

November 2010

# maine townsman

The Magazine of the Maine Municipal Association



**SHOCK RADIO?  
Deadline Approaches  
for Narrow Band Conversion**

**ALSO IN THIS ISSUE:**

From the Executive Director | Rails to Trails | Convention Highlights!

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# maine townsman

The Magazine of the Maine Municipal Association

## From the Executive Director

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Maine Municipal Association Executive Director Christopher Lockwood shows how deliberate and sincere MMA was this year in reaching out to the candidates for governor. The votes have been cast, the winner is known – and MMA's pledge to work constructively with the new governor remains.

## The Skinny on Narrow Band

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The federal government's deadline for municipalities to convert to narrow band radio is less than three years away. Is your municipality ready? Do its budgets reflect the deadline and new reality? State and municipal officials offer their thoughts on narrow band radio conversion and how ready communities are.

## From Steam Power to Pedal Power

13

It's an undisputable trend: Communities across Maine are converting old railroad property and beds to trails used by bicyclists, runners, hikers and all-terrain vehicles. This article shines a light on the phenomenon, its economic benefits and notes how time-consuming and expensive the process can be.

## Success or Failure?

19

Gov. John Baldacci's school consolidation effort produced mixed results statewide, most municipal officials concur. Some areas experienced good cooperation among towns, while others didn't. Some officials report that school programs improved, while others say cost savings did not materialize.

## Convention Scrapbook

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The 74th annual MMA Convention was a hit, from keynoter Travis Roy to presentations on rural states' economies, downtown revitalization and keeping your chin up during anti-government times. Check out our convention photos and a recap.

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**COVER PHOTO:** GETTING NEW FREQUENCIES: Portable five-watt narrow band capable radios at Bangor Fire Department's Central Station. (Photo by Jeff Pouland)



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## A Message From MMA



by Christopher Lockwood, Executive Director

### Reaching Out To Maine's New Leader

As I put the finishing touches on this column, on the day after the election, it just became official that Paul LePage will be our next governor. Congratulations, Mayor LePage. We want to assure our members and the public that the Maine Municipal Association is committed to forging a constructive working relationship with the State's next chief executive.

We began this quest early in 2010 with the publication of our "2010 Municipal Priorities Paper" which was sent as an open letter to each of the announced gubernatorial candidates. This effort was followed up with informal meetings with our advocacy staff, more formal videotaped interviews in July with the MMA Executive Committee and a gubernatorial candidates' forum on Oct. 13 during the MMA annual convention.

We are hopeful our newly elected Governor will recognize and respect the important role and value of municipal governments in our intergovernmental system. Municipalities are not a special interest. Rather, elected municipal officials represent their citizens and local businesses, the same ones that officials at the state and federal levels represent.

Municipal government is closest to the people, and all of the candidates for Governor appeared to recognize that Maine's towns and cities can be both nimble and resourceful in finding efficient and effective ways to deliver needed services.

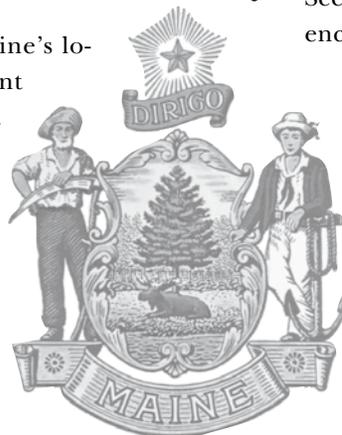
In addition, the essential frugality of Maine's local governments has been borne out by recent studies, such as the 2006 Brookings Report (*Charting Maine's Future*) and the recently

released *Reinventing Maine Government* report in which municipal expenditures in Maine compared very favorably to municipal spending at national averages or among Maine's rural "peer" states.

The Maine Municipal Association stands ready to work with our next Governor in addressing the many challenging issues facing the citizens and businesses of Maine. We are open to any and all suggestions regarding ways in which a constructive working relationship, built on mutual respect and trust, might be forged. Here are a few thoughts for consideration:

- Regular meetings with the MMA Executive Committee.
- Seeking municipal input at the front end of addressing key budget and policy issues.
- Designating a municipal liaison within the Governor's office and in key state agencies, such as Transportation, Environmental Protection and Education.
- Meeting informally with MMA's 70 member Legislative Policy Committee from time to time to discuss issues and receive input.
- Conducting listening sessions or cabinet meetings in towns/cities in different areas of the state.
- Seeking individuals with strong municipal experience for positions within the Administration.

We offer our congratulations and commitment to work in good faith as a new Administration and Legislature take office. [mm](#)

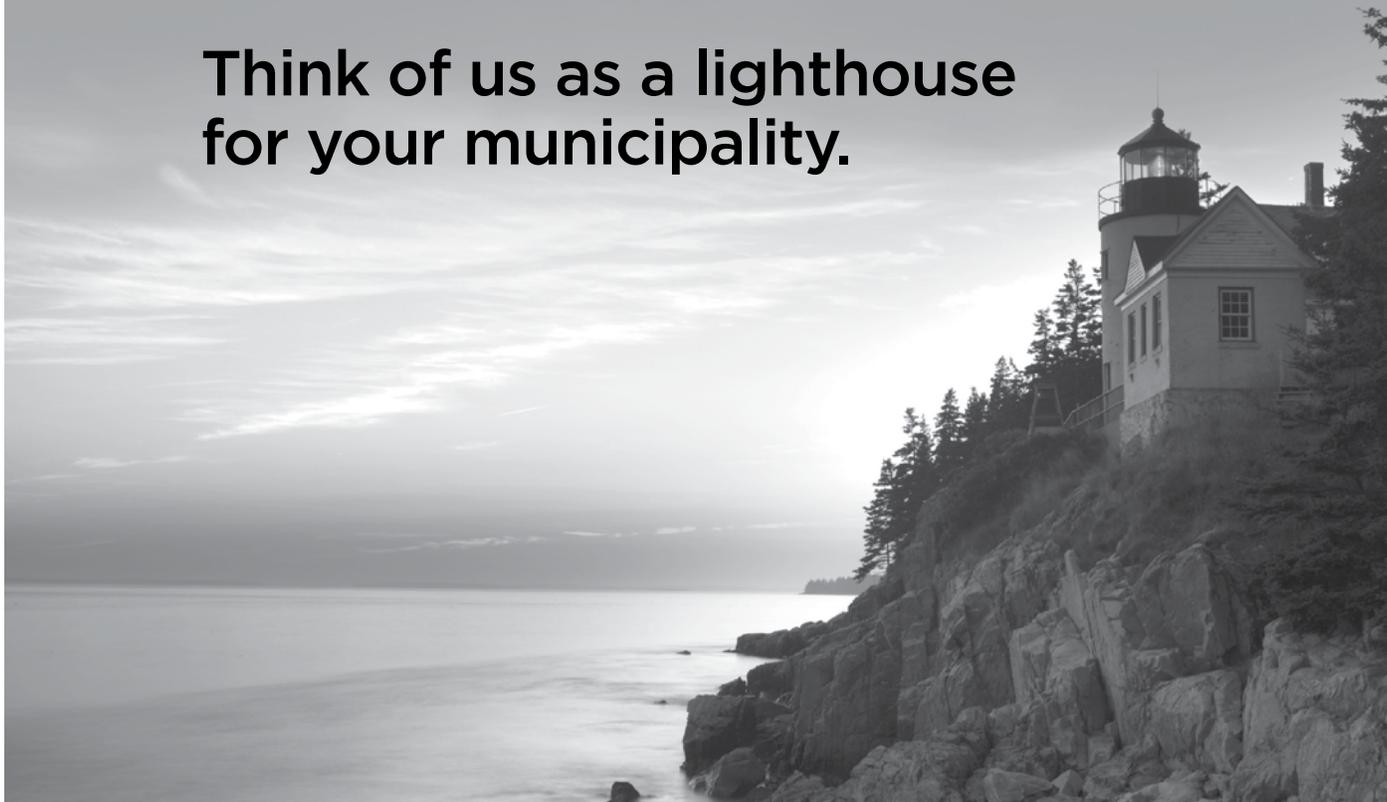


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# Nearing Crunch Time For Narrow Band Conversion

By Lee Burnett

It's getting close to crunch time financially, and many towns still need to upgrade their radio equipment to a narrow band frequency as required by the Federal Communications Commission.

Maine Emergency Management Agency has been awarding grants and beating the drum for years to get public safety agencies to comply with the FCC's January 2013 deadline.

But a recent survey found that remaining upgrades will cost an estimated total of \$4.5 million, which is far more than what's available grant funding, according to Robert McAleer, Director of Maine's Emergency Management Agency.

"I understand the challenges out there ... Some will need help," said McAleer. "My concern is with those who think someone is going to ride in on a federal horse with a big bucket of money. That is not going to happen."

Agencies that fail to switch over by the January 2013 deadline risk losing their licenses altogether, said Steve Mallory, Communications Interoperability Coordinator for MEMA. In the municipal world, those affected include not just police officers, firefighters and ambulance crews, but school bus drivers, park groundskeepers, lifeguards and water and sewer district maintenance workers.

"The FCC is not going to go for an extension [of time]. This has been in the works for over 10 years," Mallory said. "Are they [FCC] going to go to Podunk, Maine and pull the radio out of your hand? No, they're not."

But scofflaws could be ordered off the air, recalcitrants fined and eventually ordered to surrender licenses, he said.

---

*Lee Burnett is a freelance writer from Sanford, [leeburnett\\_maine@hotmail.com](mailto:leeburnett_maine@hotmail.com)*

Some small communities face upgrade costs of tens of thousands of dollars. Two years is not a lot of time to raise funds, purchase equipment, relicense frequencies and arrange for reprogramming radios, said Stephan Bunker, Operations Manager for the Emergency Services Communications Bureau. Bunker also serves as Selectman in the Town of Farmington and as a member of the Maine Municipal Association Executive Committee.

"If they haven't even taken the first step, [the timetable] can be a very short. They need to hustle, particularly if they've thought of it as only a public safety issue," said Bunker.

## NEED TO BE NARROW

In 2004, the FCC ordered radio users to narrow their signals in order to preserve scarce bandwidth on the airwaves in the face of explosive growth of cell phones and other wireless devices. Narrowing a signal can be accomplished on a modern radio through reprogramming. But radios built before 1997 generally must be replaced with reprogrammable ones. Narrow banding requirements apply to hand-held radios, vehicle radios, base stations, pagers and repeaters.

To assist in the transition, Maine Emergency Management Agency has been using funding from U.S. Department of Homeland Security to issue grants to local departments.

Since the relatively flush years following 9/11, Homeland Security funding in Maine has fallen by two thirds, to about \$6.5 million a year. Most of that money is committed to training first-responders and to hazardous materials teams.

As funding has dwindled, complaints about unfunded mandates have increased. McAleer said he is

committed to using the state's Homeland Security funding to purchase "one or two" narrow band radios for every fire department that still needs them. The stopgap funding measure is aimed at ensuring all departments maintain a legal communications channel, he said.

"This couldn't have come at a worse time," said Jim Bennett, City Manager in Presque Isle. Presque Isle has upgraded fire department radios over the years but still faces about \$50,000 in costs to upgrade a base station, repeater and radios used by public works and recreation crews.

"There's a slim chance there will be any federal funds to help with this mandate," said Bennett, indicating he probably will budget the lump sum in the coming year with little expectation of assistance. "Being anything less than pessimistic is probably suicidal," he said.

The modest available grant funding can only be awarded to departments that have adopted operating procedures that are "NIMS compliant." NIMS – short for National Incident Management System – is a nationwide set of protocols mandated since 9/11 to ensure state, local and federal agencies mesh well at the scene of disasters.

State officials fear that small rural towns may face the biggest narrow banding challenges. But Scarborough – with a remaining investment estimated at \$300,000 – may face the largest single upgrade.

"It's a lot of money in these economic times and with tight budgets we've seen," said Scarborough Fire Chief Michael Thurlow. "It's certainly a concern. Unfortunately, it's one of those unfunded mandates that cost local communities."

Thurlow said it's his understanding that MEMA was looking for a mechanism to "at least help us with some of it."

Vinalhaven is looking at \$17,000 in additional costs, which Fire Chief Mark Candage describes as "a manageable situation." He said Knox County Emergency Management Agency will help the town with relicensing and bulk purchasing. The only question is whether all 21 pagers will be purchased in time, he said.

Vinalhaven Town Manager Marjorie Stratton said, "We apply for grant funding if it's available but we don't ever count on it."

Harpswell Neck Fire and Rescue Department is a volunteer, privately owned fire department that has managed to upgrade without grants because it got started early, according to Fire Chief David Mercier.

Since the mandate was announced, the department consistently budgeted \$5,000 to \$8,000 a year to upgrade 70 pagers, 25 portable radios and a new \$35,000-plus repeater.

"As soon as they made the announcement, we were making preparations," said Mercier. "We were very careful."

He hopes to make his last radio purchase next year. The department has been successful because of cooperative relationships with the Town of Harpswell and sister volunteer departments serving Bailey and Orr's Island and Cundy's Harbor, he said.

#### 'SORE SPOT' IN PRESQUE ISLE

Presque Isle is looking at close to \$50,000 in additional costs, according to Fire Chief Darrell White. The biggest expenses are upgrading public works radios and purchasing a new base station and repeaters. He said limited grant funding is "a bit of a sore spot with us" because the fire department was proactive in upgrading its hand-held and vehicle radios.

"The departments that made no effort whatsoever will get the aid," he said. "I understand both sides, still it's a bit of a sore spot for us ... We'll get there. Fifty thousand dollars is a lot of money but when we started off, we thought we'd be worse off than we are."

Madawaska is looking at an additional \$35,000 in costs. "It's pretty scary," said Fire Chief Norman

Cyr. "It's quite a significant chunk of change. My whole budget is only \$150,000."

Cyr has already upgraded many fire department radios and has applied for Fire Act grant money to replace public works and recreation department radios and for a new base

station and repeater. "We've been working at it ... but our system is 30 years old."

Converting to narrow band can be a complicated process, but there's help. The first step is to conduct an inventory of equipment to figure out which radios can be reprogrammed

## Take Maine Emergency Management Agency's Narrow Banding Quiz

### True or False

1. Narrow banding requires licensees to implement digital technology. \_\_\_\_\_
2. Licensees will end up with twice as many channels. \_\_\_\_\_
3. Hundreds of new channels will be available in 2013. \_\_\_\_\_
4. Failure to narrowband will result in secondary status. \_\_\_\_\_
5. Interference may occur to existing systems. \_\_\_\_\_
6. Interoperability may be negatively impacted. \_\_\_\_\_

(See narrow band answers on Pg. 10)



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and which need to be replaced.

"Talk to your vendor; that's the easiest way to solve the problem," said Mallory at MEMA. The system may need re-engineering, which can involve replacing repeaters and base stations. Larger departments may have the expertise and the software to re-program radios themselves, but things can get complicated easily if there are multiple generations of radios in use.

Bangor initially planned to re-program in-house but quickly decided against it, said Tom Higgins, Captain for the Bangor Fire Department. In addition to getting local approval for new equipment purchases and re-programming fees, all new frequencies must be relicensed, which can be a time-consuming process.

#### TIMING IS IMPORTANT

Some county agencies are trying to reduce the hassle by coordinating relicensing for local communities. A last consideration is to time the narrowband conversion to coincide with neighbors. If a single agency goes alone, it will complicate communication at the scene of mutual aid emergencies, said Bunker.

"You need to think, not as individual community, but think mutual



*Bangor Fire Department Captain Tom Higgins holds a portable five-watt narrow band capable radio at Central Station in Bangor recently. Higgins said there has been a three-step process to meeting the FCC deadline of December 31, 2012 for going to narrow band radios. (Photo by Jeff Pouland)*

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aid when you make plans to change,” said Bunker. “If you don’t coordinate, you will cause radio interference with some in your broadcast territory.”

“We’re going to do this as a county-wide movement,” said Roger Lightbody, director of Somerset County Emergency Management Agency. For example, the Town of Madison has upgraded and is transmitting on narrow band frequencies among town departments but it still uses broadband frequencies when communicating with neighboring towns.

Lightbody said Somerset County communities are working toward a mutual conversion date during the summer of 2012. “So, hopefully, we’ll all work together and do it in a week, or maybe five days,” he said.

Because narrow band signals are not as powerful as broader signals, users may notice a “loss of 10 to 25 percent in the quality of the signal,” said Bangor’s Higgins. Bangor police and fire departments upgraded their radio system thanks to a \$1 million Community Oriented Policing Services grant in 2004.

In addition to replacing more than 200 fire department radios, the city replaced its single radio signal repeater with a repeater and four receivers. Still, firefighters noticed such poor radio reception inside concrete and steel frame buildings that the department paid for a \$45,000 in-building repeater inside Eastern Maine Medical Center. In-building repeaters were also installed – as a result of a new city ordinance – inside the Margaret Chase Smith federal building, Lowe’s Home Improvement Center and Penobscot Judicial Center, he said.

The widespread use of cell phones has taken some of the deadline urgency away from some non-emergency personnel, says Mike Claus, Kennebec Public Works Director and President of Maine Chapter of American Public Works Association.

“We’ve heard about the issue ... how many are up to date? Who knows? I bet a lot of public works directors are out of touch with the FCC and narrow-banding,” Claus said. “If police or fire can’t talk to us, we don’t consider that our problem, to be honest. We prefer not to talk on radios – it’s more public, everyone’s got scanners. Cell phones have taken over so much now anyway.” 

(Narrow band answers from Pg. 8)

1. False. There is no digital requirement, though there may be an upside to going digital.
2. False.
3. False.
4. False. Failure to narrow band will be illegal and stations will have to go off the air.
5. True. Wideband operations may experience interference from new narrowband stations
6. True. Until all entities transition to narrow band, some may operate on interoperability channels with wideband equipment while others are at narrowband. Distortion or volume discrepancies may occur.

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# 2011 SPRING BOND ISSUE SCHEDULE

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

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

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

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

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

**Wednesday, February 2nd**

Application Deadline.

**Wednesday, March 16th**

Application approval (Board Meeting).

**Tuesday, April 5th**

Preliminary opinions and loan agreements due from bond counsel of each borrower.

**Friday, April 8th**

Last date for signing school contracts and rates in place for water districts.

**Monday, April 25th & Tuesday, April 26th**

Maine Municipal Bond Bank Pricing.

**Wednesday, April 27th**

Maine Municipal Bond Bank Sale Meeting (Board Meeting).

**Tuesday, May 17th**

Final documents due from bond counsel.

**Wednesday, May 25th**

Pre-Closing.

**Thursday, May 26th**

Closing - Bond Proceeds Available (1:00 PM)

If you would like to participate in or have any questions regarding the 2010 Spring Bond Issue, please contact Toni Reed at 1-800-821-1113, (207)622-9386 or tir@mmbb.com.



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# Rails To Trails: A Healthy Trend

By Liz Chapman Mockler

The official opening of the Down East Sunrise Trail this fall highlighted both the struggles and successes of converting old rail beds into valuable multi-use trails without destroying an irreplaceable, original rail corridor.

Twenty years in the works, the new 85-mile Sunrise Trail is considered a potential economic boon to the state's poorest county of Washington, which hits up against the Atlantic Ocean and offers some of the most scenic views in Maine.

"I think it has already inspired enthusiasm and a feeling of 'upbeatness,' " among users, businesses and others, said Sally Jacobs of Orono, one of 14 bicyclists who began pushing for the project in 1991.

Jacobs and her cycling friends biked on converted trails in Canada and Europe and noticed not only the heavy use, but also the trails' economic impact to businesses and villages along their paths.

The Sunrise Trail ([www.sunrisetrail.org](http://www.sunrisetrail.org)), just the latest to be completed in Maine and among the longest, snakes its way from Hancock, four miles south of Ellsworth, to Pembroke, four miles from U.S. Route 1 and an easy jaunt to Eastport and Canada.

"I call (the rail line) a 'gift from the past,' " Jacobs said, noting the converted rail bed had been abandoned by passenger trains in 1954 and then faded as a freight line in the late 1980s, when it was purchased by the state.

"We could never, ever replace that corridor," she said.

*Liz Chapman Mockler is a freelance writer and editor from Augusta, [lizmockler@hotmail.com](mailto:lizmockler@hotmail.com)*

When the trail opened with much ado in September, Jacobs said she and others, who were in their 50s and 60s when they started advocating for the trail, were so thrilled "we could hardly stand ourselves."

Jacobs, now 74, and the other original advocates, recently biked the entire trail and got a lift back home from a new business created because of the trail – a shuttle service back to Hancock.

Along their trail ride, they stopped at local restaurants, beds and breakfasts, delis, convenience stores and gift shops.

Some businesses are moving closer to the trail or building private trails from the larger path to their establishments.

## FOLLOW THE MONEY (TRAIL)

As with similar efforts around Maine, one of the biggest challenges was finding the money to turn the abandoned rails into useable trails.

The Sunrise Trail cost \$5.5 million to build over two-and-a-half years. Not all trail groups have been as fortunate as the Sunrise advocates: The Down East project was paid for entirely by selling the rails and ties in the corridor – an agreement that came after many meetings with state officials.

Many bicycle and pedestrian trails

that have been converted from rail beds and that run adjacent to railroad tracks use federal funds that are available for that purpose. But, nearly all of them also require fundraising of some sort.

Important to the Sunrise Trail, Jacobs said, was an agreement reached with the state Department of Transportation and Gov. John Baldacci that the "Calais Branch" corridor could



*A mountain biker makes his way down the Down East Sunrise Trail at its western trailhead in Washington Junction, just east of Ellsworth. (Photo by Jeff Poulard)*

## 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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be converted to a trail as long as it could be converted back to an active railroad line if that ever becomes an option.

Dan Stewart, bicycle and pedestrian coordinator for DOT, said state transportation officials made an exception with the Sunrise Trail. Typically, the Maine Department of Conservation, a land trust or a municipality will purchase portions of abandoned rail beds and convert them to trails. That only happens after DOT has determined it is not going to preserve or develop rail service on that section of the route.

When DOT buys rail corridors, it intends to preserve them for potential rail service in the future. Therefore, it does not allow the rail bed to be taken up so a trail can be put down.

However, DOT allows trails to be built alongside the railroad bed, Stewart said. Those trails are known as "rails-with-trails" and are more costly than converting abandoned rail beds and must be "bitten off a couple of miles at a time," Stewart said.

"It's essentially like building a new road," Stewart said of rails-with-trails projects.

When a city or town wants to develop a portion of an abandoned rail-road corridor, or build a trail next to an existing rail bed, DOT will provide whatever help it can, Stewart said.

There are presently 500 miles of rail beds that have been converted to trails, and hundreds more miles of trails that run alongside railroad beds. Many rail-to-trail projects, particularly in rural parts of Maine, are built on rail beds that are rotted or

have chunks of rail missing and would likely never be used for rail transportation again.

**YEAR-ROUND USE**

Rails-to-trails projects around Maine have been popular among so many groups that most trails remain open year-round. Allison Vogt, executive director of the Bicycle Coalition of Maine ([www.bikemaine.org](http://www.bikemaine.org)). Vogt said there have been complaints

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MMA-09

about users not being able to get along while using the trails but that such complaints are rare.

More typically, she said, users have been respectful to each other – particularly ATV riders, when they see an approaching runner, biker or walker.

The trails are used in the winter for snowmobilers, cross-country skiers, walkers and parents tugging their children in sleds or toboggans.

Vogt, who said Bicycle Coalition membership stands at 3,000 households and growing, underscored the need for her group and others to work closely with municipal officials to build more trails.

In addition to converting rail beds to trails, there are a number of rail-with-trail projects in progress or being planned, Vogt said. In those projects, the state has determined the rail line should remain “active,” so the trail runs parallel to the rail bed except in places where the terrain won’t allow it.

Vogt cited three main benefits from the trend:

- It gets bikers, runners and others off the main roads and into safer environs.

- It promotes a healthy lifestyle and creates opportunities for individuals, groups and families to stay or get active; active “stay-cations” have

become more popular during this tough economy.

- And, it increases commercial activity along the trail, both for year-



*The Down East Sunrise Trail at its western trailhead in Washington Junction, just east of Ellsworth. The 85-mile trail runs to its eastern trailhead in Ayers Junction. (Photo by Jeff Pouland)*

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round businesses and those who cater to tourists.

Yogt said her coalition wants to work more closely with other groups and with municipalities to maintain the momentum for alternative modes of transportation.

The coalition plans to hold training classes for volunteers, so they can better advocate for local projects in their own towns and regions. Eventually, advocates hope the entire state will be connected by various kinds of trails.

Yogt said outdoor activists also need to support local officials as they try to improve the condition of some of the 14,000 miles of non-state roads.

Ideally, she said, municipalities would establish local government committees to work with the state and advocacy groups to promote more projects.

Jacobs, who pushed so long for the Sunrise Trail, said the project would not have possible without the support of DOT officials and Gov. Baldacci; Sen. Dennis Damon, who represents the region; and letters of support from municipal councilors and selectmen along the proposed route.

“All (18) of the towns wrote letters of support,” Jacobs said. “We could not have done it without that. We had a petition (for DOT and Baldacci) with over 500 signatures, including all of the letters from municipal officials.”

**‘GREENWAY’ COLLABORATION**

Maine’s rail trails have become part of what is known as the “East Coast Greenway” ([www.greenway.org](http://www.greenway.org)), an impressive network of trails starting at the top of Maine and winding its way to Florida. Vogt said the network is known as the “Appalachian Trail for Bikers.”

Bowdoinham Planner Nicole Briand has worked with Vogt and others in a long-term effort to build a rail-with-trail project to eventually extend the six-mile trail from Augusta to Gardiner south to Topsham. From there, the trail system would continue on to Portland, where it could be connected with other trails.

Briand said the towns of Bowdoinham, Topsham, Richmond and Gardiner have collaborated on the project, including raising \$60,000 to help fund a corridor study that is ex-



*Officials cut ribbon to commemorate the opening of the Sunrise Trail. (Submitted photo)*

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pected soon. The study will detail the location options and costs of building connecting trails.

Briand said the DOT got involved after the four towns signed a memorandum of agreement to work as a team on the project.

“I think that really made a difference. Having that agreement was the key, especially for (DOT),” she said.

Advocates don’t expect to convert rail beds, Briand said, because the rail is “active” and cannot be destroyed. They hope to build trails near the rails, she said.

In all, there are 20 partners working or supporting the proposed project.

Meanwhile, DOT continues to work on building trails from Biddford-Saco into Portland and from the Gorham-Windham area into Portland.

“There’s a lot going on” throughout the state, said Maine DOT’s Stewart. me



A caution sign for a sharp turn on the Down East Sunrise Trail. The 85-mile trail runs to its eastern trailhead in Ayers Junction. (Photo by Jeff Pouland)

## Longest Maine Rails-to-Trails

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Houlton to Phair Junction Trail:

40 miles, from Houlton to Presque Isle

Aroostook Valley Trail:

27 miles, from Washburn to Van Buren

Newport/Dover-Foxcroft Rail Trail:

26.5 miles, from Newport to Dover-Foxcroft

St. John Valley Heritage Trail:

16.9 miles, from Fort Kent to Saint Francis

Kennebec Valley Trail:

14.6 miles, from Anson to Bingham

Jay to Farmington Trail:

14 miles, from Farmington to Jay and Wilton

LaGrange Rail-Trail:

11 miles, from Medford to LaGrange

(Source: Maine Department of Transportation)

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# Varying Effects From School Consolidation

By Douglas Rooks

The issue largely has disappeared from the news, but municipal officials can testify that Maine's school consolidation law is still having an impact on local government three years after its inception.

The 2007 law, enacted as part of the state budget, was controversial from the start. In 2009, the voters decisively rejected a referendum to repeal the law, but many communities have not yet completed a state-approved reorganization. As of Oct. 1, 82 municipal or regional school districts remained out of compliance with the law, although some are working on plans.

The state Department of Education (DOE) reports that 89 percent of students – or 169,055 – are covered by approved units, but 109,000 of those students are in districts unchanged by consolidation.

School units with more than 2,500 students, as well as those under state control (unorganized townships), islands and other geographically isolated communities, and certain “high performing” districts were exempted by the original law.

Many others have been granted exemptions below the 2,500 threshold, or because they are “doughnut holes” that could not make satisfactory arrangements with other municipalities. To date, the smallest “doughnut hole” community approved by DOE is Acton, with 400 students.

The exemptions in the law and numerous changes – the law was amended both in 2008 and 2009 – have resulted in considerable uncertainty and confusion.

As one might expect, responses to

the law, and its ability to produce its goal of local administrative efficiency, vary considerably. Many changes that the law set in motion are still unfolding.

## ‘MANY FLAGS’

The Rockland-Thomaston area is a place where school consolidation discussions began well before passage of the state law. The Many Flags Project, which seeks to coordinate public high schools, vocational-technical education, community college programs and the University of Maine System, has captured imaginations in the Midcoast region.

The original idea embodied a single campus that would create a “K-20” educational system. That has been hard to pull together, but a new RSU board is proceeding with major changes in secondary schools.

Following a 2008 vote to merge SAD 5 (Rockland, South Thomaston and Owls Head) and SAD 50 (Thomaston, Cushing and St. George), the district applied for a new career education center and high school in competition with Sanford.

A dispute broke out over judging the competition – Sanford came out ahead in the first DOE assessment, but Rockland-Thomaston was the choice of a specially convened independent panel. That result was affirmed by the State Board of Education in October, though there is still no identified funding for the school.

Rockland Mayor Deborah O’Neil, a former state legislator, said the Many Flags concept was what got people excited.

“I still think that was the main reason people favored consolidation,” she said.

Nevertheless, the new RSU 13

school board, representing six municipalities with 2,200 students, is moving ahead with a reorganization of schools not required by the state law, which focuses primarily on administration.

Rockland Area High School will become the district’s only high school, while Georges Valley High School will be the new middle school in September 2011. A recent internet-based vote chose Oceanside as the new high school name, winning out over Midcoast Area, with Mariners as the new mascot.

O’Neil said the end of the old high school, built 50 years ago, has produced “a lot of sadness” among alumni, and that a truly new school is the best way to produce the educational results the area is expecting.

“We think Many Flags is the way to provide our kids with more, to encourage them to move on and go to college,” she said.

## THE FIRST RSU

The Bath area also had a consolidation plan on the drawing board when the state decided to act.

Bath and four of the five towns in School Union 49 – Arrowsic, Phippsburg, West Bath and Woolwich – created a regional district under a law passed just before state consolidation was approved. Georgetown voters rejected the plan.

The result, RSU 1, was the first new regional district formed in nearly 30 years. Its smooth inception was attended by strong support from municipal officials.

William Giroux, Bath’s city manager, did not have that post at the time of the vote but he was a signer of the original petition that resulted in a consolidation task force.

Giroux said the new district has

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

fulfilled the hopes its organizers had. "We've been able to keep the tax rate level for three years and we couldn't have done that without the new RSU," he said.

While cuts in state aid have prevented Bath from lowering its tax rate, he said, the savings projected in the original plan have been realized.

From an educational perspective, one of the most important features is reinforcing Morse High School as the common ground for the area's students.

"The biggest issue in the other towns sending tuition students was having a say is how the school was run," he said. "Now they have that."

He noted that school budgets have been approved overwhelmingly since the RSU was formed.

"You'd be hard-pressed to find anyone who thinks this hasn't worked out" both for students and taxpayers, he said.

In Woolwich, town Administrator Lynette Eastman has a different perspective. She said that the transition from School Union 47 to the RSU 1 raised concerns among townspeople, and included a complicated transfer of

property involved in a new K-8 school that had already been approved by the state.

She said the change to an RSU budget format simplified procedures at the town office, but at the cost of more detailed budget control. Most townspeople do not believe taxes have gone down as a result of consolidation, she said, and this year Woolwich saw an increase in the tax rate from \$11.55 to \$12.25 per thousand.

"The town cut \$40,000 and the county cut \$25,000, but the school budget was up," Eastman said, while acknowledging that the loss of municipal revenue sharing and school aid were factors.

#### CHANGE IN DIRECTION

Before the consolidation law was enacted, Buckfield and its three-town SAD 39 had been forging links with the adjacent Oxford Hills Regional



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School District (SAD 17). Its students had long attended the vocational-technical program and the two SADs had begun sharing personnel, including a superintendent.

But when the consequences of the new law emerged, all that changed.

“Basically, there was no way we could equitably share costs,” said Buckfield Town Manager Glen Holmes. “Oxford Hills would have been picking up additional expenses and we couldn’t even arrange to make a payment later on.”

The law was amended in 2008 to allowing any cost-sharing formulas that were locally agreed upon but, by that time, SAD 39 had already responded to an invitation to join forces with SAD 43 (Rumford) and SAD 21 (Dixfield).

The resulting RSU 10, known as the Western Foothills School District, has more than 3,000 students and is comparable in size to the eight-town Oxford Hills district. But because it is so dispersed geographically, there is less opportunity for shared programs or consolidating schools, Holmes said.

The town is pleased with the results.

“We did realize significant savings” by combining three superintendent’s offices into one, in Dixfield, Holmes said. He has a good relationship with the new superintendent, Tom Ward.

“In many ways, it’s just like before when I could walk downstairs and talk with the superintendent. He’s really reached out to us and made the transition smooth.”

## SECOND TRY IN WINTHROP

Winthrop is one of many towns that didn’t approve a reorganization plan on the first try. In a fairly close vote in 2008, voters rejected joining the towns of the Maranacook Community School District (Manchester, Readfield, Mount Vernon and Wayne), which instead reorganized into an RSU on their own.

The Maranacook tie had historical roots, since all its towns once sent students to Winthrop High School. However, Winthrop residents weren’t sure there would be advantages to a merger, said Town Manager Cornell Knight.

Instead, Winthrop began discussions with Fayette, the other town that rejected joining with Maranacook. Both Winthrop and Fayette approved an AOS, which maintains separate

town school boards, last year. At just over 1,000 students, Western Kennebec County Schools fulfills the new minimum size, which was adjusted downward by legislation in 2009.

The reason for the new vote, Knight said, was simple: “People didn’t want to pay the penalty. Coming on top of the other state budget cuts, they felt we had to respond.”

Knight said there won’t be many changes with the new arrangement, although Winthrop and Fayette will share special education and curriculum services, as required. The former part-time Fayette superintendent is also working in the new district.

## MORE WORK TO DO

Another new RSU where change so

far has been moderate is in the Belfast area (SAD 34), which joined with SAD 56 in Searsport to form RSU 20, with 2,700 students.

Belfast Mayor Walter Ash said that since the SAD’s budget process was already separate from the city’s, there hasn’t been as much of an adjustment as in municipalities which had their own school departments.

“I was in favor of the theory of consolidation,” Ash, a former legislator, said. “People have had to give up some turf and that can be difficult.”

While combining bus routes was relatively simple, the new district is still debating what to do about separate maintenance facilities.

And looming on the horizon is a larger issue: When existing labor

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agreements expire, RSUs are required to negotiate a combined contract with teachers and support personnel.

So far, only RSU 1 in Bath has successfully concluded negotiations on such a contract, and teachers there worked for a year without a contract before an agreement was reached in September.

"There are quite a few differences in pay levels," said Ash. "The big question people are wondering about is who's going to have to pay."

Ash has seen no evidence that the consolidated district won't eventually come together. "I think it's going to work," he said.

### DILEMMAS IN AROOSTOOK

Nowhere are the differences between the Sinclair Act of 1957, which authorized the original SADs – of which there were eventually 77 – and the 2007 consolidation law more apparent than in Aroostook County.

By far Maine's largest county geographically, Aroostook took to the Sinclair Act with enthusiasm, forming 11 SADs, more than any other county. But the recent mandated consolidation has been a different story. To date, only one new RSU has been formed, though there are two AOS agreements among existing school districts and municipal departments.

The new regional district, RSU 39, is based in Caribou, and City Manager Steve Buck has mixed feelings about it. "It's a sensitive issue for us," he said.

The difficulties began almost as soon as the law was passed. Caribou, which had its own school department, took seriously the map of potential consolidations that DOE prepared, and attempted to make a plan with seven nearby towns, including another single-town SAD, Fort Fairfield.

"What we noticed right away was that Connor Township wasn't on it, and we asked why," he said.

The reason was that all unorganized townships with state schools were exempt from the law.

"That didn't make sense to us," Buck said. "It was another aspect of the law that seemed to lack equity."

Caribou worked with the other towns on the required Reorganization Planning Committee, but progress was slow. Buck advocated for more frequent meetings but when the Legislature reconvened in 2008 – amid talk of

amendments and possible repeal – things stopped altogether.

"In the end, we didn't have enough time to make things right," he said. "It was frustrating."

Of other potential partners, New Sweden – which had just built a new school and feared losing control of it – stayed out. So did Westmanland, which also has a small school. In the end, only Stockholm, which already had closed its only school, and Limestone, which shared a superintendent with Caribou, decided to join.

RSU 39 enrolls 1,700 students, the majority of whom are from Caribou.

"We're serious about our schools as economic development. We've always had good schools and we've kept to that commitment," Buck said. "What the schools need, the schools get."

There are significant changes to municipal operations as a result of consolidation.

For instance, school and city cash flows vary by season and used to complement each other. Now, the city must borrow more in tax anticipation.

## The End Of A Rivalry?

Most municipalities have long since completed negotiations on school consolidation, but not Jay and the towns of Livermore Falls and Livermore, which comprise SAD 36.

Two years ago, voters in all three towns decisively rejected a proposal to merge administration and create an RSU. Two years later, they are poised for another vote in January, with Jay's superintendent predicting that this time, the RSU will be approved.

On its face, that could seem unlikely. The first proposal covered only school administration. The new plan, however, would consolidate two secondary schools, with the Livermore Falls Middle School closing and consolidating in Jay, and the high school to follow in 2012.

What has changed between 2008 and today? For Livermore Falls Town Manager Jim Chaousis, it's the economy.

The closing of the century-old Otis Mill – most recently run by Wausau Paper and the original site for International Paper's operations – eliminated a \$34 million assessment from the tax rolls.

Chaousis also observed that the first vote was taken under serious time constraints: "There was a lot of confusion about execution and the state facilitator told us we weren't supposed to discuss a lot of things people really cared about."

For Ruth Cushman, the veteran town manager of Jay – and before that, Livermore Falls – the state penalties were a significant motivation.

"They weren't going away and that had an effect on people's thinking," she said.

For Robert Wall, the new Jay superintendent, it was a focus on "minimizing the taxes spent on the school with an eye to making things more efficient."

Both the Jay and Livermore Falls high schools have seen declining enrollments, with Jay falling to 248 students. Cushman said this has raised concerns about the ability of either school to offer a competitive curriculum.

"Most of the high schools in our area are much larger," she said. "It's been hard for us to keep up."

While there's some skepticism in the community, both school and municipal leaders say there should be sufficient space in the Jay high school and middle school to accommodate students from all three communities.

Then there are the inevitable questions about sports teams, particularly football.

"It's interesting," Marden observed. "We have community programs in sports for the area and kids grow up playing on the same teams. They're used to it."

Should the two schools merge, a football rivalry Chaousis that called "one of the top 10 in the state" would come to an end. But it hasn't always been easy to keep the squads going. Some high schools this size don't have varsity football teams.

Estimates of savings are still being developed. Chaousis said he can see at least \$700,000 in savings, but neither manager said immediate budget issues are the main concern.

"We have to think about what programs we'll be able to offer in 10 or 20 years," Marden said. "We can't afford to stand still, and we've been cutting back on programs and staff for years."

Wall said that community attitudes have changed a lot in two years.

"This is no longer about the state telling us what to do. This is a plan the community has developed."

Buck said it also bothered city councilors that, when Caribou moved ahead to comply with the law while other municipalities did not, the Legislature waived penalties for everyone for a year, and an additional year for districts that voted for consolidation but potential partners did not.

"That was not the intent of the legislation," Buck said. The council wrote to the Governor's office to register its objection but never received a reply.

#### EXEMPTION IN KITTERY

Kittery is one of many towns where consolidation planning produced no tangible results.

Of potential partners, York did not seem interested, according to Town Manager Jon Carter. SAD 35 (South Berwick and Eliot) had such a different cost structure that a merger didn't seem feasible under the original rules.

So Kittery remains a municipal school department. It was one of the first to be given a "doughnut hole" exemption, with just over 1,000 students.

But the consolidation debate awakened keen interest among some residents about reducing school costs. Kittery has since closed the Frisbee School, one of two elementary schools. It is planned to become a recreation center.

And, the town took a non-binding vote on Nov. 2 to keep Traip Academy open as a high school. The results were 2,744 voting to keep Traip open and 1,007 voters voting to close it and tuition students to Marshwood High School in South Berwick.

While non-binding, the vote is expected to be influential in the continuing debate. A study committee found that, in operating costs, paying tuition for 276 students could save money compared to what's needed to operate Traip Academy. The committee cautioned that there may be other costs to a tuition system, plus one-time expenses for the school closing and unemployment compensation for employees.

Carter said town government has responded to taxpayer concerns by consolidating administration with the school department. There is now a single business manager and other systems are being merged.

Even if Kittery were to close its high school and tuition students to Marshwood, Carter isn't sure consoli-

dation with SAD 35 would make sense.

"We've gone a long way to be more efficient among ourselves and we'd have to undo all that," he said.

The ironies of the regionalization debate are not lost on this long-time town manager. Kittery is economically part of the greater Portsmouth

area spanning the Piscataqua River. The town's phone exchange is routed through New Hampshire, as is its mail delivery.

If Kittery residents think their per-pupil costs are high, he said, "They're a lot higher across the river, in Portsmouth and Rye." **[mf]**

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*Hervey Clay*

**Hervey Clay** of Lincoln won the prestigious Ethel N. Kelley Memorial Award, which is presented annually to someone who has shown dedication to the cause of good local government.

Clay has more than 40 years of service to his community, including serving in many capacities with the town's call fire department, as a subregistrar for the town clerk and as past member of Lincoln's cemetery and budget committees, and planning board. He also has served various civic organizations over the years and was on the board of directors at Penobscot Valley Hospital.

Clay was presented the award on Oct. 12 at the Maine Municipal Association's 74<sup>th</sup> Annual Convention in Augusta.

Back home, Clay's son, **Steve Clay**, also was recognized for 12 years of service on the Lincoln Town Council, including four as chairman. He decided not to run for re-election this year.



*Mark Doyon*

Manchester Town Manager **Mark Doyon** died Oct. 29 of liver cancer at the age of 51. Doyon soldiered on despite his illness, including working nearly to the day he died.

His death shocked and saddened residents, officials and municipal staff members. One town worker told the Kennebec Journal that Doyon called him from his Augusta hospital bed the week before he died to ask him to check on certain things.

Doyon, a statewide leader in municipal collaboration efforts, started his government career as Hallowell's treasurer in 1990 and moved to the

Augusta treasurer's office about 10 years later. He was hired as Manchester manager in October 2003. **Pat Gilbert**, code enforcement officer for the town, has been named interim town manager.

Orono Manager **Catherine Conlow** has been named city manager in nearby Bangor – Maine's third-largest municipality – effective in late November. Conlow has managed Orono since January 2004.

**Susan Mooney** was named 2010 Maine Clerk of the Year by the Maine Town and City Clerks Association. Mooney, who received the award during the group's annual meeting, was recognized for her nearly 35-year municipal career, especially her last decade as clerk of one of Maine's largest communities. She was praised for helping her fellow workers over the years and the public, and saving the city thousands of dollars in election costs. Mooney, outgoing president of the association, is only the second

president to win the award from the group since the recognition started in 1991.

**Leland Arris**, chairman of the Freeport Sewer District, has been hired by the board as a part-time general manager for the operation. Arris, who resigned from the board, will work 20 hours a week for a two-year period before the board reviews how the arrangement worked out.

York Code Enforcement Officer **Tim DeCoteau** resigned in October after taking medical leave in May. Existing staff have taken over DeCoteau's work while the town considers a permanent replacement.

**John Duross** has been named Saco fire chief after serving as assistant chief for 15 years. Duross, 48, replaces Alden Murphy and has worked as a Saco firefighter for three decades. [mf](#)

**Look in the December *Maine Townsman* for election results from municipal races across Maine.**

The state municipal league directors in the Northeast get together periodically to discuss issues of mutual interest and to exchange information regarding league programs. The Maine Municipal Association hosted a recent meeting at the MMA office in Augusta.



*Pictured from left to right: Geoff Beckwith (Massachusetts), Peter Baynes (New York), Dan Beardesley, Jr. (Rhode Island), Jim Finley, Jr. (Connecticut), Maura Carroll (New Hampshire), Carolyn Coleman (Director of Federal Relations, National League of Cities), Chris Lockwood (Maine), Steve Jeffrey (Vermont)*

**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))

**Statewide:** For over 50 years, Maine Municipal Association has conducted an annual “Municipal Report Competition”. Here are the winners of the 2010 competition, by population category and in order of placement – Supreme, Superior and Excellence:

Population	Municipality	Award
0-499	Winterville	Supreme
	Plantation	
	Stockholm	Superior
500-999	Lincoln	Excellence
	Plantation	
	Alna	Supreme
1,000-2,499	Solon	Superior
	Eustis	Excellence
	Castine	Supreme
2,500-4,999	Phippsburg	Superior
	Hope	Excellence
	Mechanic Falls	Supreme
5,000 & over	Vassalboro	Superior
	China	Excellence
	Freeport	Supreme
	Augusta	Superior
	So. Portland	Excellence

**Statewide:** Municipal officials are encouraged to take part in First Lady Michelle Obama’s “Let’s Move!” campaign, which is aimed at reducing childhood obesity.

The program, coordinated by the U.S. Department of Health & Human Services, encourages municipalities to take at least one significant action during the next year in four key areas: helping parents make healthy family choices; creating healthier schools; providing access to healthy and affordable food; and, promoting physical activity.

Interested municipalities can contact the DHHS Region 1 office in Boston at: 1-617-565-1500.

**Abbot:** Voters in October decided they wanted to continue electing a road commissioner, rather than have one appointed by selectmen. The 27-19 vote was cast during a special town meeting.

**Bangor:** City councilors voted in October to begin merging the fire and police department dispatch service with Penobscot County. Some councilors have wanted to use the county dispatch operation for years. Councilors cited the cost: Keeping the service in mu-

nicipal hands cost taxpayers once, and then again as part of the annual county budget. The vote was 6-1.

**Caribou:** State and municipal officials broke ground last month on a new connector road between Route 161 and Route 1. Gov. John Baldacci, who attended the ceremony, said the road will benefit not only Caribou but other parts of Aroostook County. The road will separate local traffic from vehicles just passing through.

**Kittery:** The town council voted against a so-called “pay-as-you-throw” trash disposal system after opposition by residents. Under the program, residents would have been required to buy trash bags from the town. The idea was to increase recycling and decrease the amount and cost of disposing solid waste.

**Lincoln:** Town councilors rejected a proposed public works garage that would have cost \$1.5 million to build. The council will try again to get a garage designed in the price range of \$750,000 to \$900,000, officials said.

**Portland:** The Police Department will no longer use Remington sniper

rifles after one of them fired unpredictably, in addition to national news reports of similar problems with the firearm.

**Sangerville:** Special town meeting voters in October passed an ordinance that will prohibit certain adult-oriented entertainment in the town of about 1,200 people. The vote was 34-14.

**Tremont:** In a 3-2 vote, selectmen decided to send the town’s recyclables to the City of Ellsworth’s recycling program, which accepts everything but glass. The town is a member of the Acadia Disposal District, which includes the four towns on Mount Desert Island, plus the nearby mainland towns of Trenton and Lamoine, and uses the Eastern Maine Recycling transfer station. Ellsworth officials agreed to work with the town to establish a program for recycling glass and some types of plastic.

**Veazie:** The town council has rejected nearly \$157,000 in federal funding to hire a full-time police officer. The vote was 3-2. Councilors were concerned about the federal requirement that the town pay for the officer on its own after three years. [\[m\]](#)

## 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*.

- **Convention Highlights!** Check out slide shows, photos and awards presentations from the 2010 MMA Convention. More than 2,000 people and 100 exhibitors attended the two-day event, which was highlighted by keynote speaker Travis Roy and a panel discussion involving four of the candidates for governor.
- **Code Enforcement Certification.** The state Planning Office has scheduled examination and certification training dates for code enforcement officers that run through Dec. 7. To learn more about this process and the Maine Uniform Building and Energy Code, visit our website.
- **Right To Know.** The Legislature’s Right to Know Advisory Committee is seeking input from state and municipal government agencies and other interested parties regarding proposed draft legislation for determining reasonable fees for bulk data requests.
- **Citizen Education.** Posters, handouts and a narrated presentation of how property taxes work and what services they pay for are available from the MMA in a branded “toolkit” that municipal leaders can use to answer common questions about local government.



# Municipal Bulletin Board

## PLANNING BOARD/BOA: SACO

MMA's Legal Services Department will host a session for local Planning Board and land use Board of Appeals members from 5:30 to 9 p.m. on Nov. 18 at the Ramada Inn off Interstate 95.

The workshop is 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 from the MMA website.

## PLANNING BOARD/BOA: DOVER-FOXCROFT

MMA's Legal Services Department also will host a session for local Planning Board and land use Board of Appeals members from 5:30 to 9 p.m. on Nov. 29 at the Town Office in Dover-Foxcroft.

These workshops are designed as introductions for new or less experienced members but veterans may find the updates useful. 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 from the MMA website.

## ELECTED OFFICIALS: ROCKLAND

MMA staff will hold an Elected Officials Workshop on Nov. 30 at the Maine Lighthouse Museum in Rockland. The workshop will run from 4:30 to 8:30 p.m. and includes a light meal. Registration begins at 4 p.m.

The workshop is a "must" for both newly elected and veteran officials as they provide updates to legal requirements regarding: your rights as officials; open meeting requirements; conflicts of interest; liability issues; and, the Maine Freedom of Access law. Officials who attend the entire session

meet the state's Right to Know training requirements and receive a certificate. A new section on media relations and communications was recently added to this workshop.

The cost is \$40 for MMA members and \$60 for non-members. Registration is available through the MMA website at [www.memun.org](http://www.memun.org).

## MAKING IT WORK: TECHNOLOGY & INNOVATION

The Maine Town and City Management Association will host a conference on Dec. 3 that will address technology and innovation in local government. The conference will run from 9:30 a.m. to 2:30 p.m. and will be held at the Red Jacket Mountain View Resort in North Conway, N.H.

The first session is entitled, "Best Practices for Computer Systems for Towns and Cities." The second session is entitled, "Social Media Options & Legal Considerations." Among the presenters are Lynnelle Wilson, founder of Bold Vision Communications & Consulting; Jason Lenardson, Chief Operating Officer at Winxnet; and, William H. Dale, an attorney with the law firm Jensen Baird Gardner & Henry.

The cost for the session is \$20 for MTCMA members and \$60 for non-members. Attendance does earn four credit hours toward MTCMA certification. Room rates at the Red Jacket are \$99 for Thursday night and \$129 per night on Friday and Saturday.

Registration can be done through the MMA website: [www.memun.org](http://www.memun.org).

## ELECTED OFFICIALS: BANGOR, FARMINGTON

MMA staff will hold consecutive Elected Officials Workshops on Dec. 6 at Spectacular Events in Bangor and on Dec. 7 at the Ben Franklin Center at Franklin Memorial Hospital in Farmington. Both workshops will run from 4:30 to 8:30 p.m. and include a light meal. Registration begins at 4 p.m.

The workshops are "musts" for both newly elected and veteran officials as they provide updates to legal requirements regarding: your rights as officials; open meeting requirements;

conflicts of interest; liability issues; and, the Maine Freedom of Access law. Officials who attend the entire sessions meet the state's Right to Know training requirements and receive certificates. A new section on media relations and communications recently was added to these workshops.

The cost is \$40 for MMA members and \$60 for non-members. Registration is available through the MMA website at [www.memun.org](http://www.memun.org).

## MMA CLOSED

Maine Municipal Association will be closing at noon for the remainder of the day on Friday, December 10 to allow our employees to attend our Staff Appreciation Holiday Luncheon.

## STATE HOLIDAYS

The State of Maine's 2011 Holiday Observance schedule is as follows:

Holidays	Date Observed
New Year's Day (2011)	Fri, Dec 31
Martin Luther King, Jr. Day	Mon, Jan 17
Presidents' Day	Mon, Feb 21
Patriots Day	Mon, Apr 18
Memorial Day	Mon, May 30
Independence Day	Mon, July 4
Labor Day	Mon, Sept 5
Columbus Day	Mon, Oct 10
Veterans Day	Fri, Nov 11
Thanksgiving Day	Thurs, Nov 24 Fri, Nov 25
Christmas Day	Mon, Dec 26

**NOTE:** For MMA, holidays that fall on Saturday are observed on the preceding Friday, and holidays that fall on Sunday are observed on the following Monday. [mtci](http://www.mtci.org)



All of the upcoming workshops can be found on the MMA website. Use the following link: <http://www.memun.org/public/MMA/svc/training.htm>

## MORTGAGE HOLDERS & PROPERTY TAX LIENS

The laws governing real estate tax liens haven't changed, but municipal tax collectors and treasurers sometimes forget that mortgage holders of record (in the registry of deeds) are legally entitled to both a true copy of the lien certificate at the time of recording and notice of impending foreclosure 45 to 30 days before the lien foreclosure date (see 36 M.R.S.A. §§ 942 and 943, respectively).

Identifying mortgage holders of record requires in most cases a title search, which frankly many tax collectors do not perform at the time they record a tax lien. This is no doubt due to the time required, the volume of liens recorded, and the fact that the vast majority are paid off before foreclosure. For unpaid liens nearing foreclosure, however, it is essential that mortgage holders be identified so they can be given notice – without it, liens will not be fully perfected, and title will not pass to the municipality.

Importantly, failure to give timely notice to a mortgage holder does *not* void a lien. The lien remains valid and in full force and effect. But the redemption period is extended as follows:

If the tax collector fails to give a mortgage holder a timely true copy of the lien certificate, the mortgage holder has three months after receiving actual knowledge of the recording of the lien within which to pay off the lien, including accrued interest and costs (see 36 M.R.S.A. § 943, seventh paragraph).

If the treasurer fails to give a mortgage holder timely notice of impending foreclosure, the mortgage holder has 30 days after notice is given within which to pay off the lien, including accrued interest and costs (see 36 M.R.S.A. § 943, fifth paragraph).

These extended redemption periods apply to belated knowledge or notice whenever it occurs, regardless of how much time may have elapsed. Until then, the lien remains valid but unperfected. Once an unknown mortgage holder has been discovered, the omitted true copy or notice, as applicable, should be given but with the extended redemption period noted.

Incidentally, there is a similar “safety net” for belated foreclosure notices in the case of sewer and water service charge liens (see 38 M.R.S.A. § 1208 and 35-A M.R.S.A. § 6111-A, respectively).

For full details on tax and related liens, see MMA's *Guide to Municipal Liens*, available free to members at [www.memun.org](http://www.memun.org). (By R.P.F.)

## USE OF MUNICIPAL TAX ID BY NON-PROFIT GROUPS

*Question:* We've been asked by a local non-profit group if it may use our municipal IRS tax identification number and State sales tax exemption certificate. Is this okay?

*Answer:* No! Even if the group receives municipal funding or conducts fundraising for municipal activities, it should not be allowed to use your municipal tax ID number or exemption certificate unless it is actually part of municipal government. Otherwise, you may be a party to tax fraud.

Local charities such as food pantries, heating assistance programs and homeless shelters do good works and may be eligible for municipal financial support. And groups with monikers like “auxiliary,” “booster” or “friends” often raise funds to support municipal departments or programs. But if they're not in fact a *municipal* department, agency or program, they should not be allowed to use the municipality's tax ID number

to open a bank account, for example, or the municipality's sales tax exemption certificate to avoid sales or use taxes.

Legitimate non-profit or charitable organizations may apply for their own tax ID number from the IRS and their own sales tax exemption certificate from Maine Revenue Services.

For information on how municipalities may obtain a sales tax exemption certificate, see “Sales/Use Tax Exemption,” *Maine Townsman*, “Legal Notes,” December 2006. (By R.P.F.)

## CREDIT/ DEBIT CARDS & TRANSACTION FEES

*Question:* A law enacted this year (2010) prohibits sellers from imposing a surcharge on cardholders for the use of either credit or debit cards. We thought a law enacted last year (2009) authorized municipalities to charge cardholders a transaction fee for both credit and debit cards. Which is it?

*Answer:* Governmental entities, including municipalities, have been authorized since last year to impose a surcharge (transaction fee) on cardholders for the use of either credit or debit cards (see 9-A M.R.S.A. § 8-303(2-A)). This remains the law today. The law enacted this year amended a different part of the statute (§ 8-303(2)) to prohibit sellers in a sales transaction from imposing a surcharge for debit as well as credit cards. Last year's law for governmental entities is a standing exception

 MMA Municipal Calendar

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

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

**DURING DECEMBER** — Towns that elect officials by secret ballot under

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

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

to the more recently amended law for sellers and sales transactions.

The law authorizing governmental entities to impose a surcharge on cardholders (again, § 8-303(2-A)) is limited to credit or debit card payments for taxes, charges, utility fees, license or permit fees or the provision of a specific service. It also requires that the surcharge be disclosed clearly to the consumer prior to payment and that the consumer be advised that the surcharge can be avoided by payment by cash, check or other means. The surcharge may not exceed the costs directly incurred by the governmental entity or assessed by an authorized 3rd-party payment service provider. If there is no cost assessed by a 3rd-party payment service provider for debit card transactions, a surcharge may not be imposed on them.

For much more on this subject, including a detailed Q & A, practical considerations and links to other resources, see our "Information Packet" entitled "Municipal Acceptance of Credit Cards," available free to members at [www.memun.org](http://www.memun.org). (By R.P.F.)

### DIVORCE DECREES & TAX ASSESSMENTS

*Question:* If a divorce decree alters either party's ownership interest in real estate, is the decree itself sufficient notice to change our tax assessment records or is a deed required?

*Answer:* As long as the decree or an abstract (summary) of it is recorded in the registry of deeds and contains certain basic details, the decree or abstract is enough – a deed is unnecessary.

Title 19-A M.R.S.A. § 953(7) specifies the decree's or abstract's required contents, such as the names of the parties, an adequate description of the real estate, a clear statement of the ownership interests awarded by the court, and the date the judgment is final. The decree must also name the party responsible for preparing and recording the decree or abstract. Once the decree or abstract is recorded, it has, as the statute puts it, "the force and effect of a quitclaim deed releasing all interest in the real estate described."

Thus, if given a certified copy of a decree or abstract meeting these re-

quirements, an assessor may rely on it to change the assessment records for ensuing taxable years (April 1<sup>st</sup> to April 1<sup>st</sup>). The decree or abstract would not, however, have any effect on prior assessments or tax liens arising from them. Those assessments and liens would remain in the name(s) of the owner(s) as of the taxable year in question.

For much more on assessing taxes, see MMA's *Municipal Assessment Manual*, available free to members at [www.memun.org](http://www.memun.org). (By R.P.F.)

### IS A RESIGNATION A PUBLIC RECORD?

*Question:* If a municipal official or employee resigns, is the resignation a public record?

*Answer:* It is if it's in writing.

Maine's "Right to Know" law defines a "public record" as any written, printed or graphic matter or mechanical or electronic data in the custody of a public agency or official and received or prepared for use in connection with public business (see 1 M.R.S.A. § 402(3)). We know of no court decision directly on point, but there is no apparent reason why the written resignation of a public official or employee would not come within this definition. After all, even a settlement agreement with an ex-

employee, with salacious undertones, has been held to be a public record (see *Guy Gannett Publishing Co. v. University of Maine*, 555 A.2d 470 (Me. 1989)).

As in the *Guy Gannett* case, however, portions of the record may contain information that is designated confidential by statute, for example, personal medical information or complaints or charges of misconduct pertaining to an identifiable employee. This information can (and should) be redacted or edited out before a written resignation is released to the public.

For more on what types of personnel information are protected, see "Personnel Records – What's Confidential," *Maine Townsman*, "Legal Notes," June 2006.

For the law on when a resignation becomes effective and can no longer be withdrawn, see "Resignation Withdrawn," *Maine Townsman*, "Legal Notes," February 1995.

For details on filling vacancies created by resignation, see "How Vacancies Are Filled," *Maine Townsman*, "Legal Notes," August/September 2007.

For more on public records generally, see our "Information Packet" on the Right to Know law, available free to members at [www.memun.org](http://www.memun.org). (By R.P.F.) 

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.

**MMA's services include advocacy, education and information, professional legal and personnel advisory services, and group insurance self-funded programs.**

For more information visit the MMA website: [www.memun.org](http://www.memun.org) 

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## MMA Professional Directory



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