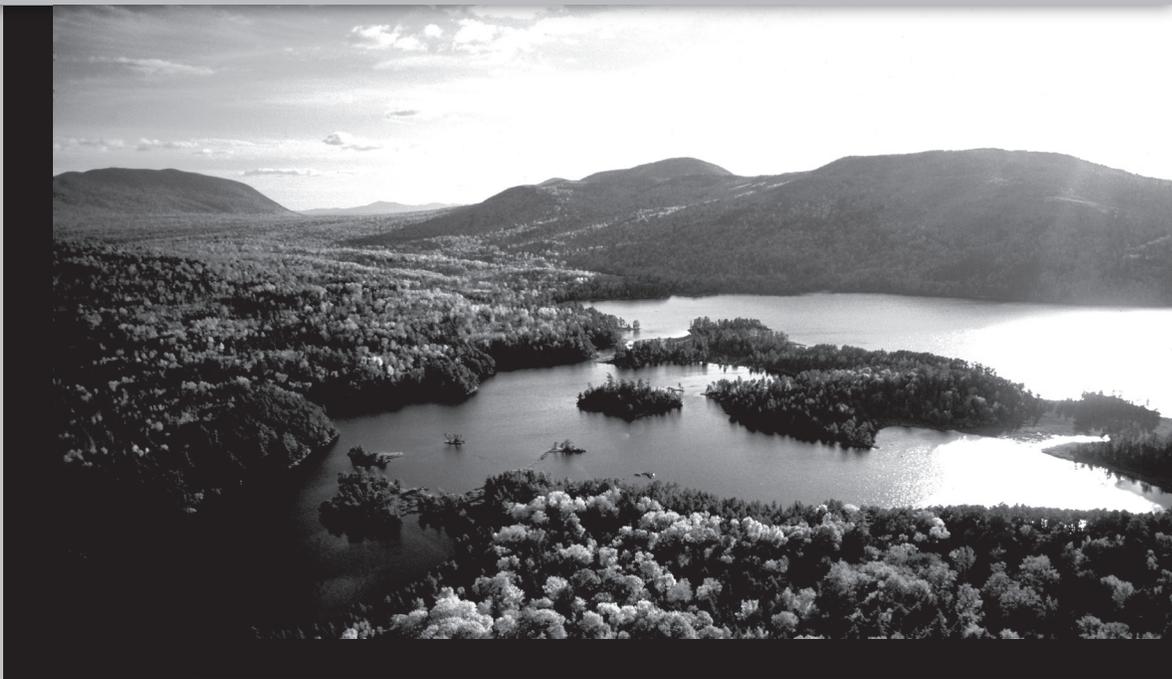
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# Municipal General Assistance Under Stress

By Jeff Clark

General assistance administrators around Maine are struggling to cope with rising demand as unemployment remains high and more Mainers use up their unemployment insurance.

Increasingly they are also seeing signs of economic distress rarely or never experienced before, such as landlords walking away from buildings they own.

"Bangor, in the first six months of this fiscal year, saw more people than all of last year," said Shawn Yardley, the city's health and community services director.

Saco averaged about 13 recipients a month for General Assistance in the 2007-08 fiscal year. Now, General Assistance Administrator Michele Hughes averages about 19 a month, although requests tend to cluster during autumn and winter.

In Lewiston the budget for general assistance has gone from \$494,000 in Fiscal Year 2008 to \$922,000 in FY 2010.

The reasons for the increases are as diverse as the communities themselves.

"Portland had a spike in general assistance requests a year and a half ago, and we didn't see anything like that up here then," said Yardley, of Bangor. "Perhaps it's taking a little bit longer to see the same issues here, but we're seeing now what they saw then."

## EXTRA HELP

He recently received permission to hire a part-time caseworker to supplement the four full-time caseworkers he already has. "We really needed the extra help. Our system was in danger of breaking down under the pressure."

Bangor does not have the large

industrial employers that generate correspondingly large layoffs. Instead, Yardley theorized, "we have a lot of people living on the edge, piecing together several part-time jobs and just getting by.

"When one or more of those part-time jobs go away, people just fall a little farther behind, drop a little deeper into poverty and end up needing help."

Part-time employment, he added, usually does not come with unemployment insurance coverage or health insurance. An accident or illness can cost someone a job and whatever small cushion she or he has built up.

Saco's Michele Hughes blamed the sluggish economy and layoffs for the increase in general assistance requests she has seen over the past three years. By the end of January, she had spent 42 percent of her \$89,000 budget for the current fiscal year, with some of the highest-need months still ahead.

"We're about half and half, repeat versus first-time applicants," she said. "Mostly what we see is requests for housing assistance."

The state reimburses municipalities for 50 percent of the general assistance outlays, a level that can jump to 90 percent in extreme cases where general assistance rises above a certain level related to the community's property value.

"We're running about 20 percent ahead of last year in the number of people we're seeing who need help," said Paris Town Manager Phillip Tarr.

Homelessness is a "big issue" in the western Maine community.

"A big part of the general assistance budget goes to motels and such, on almost a daily basis," he said. "Some people do couch cruising, where they

stay with family and friends for a few days at a time. After a while, they run out of places to go. Then we see them."

Tarr budgeted \$52,000 for general assistance in this fiscal year.

"Norway and Paris together are where the housing inventory is, plus services like food pantries and clothing and medical care," he explained. "This is where people come when they need help. And even if we see the same number of clients, the costs of helping them are going up. Fuel oil alone has jumped a lot."

## HOUSING AID IN BANGOR

Yardley said the "vast majority" of Bangor's General Assistance money goes to housing costs. "Last year, we budgeted \$2.4 million for General Assistance and \$1.7 million went to housing," he said.

Assistance varies depending on need and family size, but the most a single person eligible for general assistance can receive is about \$550 every 30 days, he added. A new application must be made every 30 days to receive aid if the recipient is still in need.

"Most of our general assistance people receive it for less than six months," Yardley said. The exceptions are largely people who have applied for federal disability payments.

"More than 30 percent of our general Assistance people have pending applications for SSI (Supplemental Security Income)," Yardley said.

The applications take up to 18 months to process but if successful Bangor is reimbursed for the general assistance money it provides to each applicant. Last year the city received about \$150,000 in SSI repayments.

Generally speaking, the increases in general assistance requirements

*Jeff Clark is a new freelance writer for the Maine Townsman. He lives in Bath, jeffreyclark@gmail.com.*

have hit the larger “service community” municipalities harder than smaller towns.

“The poor live where the housing and the services are,” Yardley noted, “so they move from smaller towns to the larger cities.”

### MANY FACTORS IN LEWISTON

Lewiston not only attracts people from surrounding communities, but also from other nations. Long known for its Somalian refugee community, Lewiston lately has attracted political asylum seekers from Djibouti, said Susan Charron, director of social services.

“Over the past five years, the change is that we’ve seen the new group of asylum seekers, people losing their jobs and running out of unemployment, and apartment houses that need heating oil because the landlords have walked away from them,” Charron said.

The latter, she said, is a relatively new phenomenon, but it appears to be spreading. “I’m hearing of the same thing in Augusta, Portland, and other places,” she said.

Refugees and political asylum seekers, who do not qualify for federal resettlement aid or other programs, make up about 22 percent of Char-

ron’s client base.

“That figure had been 50 percent in 2002,” she recalled, referring to the first years of the Somalian influx.

Last year, for the first time since the early 1990s, the city’s General Assistance outlays reached the point where it triggered the state’s 90 percent reimbursement level for a month and a half, said Charron, a 21-year veteran of the office. She expects it might happen again this year.

“Last year, the threshold was \$745,000,” she said. “My budget for

this year is \$1 million dollars.”

Charron says one new development has been instances where homeowners have used General Assistance to pay mortgages, but have ended up going into foreclosure anyway. In those cases, her office files a lien against the property to try to recoup the payments.

“I have four or five homes on foreclosure liens right now,” she said. “In all my previous years, I’ve had only one.”

Smaller communities are not reporting the dramatic increases that

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larger municipalities are seeing. Rockland, for example, is running almost neck and neck between this year and last year in applicants. Brenda Harrington, the city's general assistance director, suspects that may be due less to a lack of need and more to the alternative resources available in Knox County to help struggling individuals and families.

**TREND EMERGING**

In what may be an emerging trend, other organizations and programs are stepping up to help people who are down on their luck. For example, Rockland has a local Home Heating Assistance Program administered by Harrington and funded by donations, although she noted that donations are down this year even as costs are up.

"The City Council set it up in 2008 to help people in need who didn't quite qualify for general assistance or needed extra help," she explained.

By the end of January the program had helped 17 families or individuals and paid out \$3,700 for heating oil, compared to 20 people and \$3,400 all last winter. But the program is operating on past surpluses. This year

Harrington has received only \$750 in donations from two sources.

"Rockland is very fortunate," Harrington said. "We have several churches that assist people, plus a food pantry and the Salvation Army. I'm sure the need (for help) has increased, but not everyone is eligible for general assistance right away after they hit hard times. These other organizations help fill that gap."

Significantly, no one predicts that the need for general assistance will decline in Maine any time soon. Yardley

and others warn against jumping to conclusions about general assistance recipients or the need for the program.

"The biggest challenge I face is the impression that the people we serve are lazy or loafers or are somehow undeserving," he said.

"We're talking about people who are trying to escape abusive spouses, recover from illnesses, trying to find new jobs in a new town. Especially as budgets get tight, general assistance is not a cost that municipalities can control all that well. We can't not help." 

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# Key Principles for Managing Technology

By Ryan Barton

Ever hear complaints about computers at the office? Threats to toss the PC out the nearest window? Information Technology (IT) can often be a source of frustration. If you lack confidence about whether your municipality is staying up-to-date with technology, are concerned about the cost of IT and believe you could be leveraging computers more effectively, you are in good company.

As the business of local government evolves, the need for technology evolves with it. Managing technology effectively – budgeting for it, making sure it is implemented properly, overseeing the various details – is becoming an increasing challenge, especially for managers who do not have technical backgrounds.

The good news is that you do not have to know “geek speak” to manage technology effectively. In municipalities across the region, finance directors, town administrators, town managers and others are overseeing technology effectively and getting the most out of it, without caring whether “chip” refers to an Intel or a Dorito.

Making wise decisions about technology, IT budgets and new implementations requires a good grasp of certain key principles, not technical details. In other words, leveraging technology

successfully in a municipality depends on factors that can be controlled and learned by any good manager. Too often, municipalities inadvertently waste money and work on insecure, slow and unreliable networks, not because the administrators aren’t “techies,” but because they aren’t aware of some overarching principles.

## 1. Recognize technology can be a powerful tool and it can be effectively managed.

Computers get a bad rap. Sometimes deservedly so – it certainly is frustrating when something “crashes” or our jobs are hindered by various issues. However, to effectively manage technology we have to recognize and remember that it makes our lives easier, saves our staff valuable time and helps us serve the public better.

It is easy to be intimidated by technology. There is a dizzying array of terms, acronyms, applications, components and brands. However, any network is essentially a combination of a few basic items. You can make informed decisions by asking questions, seeking basic understanding and recognizing the role of technology. Consider a few practical steps:

**Think about your technology mindset.** If you view it strictly as a necessary evil, recognize all the power, cost savings and efficiencies it brings and how much more difficult the job of running a municipality is without it.

**Seek basic training.** Depending on how involved you are with IT, begin attending municipally oriented seminars on technology, talking with others and understanding the basic technology components in your office. Seek non-technical training to keep you informed.

## 2. Know where you stand by implementing internal and external audits.

As with any other critical aspect of your organization, you must know where your technology infrastructure currently stands before you can make any wise decisions regarding how it should best be handled.

One way to ensure that you have a solid grasp on the current state of your IT systems is to have a third-party IT firm complete a full systems audit at least once per year (some firms will even complete these audits at no charge). However, you can also perform a basic, but helpful, internal audit by evaluating the following categories alongside whoever manages the technical side of your network:

**Implement regular backups.** There are several key elements required for proper disaster recovery planning and, unfortunately, most organizations are missing some or all of these elements, putting themselves at risk.

Remember to ask:

- *How often are backups occurring?* These should be occurring at least daily.

- *Are backups being monitored on a daily basis?* If not, they can stop working and no one may catch it until it is too late. It is mortifying to find out that staff has been changing a tape daily, but backups stopped six months previously.

- *Is our backed-up data stored offsite?* If it is stored onsite, a fire, flood or theft could compromise the entire system, as the backups would be lost with the system.

- *What percentage of our data is being backed up?* One hundred percent of data should be backed up, including email, documents and databases.

---

*Ryan Barton is president of Mainstay Technologies, an IT firm specializing in providing the services of a full IT department to small-medium sized organizations. More information about Mainstay Technologies can be found at [www.mstech.com](http://www.mstech.com). For more information on this topic, Ryan can be reached at: [ryan@mstech.com](mailto:ryan@mstech.com) or by phone at 603.524.4774. (This article was reprinted with permission from the New Hampshire Local Government Center.)*

**Hardware and software.** The overall quality of servers and PCs is generally the most important aspect of any office in order to maintain an efficient workplace and keep your employees from unneeded stress. As a result, your IT equipment's proper maintenance must remain a major priority.

Remember to ask:

- *What software or hardware has valid warranties, and when do those warranties expire?* Often, new applications or equipment are purchased needlessly because administrators are unaware that problem PCs or servers are still under warranty.

- *In the past year, what have been our recurring issues and how have they been resolved?* Reviewing where the problem areas have been can help set appropriate priorities for hardware replacement, determine where software applications may need to be changed and ensure that problems are being taken care of rather than being pushed aside.

**Passwords.** If IT personnel are the only ones who know system passwords, all of your data and business functions can ultimately be controlled by some-

one other than you.

Remember to ask:

- *Are the administrator passwords (and any other system passwords) in a secure location, accessible to the town administrator,*

*manager or other lead person?*

**Documentation.** If you're to truly know where you stand, you must rely on more than the good word of your IT staff. You must have evidence that

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Remember to ask:

- *Is there basic documentation of network, server and software setups? If so, where are they being stored?* Having this documentation readily available helps ensure the IT department is supporting IT properly and helps in the event of a transition of IT support personnel.

- *Is all of our software properly licensed, and where are the proofs of licenses stored?* Far too frequently, an overzealous IT person will install one copy of Microsoft Office on multiple computers! This can become a significant legal liability.

### 3. Plan ahead.

Too often, response to technology is solely reactive and focused on fixing issues. It is much more effective to plan ahead. Below are a few practical steps to ensure that you're thinking forward, not backward.

*Spend time on the IT budget.* For a typical municipality, it makes sense to have one place in the budget for all IT

items. While specific department items may be budgeted separately (such as laptops for police cruisers), it is recommended to have all technology items in an IT section in the budget, broken out into line items that help you predict costs of hardware, software, renewals and support services. Plan ahead several years for major system enhancements and replacements.

*Implement a computer replacement schedule.* Computers should generally be replaced every five years. Create a basic plan that outlines when each computer, server and infrastructure component will be replaced to allow

for easy budgeting.

*Consistently review upcoming technologies.* Ensure your IT department is giving you information on new technologies and consistent recommendations. Find ways to stay up to date in the industry (through seminars, publications, etc.) so you can be aware of what is coming. However, only implement new technologies when there is a good business case to do so.

*Include your website in IT planning.* Your website should be an ever-evolving tool that assists in providing services and increasing communication. Online registration, online property



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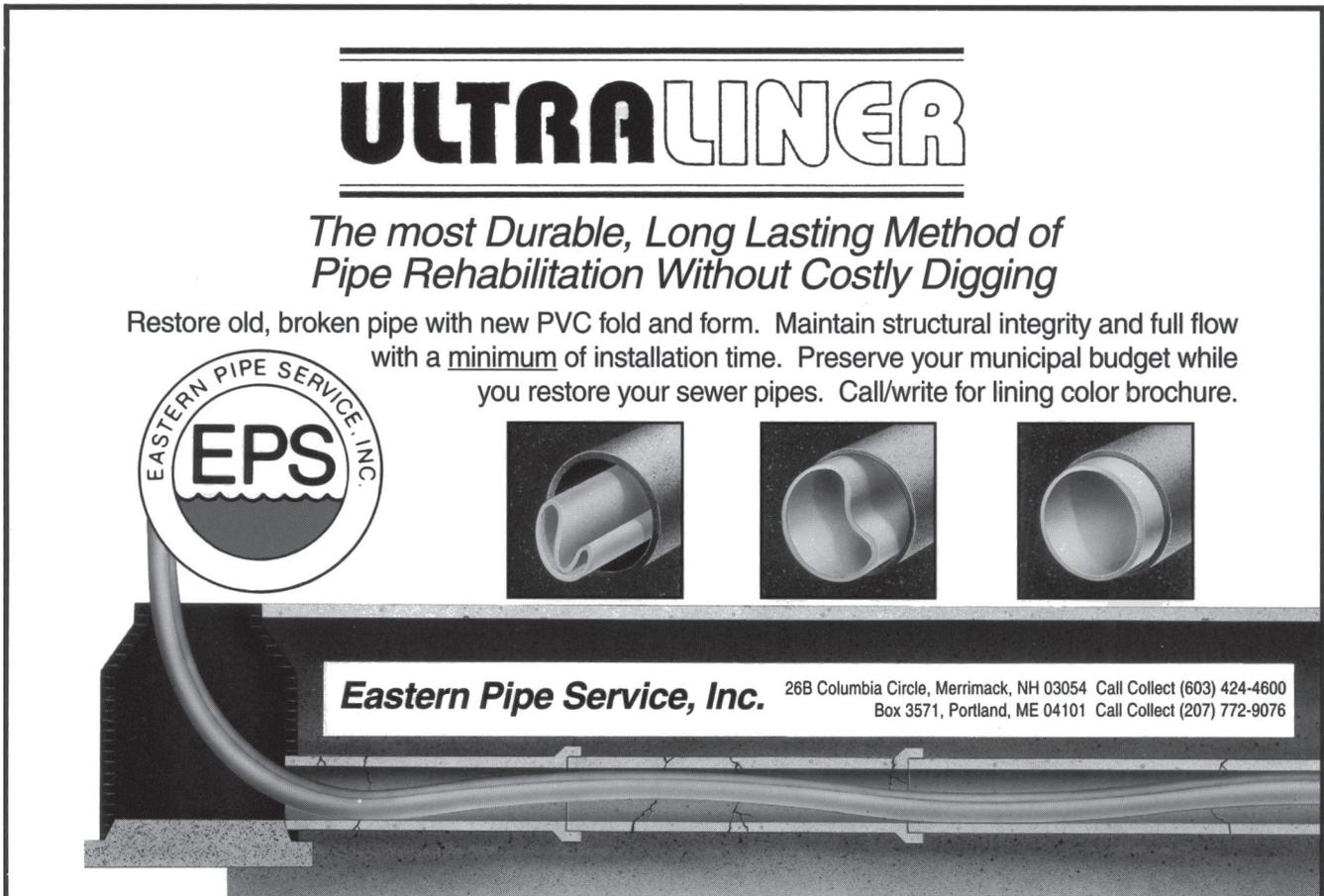
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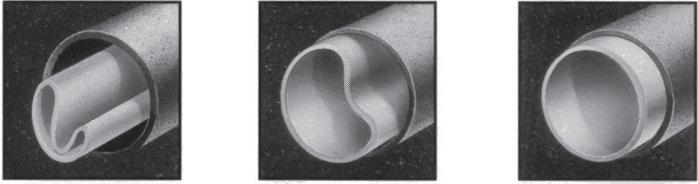
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#### 4. Focus on efficiency and staff training.

If better technology can save an employee 10 minutes per day, that adds up to over 40 hours (one full work week) every year. Multiply the productivity savings by every employee in the organization, and the savings become significant. Consider these practical steps:

**Purchase a second monitor for all staff members who spend significant time in multiple programs.** Implementing dual monitors effectively doubles the size of an employee's work space, enabling them to save much of the time they would normally spend going back and forth between applications.

**Ensure all staff has up-to-date, well equipped computers.** Getting one more year out of that computer may seem to save cost, but it can be expensive through lost productivity.

**Provide staff training on proper typing techniques and keyboard shortcuts.** If your employees spend much of their time responding to emails, entering data, creating forms, etc., how much time could be saved by increasing their words typed per minute?

**Consider blocking non-work related and time-killing websites.** (Such as YouTube or Facebook.) This can be done for whole categories of sites (including blocking illicit material) at no cost through a service such as [www.opendns.com](http://www.opendns.com).

#### 5. Do not allow security to be neglected.

Even as you read this, your network is under attack. Any device connected to the Internet is constantly bombarded with threats and it gets worse every year. Hackers can use a compromised system to attack others, and they are also targeting bank account information with greater frequency and success. Tighten your security with the following strategies:

**Review your staff IT policies.** A municipality should have a specific policy (often integrated into the employee handbook) covering acceptable usage of the computer. Things to look for in a good policy: no installing applications without permission; no browsing illicit sites; no unsecured transport of confidential data; appropriate (if any)

use of social media; no sharing of login credentials; no malicious use of the systems; and the right of the municipality to monitor any and all usage.

**Implement secure remote access.** Make sure any remote access is done only over a secure protocol and with authorized staff.

**Make sure security systems are up to date.** For example, request information demonstrating antivirus software is installed on all computers and is up to date. Every network should be protected by a firewall and antivirus software at a minimum.

**Implement a password policy.** All accounts should be password protected. Passwords should be complex, containing multiple types of characters (for example, *socrates* is a weak password, but *\$0crat3S* is an acceptable password).

#### 6. Use the right partners.

Technology works well when it is planned for, implemented with industry best practices, maintained proactively and supported around the clock. It is important that you rely on the right support staff for all technology systems. Here are a few tips to help you make the right call when evaluat-

ing potential IT staff or outsourced partners:

**Recognize that things are supposed to work properly.** If there are constant issues, that is a sign that there are core issues with the system or the support personnel.

**Implement a support team.** If you are relying on one person for all IT matters, consider supplementing that person with an outside IT firm to assist with complex issues, projects and year-round coverage.

**Consider the cost of outsourcing versus having your own IT department.** If you are considering hiring a full-time staff person for IT, first consider putting out an RFQ (Request for Qualifications) to the IT firms in your area so you can compare costs and service levels.

Be encouraged: Even a non-technology savvy manager can follow these practical steps. With a little proactive attention, your organization can reap significant benefits, you can successfully manage the implementation and support of technology, reduce risk, reduce downtime, improve productivity and save money.

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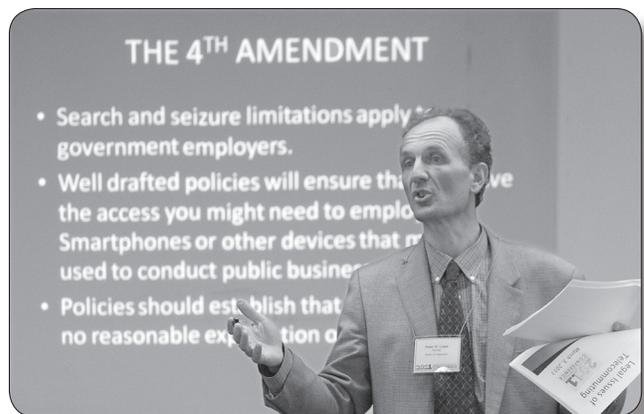
Auburn City Manager Glenn Aho conducts a session titled: Creating Accountable and Efficient Government through Innovative Technology.



Attendees chat with each other during a break period.



Holden Town Manager John Butts, right, chats with Stacy Perry, a conference partner, from MuniPAY/ Nationwide Payment Solutions.



Attorney Peter D. Lowe, a partner at the Brann & Isaacson in Lewiston, conducts a session titled: Telecommuting: Is it a fit for Municipal Government?

(All photos by Jeff Pouland)



**Lionel Gilbert** spent 70 of his 94 years serving the town of Manchester in many capacities, including as a selectman, tax collector, treasurer, planning board member and a founder of the fire department. Gilbert died on Feb. 8 at the Maine Veterans Home in Augusta. He had fought in World War II as a gunnery sergeant. He is survived by his wife, Betty, and their four children.

**Charles Applebee** recently received the Alfred E. Peloquin Award from the New England Water Environment Association for his "high level of interest and performance" in running the City of Gardiner's Wastewater and Public Works Department. Applebee is presently the NEWEA's Maine president after serving as president of the Maine Wastewater Control Association in 2008.

The Maine Chiefs of Police Association honored Presque Isle police officer **Larry Fickett** and Caribou paramedics **Scott Susi and Scott Dow** for saving the life of an accident victim who was pinned under a vehicle. Realizing there was not enough time to wait for firefighters who could extract the middle-aged man from beneath the car, the Caribou paramedics called for help from neighboring Presque Isle. While Susi and Fickett lifted up on the rear bumper of the car, Dow pulled the man to safety.

Manchester selectmen promoted **E. Patrick Gilbert** to town manager in February after working nearly five years for the town as code enforcement officer. Gilbert also had been serving as interim manager following the death of longtime Town Manager **Mark Doyon** last October. Gilbert, 49, of Hallowell, was among more than 30 candidates who applied for the job. He is a former director of city services and public works for the city of Gardiner, town manager of Turner and served as Hallowell manager for eight years.

**Matthew Irwin** has traded the warmth of Florida and his job as a high-profile sheriff's lieutenant for the often-bitter cold of northern Maine to take the job of police chief for the City

of Presque Isle. Irwin, who has more than 25 years of police experience, has been recognized in Orange County, Fla. as a top county police officer. He replaces Naldo Gagnon, who retired in November after 31 years with the department, the last 14 as chief.

**David Markovchick**, Brunswick director of Economic and Community Development, has accepted the job of economic director of the Midcoast Regional Redevelopment Authority, the agency charged with redeveloping the former Brunswick Naval Air Station. Markovchick, who has worked for Brunswick since June 2009, was expected to start his new job in early March.

South Bristol Town Clerk **Mary Jane McLoon** retired on Jan. 28 after working for the town for 12 years, including as deputy town clerk. McLoon also was working as registrar of voters at the time of her retirement.

Bangor Engineer **Jim Ring**, who has earned high praise over many years for significant improvements to the city, retired in mid-February after nearly 40 years of public service. "What started as a temporary job in 1972 turned into a pretty great career," Ring told the city council, according to the Bangor Daily News. Ring served as public works director, among

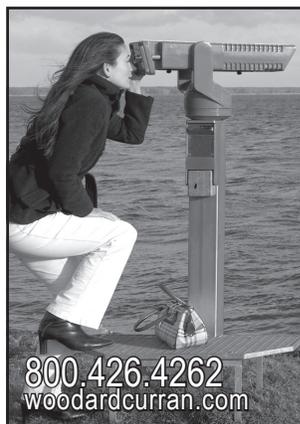
other jobs, before settling in as one of Maine's few municipal engineers. **Art Morgan**, a veteran staff member in the Engineering Department, will serve as interim engineer until a full-time replacement is hired.

**Edward "Skip" Rowe Jr.** resigned as Farmingdale road commissioner in February, less than a year after taking the job in 2010. Rowe, who ran a groundskeeping business with his brother for nearly 30 years, said he was simply tired and looked forward to semi-retirement.

**Janet Smith** of Wiscasset has been named Durham administrative assistant, replacing **Warren Hatch**, who resigned last November. Smith started her public service career in 1985 as a bookkeeper for the Town of Warren. From 2005 until last month, Smith worked as treasurer and tax collector for the Town of West Bath. Smith, 44, also has law enforcement experience as a former Lincoln County sheriff's deputy and a part-time officer for the town of Damariscotta.

Palermo's 2010 annual report has been dedicated to the husband-wife team of **Ann and Dean Willoughby** for their decades of public service, particularly their work as volunteer firefighters and fire warden. 

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



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COMMITMENT & INTEGRITY DRIVE RESULTS

**Statewide:** Maine Municipal Association encourages members to submit “Then” and “Now” photos from their communities for a photo contest. Winners will be recognized at the 2011 MMA Convention and will be featured in a calendar to be made available later this year. The calendar is part of MMA’s 75<sup>th</sup> Anniversary Year, during which municipal officials and service throughout the state will be celebrated. For details and an entry form, visit the MMA website at [www.memun.org](http://www.memun.org) and click on the 75<sup>th</sup> Anniversary logo at the upper left.

**Bangor:** The city’s financial position is strong and steady, according to an independent audit conducted recently by a South Portland firm. The city hopes to build a \$65 million arena and convention center, but critics have complained the city could not afford the project. But according to the audit, Bangor’s undesignated fund, tax-collection rate and long-term borrowing obligations are as good as or better than all other Maine communities of similar size.

**Damariscotta:** Town officials are meeting with their counterparts in neighboring Newcastle to reach agreement on how the two coastal towns can combine their public works operation to save money and avoid future costs. Any accord reached between the towns would need approval of voters from both communities.

**Dixfield:** Town police announced a new program in late February to check on residents who are unable to leave their homes or have special needs. Police Chief Richard Pickett said there are five residents the department knows about who need monitoring and invited people to call the town if they know others who could benefit from the service. Under the Operation Sunshine program, part of the routine duties of patrol officers now will be to check on residents twice a week and to visit with them at least once monthly.

**Kingfield:** Residents can dump all of their recyclables into one container under a trial program to reduce solid waste disposal costs by encouraging more recycling. The so-called “single

sort” recycling program being adopted by more and more Maine communities does not require people to separate their recyclables. Other municipalities in Maine that have switched to the single-sort system have seen significant increases in recycled goods.

**Old Orchard Beach:** The police department will begin a so-called “Citizens Patrol” and give volunteers a retired police cruiser to help them act as ambassadors for the department, officials said in February. The volunteers are meant to observe but not to confront people. In addition to a neighborhood watch

effort, the volunteers also will help during town festivals and parades. Some of the first volunteers will be graduates of a Citizens Police Academy sponsored by the department last year. Monthly training sessions are planned.

**Scarborough:** The vast majority of residents who returned a recent town survey indicated they were either very satisfied or satisfied with police and fire protection services and the quality of life in the town of about 19,000 residents. The surveys were mailed randomly to 1,300 households; 244 surveys were returned. 

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## 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*.

- **Technology Conference.** Read the presentations and see photos from the 2011 Municipal Technology Conference, which was held March 3 at the Bangor Civic Center. Dick Thompson, former Chief Information Officer for the State of Maine, delivered the opening keynote address to more than 200 attendees.
- **Revenue Sharing.** Twenty-seven municipal officials from across the state gave testimony opposing major changes to the state revenue-sharing program. The hearing, held before the Legislative Taxation and Appropriations & Financial Affairs committees, focused on Gov. Paul LePage’s proposed two-year budget, which would further reduce revenue-sharing funds and would make the money an annual appropriation rather than an ongoing program.
- **MMA Year in Review.** Maine Municipal Association’s inaugural edition of a publication that highlights key MMA activities, services and accomplishments is now available online. The document touches on achievements from all MMA departments, from Advocacy Services to Legal Services and from Risk Management Services to the Maine Municipal Employees Health Trust.



# Municipal Bulletin Board

## TAX LIEN PROCEDURES

The Maine Municipal Tax Collectors' and Treasurers' Association will sponsor a one-day workshop on Tax Lien Procedures on March 24 at Keeley's Katering in Portland. The workshop starts at 8:30 a.m. and concludes 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: 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. Registration is available online at: [www.memun.org](http://www.memun.org). Municipal Liens Manuals can be purchased by calling MMA at 1-800-452-8786, ext. 2291.

## PLANNING BOARD/BOA: SOUTH PORTLAND, AUGUSTA

MMA's Legal Services Department will host sessions for local Planning Board and land use Boards of Appeal members from 5:30 to 9 p.m. on March 15 at the Embassy Suites in South Portland and at MMA's Conference Center in Augusta on March 23.

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. Registration is available online at: [www.memun.org](http://www.memun.org)

## MUNICIPAL ROLES: UNION

The Midcoast Management Association and Town of Union will host a workshop about the proper roles of Selectmen, Councilors and Managers on Wednesday, April 6 at the Union Town Hall.

The workshop, being organized by MMA, will be led by former Portland City Councilor and Mayor Pam Plumb and by Don Gerrish, a long-time town

and city manager who is now a municipal consultant with Eaton Peabody.

The workshop will begin at 6 p.m. and will end at about 8 p.m. A light meal will be provided by the Town of Union. The cost is \$20 per registrant for MMA members and \$30 for non-members. Reservations are available on a first-come, first-served basis through MMA's Communication & Educational Services Department, which can be reached at: 1-800-452-8786.

## ADVANCED GA

The Maine Welfare Directors Association is holding an advanced GA workshop on March 25 at the Maine Municipal Association conference center in Augusta. The workshop will run from 8:30 a.m. until 3:30 p.m.

Presenters include: Dot Meagher, from the City of Auburn; Stacy Parra, from Rockport; Rene Daniel, from Westbrook; Linda Fossa, from Waterville; Sue Charron, from Portland; and, Ellen Heath and Jerry Biron from the Maine Department of Health & Human Services.

The workshop is tailored to help selectmen, GA administrators, town and city managers and others responsible for administrating General Assistance. Topics to be addressed include emergency requests, fair hearing, pooling income and funerals. The cost is \$35 for MWDA members and \$60 for non-members. Registration is available online at: [www.memun.org](http://www.memun.org).

## 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 April 1 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. Registration can be done through the MMA website.

## MCAPWA SPRING MEETING

The Maine Chapter American Public Works Association will hold its Annual Spring Meeting on Thursday, April 7 at the Waterville Elks Banquet & Conference Center. The event runs from 8 a.m. to 1:10 p.m. and costs \$30 to attend, including lunch.

Among the featured speakers will be David Bernhardt, the newly appointed commissioner of the Maine Department of Transportation. Also presenting will be Peter Coughlan of the Maine Local Roads Center and Abigail DiPasquale of Maine Municipal Employees Health Trust. A MCAPWA board meeting will follow lunch.

Registration is available online at: [www.memun.org](http://www.memun.org) and click to open the brochure for the April 7 event. [www.mcawpa.org](http://www.mcawpa.org)



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## SNOW REMOVAL BUDGETS

With the return of an old-fashioned winter to most of Maine this year, municipal snow removal budgets are rapidly being depleted. What are the options if the winter roads budget can't keep pace with the weather?

Well, to begin with, the municipal officers (selectmen or councilors) have no general or inherent authority under State law to exceed appropriations (see "Budget Overdrafts," *Maine Townsman*, "Legal Notes," May 2008).

In addition, MDOT Rural Road Initiative funds, which are generally limited to capital improvements, may be used for winter highway maintenance *only if* there are no rural state aid minor collector roads in the municipality *and* the municipal legislative body has voted that its town ways and bridges are in sufficiently good repair so as not to require significant repair or improvement for at least 10 years (see 23 M.R.S.A. § 1803-B(1)(A)(2)).

That said, the longstanding law authorizing up to a 15% overdraft in municipal road budgets was amended in 2009 to include road *maintenance* as well as road repairs (see 23 M.R.S.A. § 2705). Thus, the road commissioner may now, with the written consent of the municipal officers, spend up to 15% more than what was appropriated for roads if that amount was insufficient for maintenance, including snow removal, or repairs. (But note that even with this authority, an overdraft must still eventually be funded by a supplemental appropriation. The authority to overdraft the roads budget simply constitutes authority to spend more than what was originally appropriated – it does not, by itself, actually fund the overdraft.)

In addition, if the municipal legislative body (town meeting or town or city council) has established a contingency account or has authorized expenditures from other accounts in case of emergency, the municipal officers may utilize these funds for unanticipated snow removal costs.

If there is no contingency fund or emergency spending authority and the statutory 15% overdraft has been exhausted, the municipal officers may have to seek additional funding from

the legislative body. Funds may be appropriated from any available source, including surplus, unexpended balances in other accounts, even borrowing (but not additional taxes if taxes have already been committed for the year). The municipal officers may want to couple this request with a request for emergency spending authority in the event that even the additional funds are insufficient.

Where the voters are the legislative body, the municipal officers should, if at all possible, request extra funding *before* the winter roads account is overdrawn. (A special town meeting can be called with seven days' notice, and there is generally no quorum requirement.) Waiting until afterwards for the voters to ratify an overdraft is risky strategy unless the municipal officers can be confident of their after-the-fact approval. (By *R.P.F.*)

## 'RED FLAGS' RULE REVISED, MOST UTILITIES EXEMPTED

The Federal Trade Commission's "Red Flags" rule has been revised in a way that now renders it inapplicable to most utilities, including municipal sewer and water departments. (As originally drafted, the rule required entities that regularly permit deferred payments for goods or services to adopt identity-theft prevention and detection programs; this included most utilities.)

Late last year Congress passed the Red Flag Program Clarification Act of 2010, which was signed into law on December 18<sup>th</sup>. The new law "clarifies"

who is subject to the rule by redefining "creditor."

Creditor is now limited to an entity that regularly (1) obtains or uses consumer reports, directly or indirectly, in connection with credit transactions; or (2) furnishes information to consumer reporting agencies in connection with credit transactions; or (3) advances funds based on the recipient's obligation to repay or which are repayable from specific property pledged by the recipient. Specifically *excluded* from this third category are entities that advance funds for expenses incidental to a service provided by the creditor to that person.

Since most utilities neither obtain or use consumer credit reports nor furnish information to consumer reporting agencies, and since utilities advance credit only for expenses incidental to a service provided, most utilities are now exempt from the Red Flags rule. Thanks to Bangor-area attorney Thomas A. Russell for bringing this to our attention.

For a look at the new law, go to [www.ftc.gov/redflagsrule](http://www.ftc.gov/redflagsrule). (By *R.P.F.*)

## PLOWING SNOW & SLUSH INTO PUBLIC ROADWAYS

We've all witnessed it. Someone clears his driveway by plowing or snowblowing the accumulated precipitation into the public street and just leaving it there, either hoping it will somehow "disappear" or (more likely) caring not at all what happens to it. Either way, it's an annoyance to public works and a

The logo features a stylized 'M' with a house-like shape on top, followed by the words 'Municipal Calendar' in a serif font.

**DURING APRIL** — Municipal officers of municipalities over 2,000 population, and of any other town so voting at town meeting, shall appoint an inspector of buildings (25 MRSA §2351).

**APRIL 1** — Municipal assessments are controlled by this date (36 MRSA §502).

— Monthly/Quarterly expenditure statement and claim for General Assistance reimbursement to be sent to Department of Human Services, General

Assistance Unit, DHS #11, Augusta, ME 04333 (22 MRSA §4311).

**APRIL 18** — Patriot's Day, third Monday in April, a court holiday (4 MRSA §1051).

**ON OR BEFORE APRIL 21** — Every employer required to deduct and withhold tax shall, for each calendar quarter, file a withholding return and remit payment as prescribed by the State Tax Assessor (36 MRSA §5253).

safety hazard to motorists. Oh, and it's also against the law.

Title 29-A M.R.S.A. § 2396(4) prohibits a person from placing and allowing to remain on a public way any snow or slush that has not accumulated there naturally. A violation is deemed a traffic infraction, the penalty for which is a fine of between \$25 and \$500, or the suspension of a license, or both (see 29-A M.R.S.A. § 103).

First-time violators of this law may well reform with just a warning, but repeat offenders should be referred to law enforcement authorities for citation and possible prosecution. Photos of the offense(s), with time and date stamps, are especially helpful evidence for the authorities.

Incidentally, while pushing snow or slush into public roadways is a violation of law (see above), snow or ice on roads is not considered a highway "defect" under Maine's "Pothole Law" (see *Wells v. City of Augusta*, 135 Me. 314 (1938)). Nor can municipalities be held liable for accidents caused by snow or ice on roads (see 23 M.R.S.A. § 1005-A(1)).

For a description of other prohibited road obstructions and how to deal with them, see Chapter 6 of MMA's *Municipal Roads Manual*, available free to members at [www.memun.org](http://www.memun.org). (By R.P.F.)

### REMINDER TO NEW OFFICIALS RE RIGHT TO KNOW TRAINING

March is Maine's traditional town meeting season, so with a fresh crop of elected (and reelected) municipal officials this month, let's remind everyone about the 2008 law that requires certain local officials to complete Right to Know training (see 1 M.R.S.A. § 412).

*Who must complete the training?* Selectmen, councilors, school board members and *elected* clerks, treasurers, assessors and budget committee members. Appointed officials are *not* subject to the requirement (although all officials should be familiar with the Right to Know law).

*When must the training be completed?* Officials who are subject to the requirement must complete the training within 120 days after they take the oath of office. For officials serving multiple

terms, training must be completed within 120 days after taking the oath of office for each new term

*How can the requirement be met?* By thoroughly reviewing all of the information on the State's Freedom of Access website (<http://maine.gov/foaa/>) under Frequently Asked Questions (this is a self-study option and is free of charge). Or by attending any other training (including MMA's) that includes all of the information on the State's website.

*How must compliance be verified?* Officials must make a written or electronic record certifying that they have completed the training and identifying the training completed and the date of completion. This record must be kept

by the official or filed with the municipality (we recommend filing it with the municipal clerk).

Although compliance is self-certified, it is very important that officials take this training requirement seriously. Not only is it the law, but Right to Know watchdogs, including the Maine Freedom of Information Coalition, will undoubtedly be checking from time to time to test for municipal compliance (see "Another FOAA 'Audit'?", *Maine Townsman*, "Legal Notes," May 2006).

Forms for certifying compliance are available on the State's website and also on MMA's website ([www.memun.org](http://www.memun.org)) under our "Information Packet" on Right to Know. (By R.P.F.) 

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