

August-September, 2009

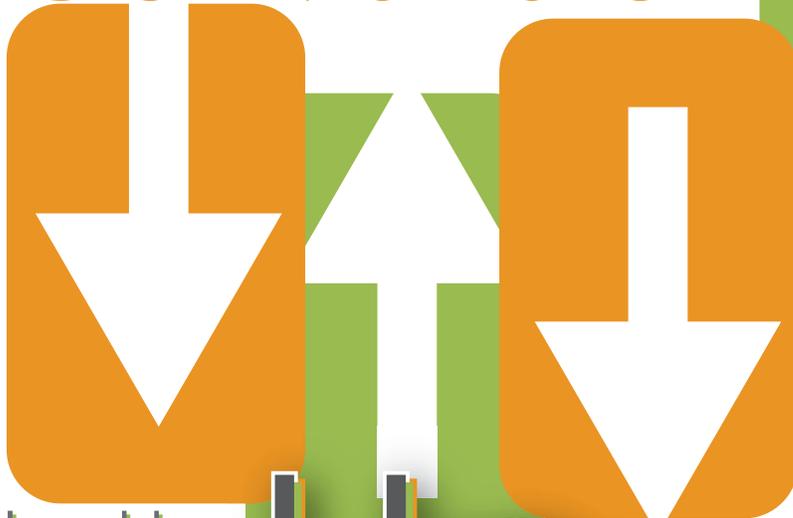
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The Magazine of the Maine Municipal Association

Citizen Initiatives • Assessment & Taxation

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**MMA 2009
Convention**



Looking **Up** in Down Times

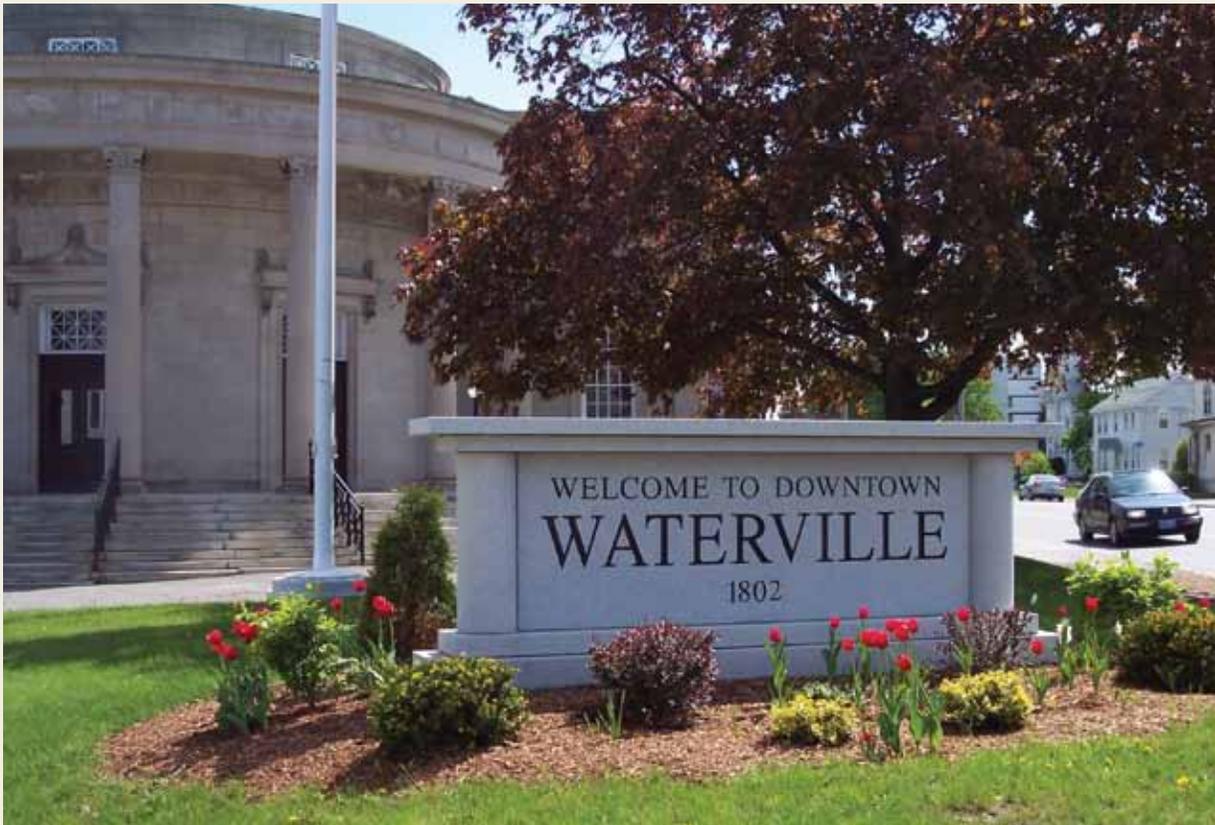
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Unified Corrections • MMA Convention • Creative Reval

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Michael Starn, Editor
mstarn@memun.org

Valerie Pomerleau, Circulation Manager
Jaime Clark, Graphic Design

MMA website: www.memun.org

MAINE TOWNSMAN (ISSN 0025-0791) is published monthly, except in August, by the Maine Municipal Association, 60 Community Drive, Augusta, Maine 04330. (207) 623-8428. Periodicals postage paid at Augusta, Maine, and at additional mailing offices. All rights reserved. Postmaster send address changes to: Maine Townsman, 60 Community Drive, Augusta, Maine 04330. Information, policies and opinions do not necessarily reflect the views or policies of the Maine Municipal Association. Subscription price: \$15 per year.

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recycled paper

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Campaign '09: Excise Tax & TABOR II

By Geoff Herman, Director, State
and Federal Relations, MMA

Four citizen initiatives will be decided by the voters on November 3, 2009. That's one for the record books.

According to information posted on the Secretary of State's website, six citizen initiatives were decided by the voters during the entire 50 year period between 1920 and 1970.

During the 1970s, six more initiatives were decided by the voters, increasing the average rate from one citizen initiative per decade to an initiative every other year.

The rate at which citizen initiatives were presented to the electorate jumped again during the 1980s, when 12 citizen initiatives were decided by the voters. The decade of the 1990s experienced the same one-initiative-per-year rate when 11 citizen initiatives were advanced to the statewide ballot.

After November 3, 2009, 16 citizen initiatives will have been decided by the voters since the year 2000, with one year still left to fill out the decade. Four of those 16 initiatives will be decided by the voters this November.

Maine is unmistakably trending toward increased "government by referendum".

Three of the four initiatives directly impact local government, and MMA is actively involved in the effort to educate voters about the negative impacts of two: the Motor Vehicle Excise Tax initiative and "TABOR II". We are launching this effort because the elected and appointed municipal officials who make up MMA's 70-member Legislative Policy Committee and 12-member Executive Committee strongly believe that these two proposals, both individually and in combination, would be harmful to the citizens of the state, cause negative and unfair impacts, and place increased burdens

on the real estate property tax (see article in this issue titled *Unfair, Unnecessary and Unwise*).

The educational effort goes well beyond this Association, however. MMA is just one association within a broad coalition of organizations and individuals opposed to one or both of these proposals.

Along with MMA, the core group of organizations and individuals joining together to inform the voters

about the significant down-side of these two initiatives include the Maine Education Association, the Maine Service Center Coalition, the Maine Better Transportation Association, the Maine State Employees Association, an organization called Engage Maine, the Hon. Jill Goldthwait of Bar Harbor, and Joseph Wishcamper of Freeport. The Political Action Committee that is overseen by that core group goes by the title *Citizens Unified for Maine's*

Excise Tax Information on the MMA Website: www.memun.org

The Legislation

- LD 974
- Fiscal Note
- MMA Summary

The Impact

- MMA Estimate (Statewide)
- MMA Estimate (Town-by-Town)
- MMA Worksheet (RTF) or (PDF)

Advocacy

- MMA Talking Points
- MMA Q&A
- Resolutions
- Voter Guide Essays
 - Jill M. Goldthwait, Bar Harbor
 - Mayor Roger Katz, Augusta
 - Richard Gould, Greenville

Related Laws

- Original 1929 Excise Tax Law
- Article IX, Section 19 of Maine's Constitution

Maine Road Data

- DOT Data on Local Roads and Bridges (Town-by-Town)
- FHA Data on State & Federal Support for Roads

Excise Tax & Local Budgets

- Road Revenues & Expenditures (FY 2008)
- Annual Reports
- 2007 Road Revenues & Expenditures Chart

Reports by Others

- Maine Development Foundation Report on Roads (2009)
- American Society of Civil Engineers Road Report Card (2008)
- Maine Revenue Services Report on Motor Vehicle Excise Tax (2008)
- MBTA Report (2009)
- Maine Heritage Policy Center Report on Municipal Spending (2008)

Media

- Editorials
- News Stories

The Campaign (coming soon)

- Campaign Website
- MMA Packet Materials
- MMA Speaking Engagement Calendar

Future.

But the size and the breadth of the coalition opposed to these two initiatives doesn't end there. Dozens of organizations representing a broad range of perspectives have added their names to the list of opponents. Business groups such as the American Council of Engineering Companies and Associated General Contractors have taken formal positions in opposition to one or both of these proposals. Along with the business-based opponents, there are labor organizations such as the AFL-CIO, environmental groups including the Natural Resources Council of Maine, groups representing certain voters such as the League of Women Voters and the League of Young Voters, groups representing the not-so-young such as the Maine Chapter of the American Association of Retired Persons, and over two dozen social service agencies. The list of opponent organizations grows every day.

The Shape of the 2009 Campaigns. In 2003 there was the "Question 1A" initiative that directed the state to actually assume 55% of the cost of

public education, as long promised. In 2004 there was the "Palesky" initiative limiting all property tax rates to 1% of real estate assessments and prohibiting those assessments from being adjusted to reflect their changing values. In 2006 there was the original TABOR campaign which is the progenitor of this November's TABOR II initiative. As challenging as each of these campaigns were, they were at least advanced through the initiative process one-at-a-time.

In 2009, however, the primary supporter of governmental tax cap and revenue-limiting proposals – The Maine Heritage Policy Center – has decided to advance two tax-cut, tax-capping proposals simultaneously: The Excise Tax initiative which is largely (but not exclusively) focused on cutting municipal revenue, and the TABOR II initiative which is largely (but not exclusively) focused on ratcheting down state government's ability to financially support its core functions.

Although both initiatives may share Heritage's smaller-is-better philosophy about government, there are big dif-

ferences between them when it comes to how and when the restrictions and limitations would actually be implemented, which governments are most affected, how the negative impacts can be quantified, and the types of governmental programs and services that would likely be impaired.

As a result, MMA and its coalition partners will be conducting two separate campaigns between now and November. MMA will take the lead in standing up against the Excise Tax

Absentee Voting on the Rise

By Kate Dufour, Legislative Advocate, MMA

Just as tweeting, interfacing and instant messaging are becoming commonplace forms of communication, the seemingly unstoppable drive for convenient, instantaneous access is also breaking traditions with respect to other activities, such as voting. Whether to avoid lines on election day or simply get the task of voting out of the way as soon as a decision has been made, more voters across the country are taking advantage of the opportunity to cast ballots weeks before the actual election.

Maine is not immune from these changes in the voting culture even though the state is steeped in a tradition that calls upon folks to gather annually in a common meeting place to decide their community's budget and ordinances.

In 2000, for example, the Legislature enacted a bill that moved the state's absentee voting process from one which required a voter to state a reason for voting by absentee ballot to a no-reason process, thereby making it easier for any voter to cast an absentee ballot. This year, the Legislature enacted a bill creating a pilot program to test the feasibility of an "on-going" absentee balloting process whereby voters could choose to automatically receive absentee ballots for every election without having to actually request a ballot each time.

As these laws change, so do the voting behaviors of Maine residents. According to the Secretary of State, absentee voting is on the rise in Maine. In the 2000 presidential election, 76,672 Maine voters were issued absentee ballots. During the 2004 presidential election, the number of absentee ballots issued increased to 166,226. In the 2008 presidential election the number of absentee voters jumped to 233,348, representing 33% of the total ballots cast.

In addition to making the process more convenient for voters, absentee voting has become a tool of greater strategic importance among political activists who strive to get people to cast ballots as soon as their minds are made up on an issue, thus locking in that vote. It is likely that this "early to the polls" strategy will be employed this year, as interested parties try to convince Maine voters on their side of the question to quickly cast votes deciding the fate of the most controversial questions on the ballot, such as the proposed repeal of the same-sex marriage law, the repeal of the school consolidation law, and the TABOR II and the Auto Excise Tax initiatives.

Schedule for Road Shows on Excise Tax & TABOR II

Sept. 3 6:30-8:30 p.m.
Bangor Public Library

Sept. 9 6:00-8:30 p.m.
Biddeford City Hall

Sept. 9 6:00-9:00 p.m.
Waldo Town Office

Sept. 10 6:00-8:30 p.m.
Naples Town Office

Sept. 14 6:00 – 8:30 p.m.
Paris Fire Station

Sept. 15 6:30-8:30 p.m.
South Portland
Community Center

Sept. 16 6:30-8:30 p.m.
Location TBD (*likely Wiscasset High School Caf  or Middle School Cafeteria*)

Sept. 17 6:00-8:30 p.m.
University of ME at Machias

Sept. 21 6:45 p.m.
Waterboro Town Office

Sept. 22 6:00-8:30 p.m.
Ellsworth City
Hall Auditorium

Sept. 23 7:00-8:30 p.m.
Farmington Municipal Building

Sept. 24 6:30-8:30 p.m.
Lewiston City
Council Chambers

Sept. 29 (tentative) 6:00-8:00 p.m.
Greenville Town Office

Oct. 7 3:15- 4:15 p.m.
Augusta Civic Center
(MMA Convention)

proposal. The opposition to TABOR II will be the primary focus of MMA's coalition partners.

The Web Site and the Road Shows. We have two primary ways of providing information to our membership regarding these initiatives; information we hope municipal officials will find useful in their efforts to provide educational resources to their constituents.

At the front page of MMA's website (www.memun.org), a simple click on "Citizen Initiatives" can take any interested surfer to a section devoted to quality information about the Excise Tax initiative. The table of contents of that section of the website is shown on page 5. As will be noted, the proposed legislation and its fiscal note, pertinent data, impact analyses, advocacy materials, etc., are organized according to informational categories for the convenience of anyone wishing to comprehensively review the Excise Tax initiative and understand its impacts at both the statewide and local level.

MMA will also be taking information about these two citizen initiatives on the road. The schedule of road shows as developed thus far is located

on page 6. The purpose of the road shows is to provide an opportunity for municipal officials and the general public to obtain more information about these two initiatives. The design of each road show will depend largely on the interests of the community or region where the informational sessions will be held. MMA's offer is entirely open. We will make ourselves available to provide the information we have about these two proposals, with a focus on the Excise Tax initiative. If there is a local interest in expanding that informational forum into a presentation from both supporters and opponents of these citizen

initiatives, that would be perfectly acceptable.

As will be noted, almost all the road shows are scheduled for the month of September. Not that many years ago, the public discussion and debate over election issues might begin after Labor Day but not crescendo until the last week or two before the official election day. We are now learning about a growing trend toward early voting by absentee ballot (see the sidebar article *Absentee Voting on the Rise*). As a result, we thought it would be prudent to get as much information as possible into the public debate during the earlier half of this autumn's election season. [m](#)

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Unfair, Unnecessary & Unwise

By Jeffrey Austin, Legislative Advocate, MMA

Two citizen initiatives will be on the statewide ballot on November 3 that are of great concern to Maine's municipal leaders. Those two initiatives are: *An Act to Decrease the Automobile Excise Tax and Promote Energy Efficiency (LD 974)*, and *An Act to Provide Tax Relief (LD 976)*, commonly referred to as "TABOR II" (which stands for Taxpayer Bill of Rights).

The Maine Municipal Association strongly opposes the Motor Vehicle Excise Tax initiative and the TABOR II initiative. Here's why.

EXCISE TAX INITIATIVE

Question to the voters: *"Do you want to cut the rate of the municipal excise tax by an average of 55% on motor vehicles less than six years old and exempt hybrid and other alternative-energy and highly fuel-efficient motor vehicles from sales tax and three years of excise tax?"*

With this question, voters are being asked whether they want to significantly cut the motor vehicle excise tax rates that are applied when cars and trucks are registered each year. For the newest cars (four years old or newer), the rates are cut between 50% and 70%. For vehicles in their 5th year, the rate is cut by just under 40%. There would be no reduction in excise taxes for any motor vehicle older than five years. Approximately 68% of all registered motor vehicles in Maine are older than five years.

These excise tax revenues are collected and retained by the towns and cities and both as a matter of practice and a matter of fact they are used to maintain and repair Maine's local roads and bridges. According to the data collected in MMA's 2007 Fiscal Survey report, it was projected that municipalities statewide received

\$210.4 million in motor vehicle excise tax revenues and spent \$235.4 million on roads and bridges. The difference was made-up with \$25.4 million in state aid for local roads (Urban/Rural Initiative Program). Therefore, the total amount of money in both accounts available to repair and maintain local roads and bridges was \$235.8 million. Accordingly, all the towns and cities in Maine, taken together, spent 99.83% of the combined revenues from the excise tax and state aid for roads on road and bridge-related expenditures in 2007.

Based on the total amount of motor vehicle excise tax revenue collected in 2008, the initiative to cut motor vehicle excise taxes, if approved by the voters, will remove approximately \$82 million in municipal revenue each year. As just noted, that revenue is collected by the towns and cities and actually used in the statewide aggregate to plow and sand, maintain, repair and rebuild nearly 14,000 miles of local roads and 850 local bridges in Maine.

Supporters of the initiative attempt to obfuscate the impacts by suggesting that excise revenues are not "required" to be used for roads. That is true only because the Maine Constitution effectively prohibits the Legislature from enacting such a requirement for historical reasons. As anyone who has attended a town meeting or read a town report knows, motor vehicle revenues are often specifically dedicated in the local budgets to be used for road and bridge repair and maintenance. Even in the larger municipalities where the legislative body is the town or city council, the general equivalence between road expenditures and motor vehicle excise revenues (plus state road aid) is no

coincidence. The public expects these revenues to be used for road repairs and they are.

In addition to slashing road repair revenue, the Excise Tax initiative promotes a fundamentally unfair public policy. All car owners benefit from the maintenance of local roads and certainly all vehicles contribute to wear and tear on the roads. This initiative, however, provides a special tax benefit to the 30% of Mainers who own newer cars. It also provides super-special tax benefits for hybrid or "alternative fuel" vehicles. The excise tax is vital to keeping local roads plowed in the winter and repaired in the summer. Changing this 80-year old law now so that a few people get a free ride is unfair.

TABOR II

Question to the voters: *"Do you want to change the existing formulas that limit state and local government spending and require voter approval by referendum for spending over those limits and for increases in state taxes?"*

As the question to the voters indicates, TABOR II makes changes to the current law that since 2005 has imposed spending limits on Maine's State, county, and municipal governments and all school systems. That law, many elements of which were developed by the Maine State Chamber of Commerce, is referred to as "LD 1". TABOR II repeals the LD 1 spending limit system as it applies to State government and replaces it with a structurally different system. TABOR II modifies the LD 1 spending limit system as it applies to municipalities and counties without totally replacing it.

Generally, the changes TABOR II makes to the existing governmental

spending limitation system would place additional limits on the authority of: (1) the voters at town meeting; (2) the representative town or city councils; (3) the boards of county commissioners and the county budget advisory committees, and (4) the Maine Legislature to adopt budgets or enact tax changes that exceed certain limits established by formula in the TABOR II initiative.

On the county and municipal level, TABOR II requires a referendum vote to approve any budget that exceeds the municipal or county spending limit, and those limits would be specially capped by TABOR II in high-growth communities.

TABOR II is essentially a warmed-over version of the TABOR I initiative that was rejected by Maine voters in 2006. The primary municipal concerns with TABOR II are generally the same as in 2006. TABOR II strips local citizens of their power to decide how local decisions should be made, and severely limits the state's capacity to cover a fair share of the cost of public education and highway maintenance.

On the first point, TABOR II compels all municipalities to submit certain budget and tax decisions to referendum. Referendum voting is a perfectly valid governance tool if that is the way the voters in a community want to make their decisions. Having said that, referendum voting is currently and always has been an option available to all municipalities, and the voters in several towns have locally chosen to utilize this governance tool. But TABOR II takes away local control over this issue, compels all municipalities and counties to use the referendum system and in so doing gives control over to the state Legislature over the future of this mandatory referendum law. It is unnecessary and inappropriate to mandate a system that is already a local option.

TABOR II is even more intrusive with respect to state operations. First, TABOR II imposes growth limits on all state spending, and requires a statewide referendum vote to exceed the limits that are separately applied to the state's General Fund, the Highway Fund and hundreds of small single-issue dedicated accounts as diverse as the "Maine Black Bear Scholarship Fund", the "Maine Dairy Farm Stabilization Fund", the "Snowmobile

Trail and Trail Grooming Equipment Fund", the "Maine Outdoor Heritage Fund", the "Eel and Elver Management Fund", and the "Saco River Corridor Commission".

In the act of repealing and replacing the entire spending limit system for state government, TABOR II establishes Fiscal Year 2010 as the baseline year for all future growth in the state's General Fund, Highway Fund and each of the hundreds of "Other Special Revenue" accounts. Because of the current nationwide economic recession, the FY 2010 General Fund and Highway Fund revenues are currently projected to come in at unusually low levels. For example, the General Fund appropriations for the current year, which would make up the TABOR II baseline, are fully \$202 million less than the total General Fund appropriations two years ago, in FY 2008. The FY 2010 General Fund appropriations are \$51 million less than the appropriations of FY 2007, which represents the period of time the first version of TABOR was rejected by the voters. Similarly, Highway Fund appropriations for the current "baseline" year are \$40 million less than the Highway Fund appropriations of three years ago. Going forward, therefore, TABOR II will have the effect of locking-in state-level spending at historically low levels. This element of TABOR-based spending cap proposals is known as the "ratchet down effect".

TABOR II also imposes significant additional costs on state and local governments by requiring statewide referendum voter approval for tax rate increases and statewide, countywide and local referenda for expenditure increases above the growth limit. On the state level, this includes: (1) any increases in General Fund, Highway Fund, and "Other Special Revenue" Fund spending over the

newly-designed TABOR II limits; (2) any state-level tax rate increase, tax base expansion or repeal of any tax exemption that net generates more than one-hundredth of one percent of the state's General Fund (approximately \$300,000 a year); and (3) the annual increases to the motor fuel taxes, which are currently indexed to inflation.

Prior to any statewide referendum vote, TABOR II requires that certain notices and financial information be mailed to every registered voter in the state. The direct costs of mailing special notice to the state's 994,000 active registered voters are estimated to be approximately \$800,000 for each mandated referendum. In addition to the costs of providing the special mailed notice that the state would pay, the municipal costs to the property taxpayers associated with conducting a statewide referendum election are approximately \$1 million.

SUMMARY

Taken together, the Motor Vehicle Excise Tax initiative and the TABOR II initiative run roughshod over municipal operations, intrude inappropriately on municipal home rule authority, make the motor vehicle excise tax substantially more regressive, severely limit both the state and municipal capacity to adequately maintain our roads, highways and bridges, make it all but impossible for the state to appropriately fund K-12 education, and put enormous pressure on the real estate property tax. TABOR II and the Excise Tax initiatives are not good faith efforts at government reform. They represent, instead, a slash-and-burn type approach to public policy and are ultimately unfair, unnecessary and unwise. MMA urges municipal officials to educate their citizens about these issues before November 3. [\[MMA\]](#)

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Municipal Views On Excise Tax Initiative

By Douglas Rooks

As if the most difficult budget conditions in years were not enough for municipal officials to handle, they face two referendums this November that would directly affect their ability to maintain spending on services and reduce pressure on property taxes.

Of the two questions relevant to municipal budgeting, the one that proposes the most direct challenge would reduce vehicle excise tax revenues by about 40%, sharply cutting rates during a car or truck's first five years of ownership. Municipalities would also be affected by numerous provisions of the TABOR II ("Taxpayer Bill of Rights") referendum that imposes annual spending caps, but voters are somewhat familiar with its terms, having defeated a similar measure in 2006.

As proposed, the excise referendum would reduce the first year \$24 per thousand rate by half, and the second year by even more. Under the new system, the rates would be \$12 for the first year, \$8 for the second, and \$4 for every year after that.

One surprising aspect of the plan is that the \$4 rate, which currently kicks in during the sixth year and remains constant for the life of the vehicle, would not provide any tax break for those who own older cars. The state estimate that 68% of all cars registered in Maine are older than five years, so less than a third of current vehicle owners would see a reduction.

Municipal officials provide differing estimates of public understanding concerning the excise tax proposal. Some say that they believe the public

perceives it as a state tax – which it is not – because it's paid at the time one registers a vehicle, while others see voters as more savvy both about the tax and what it funds.

At least one city has already passed a resolve opposing the excise tax question, and other municipalities are expected to take a stand or provide information before the campaign comes to a conclusion with the November 3 election.

Other municipal officials began speaking out even earlier. Augusta Mayor Roger Katz testified against the initiated bill, LD 974, when it was debated and later rejected by the Legislature. "This proposal only benefits a few," he said. "Most of us will see poorer roads or increased property taxes to make up for the lost revenue, or some combination of both."

The excise tax is commonly seen as providing funding for municipal summer and winter road work, and although – unlike state fuel taxes and the Highway Fund – it is not specifically dedicated to those programs, there is a strong correlation between excise tax revenues and expenses for roads.

An MMA survey shows that most towns and cities spend at least as much on summer paving, reconstruction and maintenance, and winter plowing, as they take in from the excise tax – and many spend a good deal more. The question that public works directors, town and city managers and elected officials must face is what happens to roads if voters decide to eliminate a good part of excise tax funding.

While councils and selectmen are expected to look across the board for possible spending reductions – few observers are willing to predict that property taxes would be raised to make up

the difference – they will certainly look hard at roads.

Bob Belz, the long-time public works director for Auburn, has seen this cycle before. He's worked for the city since 1969, and in the 1980s, the Auburn city council felt significant pressure to hold down spending and reduce the tax rate.

One place where they cut back significantly was road reconstruction and paving. It's a big expense in most municipalities, and an even larger one in Auburn. Belz said that Portland, Lewiston and Auburn all have about the same number of "lane miles" to maintain, but Portland and Lewiston have much larger population and tax bases to draw on.

Auburn decided to virtually stop borrowing to rebuild roads, and did only a small amount of paving each year. Not only were taxes an issue, but the 1980s saw major increases in the cost of materials such as steel and concrete, which also forced cutbacks. In recent years, the price of liquid asphalt, the key ingredient in paving mixes, has been the biggest cost driver for road maintenance.

A decade or so after Auburn's budget reductions, the complaints began coming in about road conditions, and new councils began changing course. For the past 10 years, Auburn has been busy rebuilding its infrastructure and bringing back roads that had been crumbling away.

The difference between maintaining and rebuilding, Belz said, is that the latter is much more expensive. Auburn has had to put significant amounts of new dollars into roads, although it has had other major public works projects to carry out as well, particularly stormwater separation, or

Douglas Rooks is a freelance writer from West Gardiner and regular contributor to the Townsman.

combined sewer overflow reconstruction that will cost many millions of dollars over 20 years.

Now, the city could be faced with beginning the same cycle all over again. "It's not like the city is going out of business," Belz said. "It'll be there. The question is whether we're going to push these costs off to future generations."

COUNCIL SPEAKS OUT

Some of that complexity can be seen in Bangor's budget, which shows \$5.6 million in expenses to maintain and plow roads, and \$4.7 million in revenue from the excise tax. The anticipated reduction from the referendum would be \$1.8 million.

According to an analysis from the city's finance department for the fiscal year that ended June 30, the city spent \$1.2 million on paving and reconstruction, \$100,000 on sidewalks, and \$90,000 for the city's match for federal funding toward regional transportation projects.

Winter maintenance came to \$1.4 million while "other highway maintenance," which includes road crews and other personnel costs, came in at \$1.9

million.

There is at least one element in Bangor's budget that voters might not consider significant: The city spent \$791,000 to maintain its electrical system, including personnel costs. One of the state's most urbanized municipalities, Bangor has 75 traffic lights and more than 2,000 streetlights, according to City Manager Ed Barrett.

Barrett declined to predict how the city council might respond to the loss of nearly \$2 million a year in excise tax revenue. But he did say that, in recent years, the council has been extremely reluctant to increase property taxes, so a look at further service reductions – the city has cut employee positions each of the last two years – and possible fee increases might be places to look.

Barrett also asked the council whether it wanted to take a stand on the excise tax question, as it had on other public issues with a direct impact on the city and its finances. The council did want to take a look, and its government operations committee decided to take no position on a resolution, instead forwarding the issue to the full council.

On July 27, the council voted 7-1 to enact resolves opposing both the excise tax and TABOR II questions after one speaker urged the council "not to take a namby-pamby stance."

Barrett said the apparent first-in-the-state status of the resolution was not intentional. "I thought it might take longer to move along," he said. "Instead, it took only three weeks before the council voted."

In addition to the points about the relatively small number of beneficiaries and the steep reduction in revenues, the resolution notes that the question would provide disproportionate benefits to corporate and business fleets, which usually feature new vehicles. The lost revenue, if replaced with property taxes, would require a 75 cent per thousand increase to the current tax rate.

Further difficulties would result from the effective date of the proposed law, which would kick-in sometime in the middle of Bangor's current fiscal year. The council would have no opportunity to substitute a property tax increase then, and would have much less flexibility over spending. "A mid-year expenditure reduction of this



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magnitude would require the elimination of city services and staff, including positions in such core services as police, fire and public works," the resolution concludes.

While the council has spoken, Barrett said the debate is just beginning. The aim, he said, is to engage voters. "We need to see that the public is informed, gets a chance to hear both sides of the issue, and makes an informed decision."

HIGH DEMAND FOR SERVICES

In Norway, Town Manager David Holt notes that the vehicle excise tax is "the second largest source of revenue" after the property tax. Norway takes in about \$500,000 a year in excise taxes, and the town spends about \$1 million in road-related expenses, including the cost of borrowing.

He's not sure that voters currently understand the connection between the excise tax and the services they receive locally, and he knows why the vehicle tax, in particular, gets their attention.

The fun of buying a new car – which is usually financed at the dealership – is diminished by arriving at the town office and paying the tax as a lump sum, sometimes more than \$1,000 for the first year, he said. "The price of new vehicles has gone up dramatically," he said, at least until recently. "That's the pinch."

Surveys the town periodically conducts show that roads are important to taxpayers, Holt said. "Next to education, it's what people value most."

In recent years, Norway has spent \$300,000-\$500,000 on improvements in an effort to catch up on road repairs, though this year's spending has been cut back. The \$1 million bond that the town normally floats every five years has been deferred as well. "We'll definitely have to go for one next year," he said.

Holt said that townspeople have increased expectations for services. Where residents might have been prepared to wait for snow clearance at one time, "now, if a road's not opened, we hear about it."

What may not be as clear to taxpayers is that improved services cost more, he said. Calcium chloride for snow and ice removal is one example. "It clears the roads a lot faster, but there's no question that it's a lot more expensive

than salt."

Despite the concerns about the referendum's effects, Holt said it's unlikely that selectmen will take a formal position, saying, "We're a little nervous about getting into the fray."

NOTHING LEFT TO CUT

For Candy Nevers, who manages a joint town office for the small towns of Smyrna and Merrill in southern Aroostook County, the referendum takes place against a backdrop of economic decline and real hardship for many of her constituents.

Mill closings throughout the region have hit hard. Several paper mills have been shuttered or gone through long shutdowns, "and even for the loggers in the woods, there's no place to take their loads," she said. The closing of a potato starch plant in Island Falls also hurt. "In just about every household, we've felt the effects," she said.

As a result, town budgets are already stretched thin. "We stopped worrying about the fat long ago," Nevers said.

Merrill gets about \$121,000 in non-property tax funding per year, including school aid and revenue sharing, and about \$44,000 comes from excise tax. The road budget is \$47,000, with \$14,000 for summer maintenance and \$33,000 for winter plowing. The town uses a road bond of \$33,000.

In Smyrna, the figures are similar. There's \$146,000 from non-property tax sources and \$59,700 from excise tax. Summer roads cost \$12,000, and winter maintenance \$55,000, with a road bond of \$34,000. As in most smaller towns, almost all of that money goes to private contractors, who could

be dramatically affected by passage of the referendum.

Nevers said that although proponents of the referendum say towns can make up the revenue elsewhere, she doesn't see how that can happen for her towns.

"There's nothing left to cut," she said. "If we had to reduce, that would mean closing the town office, not plowing the roads, or not mowing the cemeteries. That's about all we do."

Nevers considers townspeople pretty well informed about the issue, both as to who now pays the tax and what would happen to the town budget if it were reduced proportionately. She distributes a quarterly newsletter to all her constituents, and provides information on the fall referendums there.

THE DOMINO EFFECT

In Auburn, Bob Belz is concerned about a growing mismatch between public expectations for services and the apparent willingness of the voters, as taxpayers, to fund them.

Belz has paid attention to debates within the Legislature's Transportation Committee, which included the prospect of "decommissioning" some of the state's 8,500 mile highway system. The problem, he said, is simple. "We want a road system that seems to be beyond our ability to pay for it."

But in truth, the state can't really decommission roads, merely change their classification, which it has done in the past, as recently as the 1980s. And that means a shift to municipal jurisdiction, along with the expense of maintaining them, he said. "If they vote to reclassify, that means they transfer them to us." 



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Building a Unified Corrections System

By Irv Faunce

Maine's beleaguered property taxpayers are going to get relief!

That statement may sound a little startling, but bear with me for awhile.

As the recent legislative session ended, a \$140 million tax "shift" was left on the table as a lavish, unwanted "gratuity" to municipalities and property taxpayers.

Its currency was in the form of a reduced homestead exemption, cuts in property tax and rent relief (circuit breaker), lowered revenue sharing, fewer dollars for tree growth reimbursements and a sizeable decrease in the state's share of general purpose aid to education.

However, unnoticed by much of the public and underneath the radar of most of the news media, the State Board of Corrections was quietly carrying out the purposes mandated in PL 653 enacted in 2008 – An Act to Better Coordinate and Reduce the Cost of the Delivery of State and County Correctional Services.

Namely those purposes are to:

"Develop and implement a unified correctional system that demonstrates sound fiscal management, achieves efficiencies, reduces recidivism and ensures the safety and security of correctional staff, inmates, visitors, volunteers and surrounding communities."

According to data prepared by the State Planning Office, the Board is succeeding.

Maine property taxpayers will avoid some \$189 million in property tax expenditures over the seven-year period between 2008 and 2015 (see accompanying chart). In fact, we taxpayers will not pay more for jail operations than we paid in the 12-month period that ended June 30, 2008. For the state as a whole, that "property tax cap" for county jails is \$62.5 million. It is in the law.

Irv Faunce is Wilton Selectman, blueberry farmer, and member of the State Board of Corrections.

Further, according to the SPO, the annual rate of growth of the county correctional system has been reduced from its historical average of 9% to just under one percent (.9%) for FY10.

Major mission changes and downsizings have been implemented at three county jails – Franklin, Oxford and Waldo – that will convert them to 72-hour holding facilities and, in the case of Waldo, to the Coastal Region Reentry Center.

These changes will reduce their total costs by some \$1.7 million and redirect those funds into the Board of Corrections Investment Fund where they will be deployed statewide for the development of the system as a whole.

With the prodding of the SBOC and the solid work of the Legislature's Criminal Justice and Public Safety Committee, the State of Maine has been held to its commitment to this process. The Legislature is providing some \$3 million for the "transition" year of 2009 and an additional \$3.5 million general fund appropriation for FY 10.

So, let's look back at how the State Board of Corrections was formed and how it has worked so diligently on behalf of its varied constituencies of state, county and local government, law enforcement, the judiciary, pre-trial and post-conviction service providers and the public as a whole.

Governor Baldacci took a broad

swipe at the County Jail system in early 2008 when he introduced a plan that included the closing of several jails and a state "takeover" of the operations of all the others.

This, of course, was met with the full range of reactions from outright alarm to genuine concern to legitimate questioning of daily logistics such as: "If the Franklin County Jail is closed, where will the Rangeley police (47 miles away from the jail's site) take arrested people for booking?"

With an eye on the "big picture," the affected special interests were able to gather and to start talking "compromise," the most valued word in the political process and, frequently, its most underused tool.

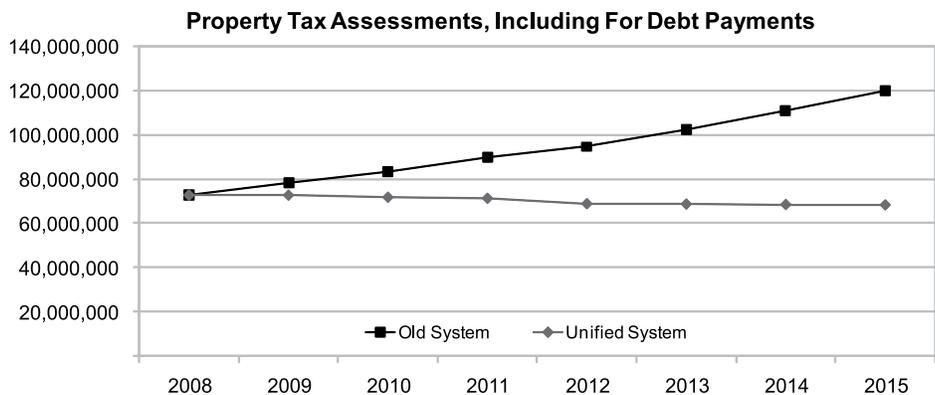
They were all there – sheriffs, jail administrators, county commissioners, Department of Corrections leadership, pre-trial and post conviction service providers, mental health advocates, the Governor's office, politicians, and, finally, the Maine Municipal Association.

The work was diligent, time consuming and performed under the pressure of the looming legislative adjournment. The concessions were frequent but often painful.

However, the consistency (and persistency) of the MMA position was apparent: *this legislation must provide immediate property tax relief that is assured going forward.*

The "property tax cap," now the core dynamic of the county correctional system budget development process, is in place in the law.

It is important, at this point, for municipalities to know that the integrity of the tax cap has been firmly held in place and respected by the SBOC. Some counties pointed out that errors had been made (often by them) in the computation of the cap. Kennebec,



for instance, did not include the costs for its pre-trial services contract in its calculations. Nonetheless, the Board showed no interest in legislation that would revise the caps or in any activity to open up that discussion.

Somerset County, because it had only eight months of operations in its new jail when the cap was put into place, was specifically mentioned in PL 653 as a county that could have its cap adjusted after more experience with operations. In fact, it is likely that there will be a downward adjustment in the Somerset cap.

Property taxes for the support of county jail operations are capped at these levels: Androscoggin, \$4,287,340; Aroostook, \$2,316,666; Cumberland, \$11,575,602; Franklin, \$1,621,020; Hancock, \$1,670,136; Kennebec, \$5,588,343; Knox, \$3,188,700; Lincoln, \$3,018,361; Oxford, \$1,228,757; Penobscot, \$5,919,118; Piscataquis, \$878,940; Sagadahoc, \$2,295,849; Somerset, \$5,363,665; Waldo, \$2,832,353; Washington, \$2,000,525.

Franklin County presents an example of how the tax cap works. The property tax cap in that county is \$1.6

million. The jail "mission" has been changed from its traditional use to that of a 72-hour holding facility, thereby dropping the annual operating cost to approximately \$950,000. The county must still assess and collect the "cap" of \$1.6 million. The \$650,000 difference is paid by the county into the Board of Corrections Investment Fund, which is defined in the law as an "enterprise fund."

The SBOC has voted that this Investment Fund will not be available for the support of routine jail operations, but will be utilized for capital investment, emergency expenditures and for payment of the marginal costs of boarding of county prisoners within the county system, during FY10.

With enactment of the law in June 2008, the Governor reached out to MMA, the Maine County Commissioners Association and the Maine Sheriffs Association, as well as to the general public for nominations to the first Board of Corrections. The Legislature's Joint Standing Committee on Criminal Justice and Public Safety approved and sent these names to the State Senate where they were con-

firmed (Note: one seat is vacant).

Public at Large

Chair Neale Duffett of Portland, Attorney

Tom Brown of Bangor, Attorney
Tim King of Ellsworth, Washington-Hancock Community Action Agency CEO

County Commissioners Association

George Jabar of Waterville, Attorney and Kennebec County Commissioner

Sheriffs Association

Scott Story of Belfast, Waldo County Sheriff

Maine Municipal Association

Irv Faunce of Wilton, Blueberry Farmer and Selectman

State Planning Office

Martha Freeman of Hallowell, SPO Director

State Department of Corrections

Marty Magnuson of Rangeley, DOC Commissioner

While the Board is the most visible component of the "One Maine/One System" model that it has ad-

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opted, much of its preliminary work has been accomplished under the direction of the Corrections Working Group, chaired by Denise Lord, Associate Commissioner of Corrections, and Todd Brackett, Lincoln County Sheriff. The CWG membership is comprised equally of state and county members.

The CWG coordinates "Focus Groups" on Information Technology, Mental Health and Substance Abuse, Medical Care and Pharmacy, Adult Education, Pre-Trial/Diversion/Alternative Sentencing, Victim Services and Transportation. All members are volunteers.

When organized in the fall of '08, the immediate focus of the SBOC became the preparation and analysis of FY10 operating budgets for the 15 county correctional facilities (Lincoln and Sagadahoc counties are partners in the Two Bridges Regional Jail).

The first presentation of numbers was distressing. The county jails called for additional spending of \$7 million in FY10 and \$11 million for FY 11, increases of 11% and 7% respectively.

A process of budget "scrubbing" was immediately implemented under the direction of Department of Corrections Financial Officer Scott Ferguson and Operations Chief Ralph Nichols.

In the meantime, SBOC chair Neale Duffett, and other board members, continued their legislative efforts to support the \$3.5 million general fund appropriation that would be necessary to fully fund the reduced budgetary goals. The Criminal Justice and Public Safety Committee appeared in the Board's support in front of the Appropriations Committee, assuring a united front that led to enactment of the funding legislation.

For now, the property tax cap and spending levels are both safe and adequate. However, the dark cloud on the horizon is the second year of the biennium (FY11) for which no funding above the \$62.5 million has been allocated.

Chair Duffett reflected both a sense of accomplishment and a realization of the challenges ahead in a recent communication to Board members:

"Our mutual task has been a challenging and a rapid climb up a very steep learning curve, as we faced countless social, economic, political,

and legal issues. The Board has had no instruction manual on how to build a consolidated corrections system, yet the Board was required to make crucial decisions under intense time pressure. Now, the State's fiscal crisis will only make our mutual work much harder."

Among the accomplishments that the chair cited were:

- Creation of a transportation hub pilot project that serves the northern part of the state and could be replicated statewide;

- Joint purchase of pharmacy and medical services and establishment of July 2011 as the target date for implementation of single statewide contracts for both;

- An anticipated grant award to support a statewide pre-trial coordinator and expansion and improvement of pre-trial services;

- Draft policies to improve victim notification;

- Enactment of legislation that enhances home-release programs;

- The creation of a statewide bed utilization and reserve system;

- The elimination of boarding fees in FY11.

As the State Board of Corrections heads into its second year of existence, its priorities, in addition to preparation of FY11 operating budgets for the county jails are:

1) The development of a capital

needs assessment and capital improvement plan for the state and county corrections system;

2) PL 653 mandates a Certificate of Need process through which capital expenditures for the state and county corrections system must be carefully justified by counties and the state, and ultimately approved by the Board. This process will be designed and the rules under which it will operate will be drafted, submitted to public comment and adopted by the Board;

3) It is clear that video arraignment is a potential major cost saver for county jails and for the court system. Its implementation in Maine has been patchy. In fact, three large counties – Androscoggin, Cumberland and Penobscot – do not have video arraignment capability. While there are many obstacles to overcome such as cross-county arraignments, orderly handling of files and, in some cases, the purchase of equipment, the Board's is actively working with the courts, judiciary, prosecutors and counties to have a statewide video arraignment system in place in the near future.

As we move forward into that future, the design and implementation of a corrections system that is truly efficient, integrated, and humane will stay at the top of the agenda as will the provision of these services within the property tax cap established by this pioneering legislation. 

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2009 MMA Convention

General Sessions & Events *(preliminary)*

Wednesday, October 7

7:30 a.m. Convention Opens

9:00 a.m. Exhibit Area Opens

9:00-9:45 a.m. CONCURRENT SESSIONS

Statewide Mutual Aid

LD 847, An Act Authorizing Statewide Mutual Aid Among First Responder Agencies, allows local first responder agencies to provide emergency services such as fire, law enforcement, emergency management or medical services as necessary upon another town's request without any additional agreement or contract. It is expected to improve efficiency and allow Maine's first responders to respond quickly to emergencies that affect their areas.

Presenters: Robert McAleer, Director, Maine Emergency Management Agency; Darrel Fournier, Chief, Freeport Fire Department

Finding and Keeping Great Managers

What criteria should you use to help you identify the right professional manager for your municipality? What is the proper professional relationship between a municipality's elected officials and its manager? What criteria should the elected officials use in evaluating the manager's job performance? How do you keep great managers around? This panel discussion will explore these questions and more.

Presenters: David Barrett, Director, Personnel Services and Labor Relations, MMA; Donald H. Gerrish, Former City Manager; The Honorable Roger J. Katz, Mayor, City of Augusta

Planning for Pandemic Influenza: Are you Prepared?

What are the implications for a municipality and the local business community when personnel resources are depleted during widespread illness? Maine Center for Disease Control and Prevention will give an update on what we may expect in coming months and what steps we can take to keep ourselves and those around us healthy. The session will also explore the challenges of keeping municipal government and small businesses operating while short staffed due to widespread illness.

Presenters: Dr. Dora A. Mills, Director, Maine Center for Disease Control and Prevention

Community-Wide Wireless Internet

The Town of Hermon has been an internet provider since 1995. It all started with and continues to be free dial-up internet access to the entire community. As technology changed Hermon.net, as it became to be known, had to adapt. In 2003 Hermon implemented its first generation wireless network that was completely locally implemented and operated. After a few years it grew to our second generation which was a public/private partnership with Redzone Wireless. Currently 100% of the business parks are

serviced and residential coverage continues to expand. Internet access in Hermon has brought together the municipality, schools, businesses, and residents for the common goal of better communication infrastructure. It has made all levels of government and the community partners in each others' success.

Presenter: Clint Deschene; Town Manager, Town of Hermon

9:45-10:45 a.m. CONCURRENT SESSIONS

Accepting Payment by Credit Card without Absorbing the Fees

Would accepting municipal taxes and fees by credit card be a convenience for your citizens? This session will present the changing legal, technological and practical issues associated with local government entities accepting payment by credit card.

Presenters: Donna Katsiaficas, Corporate Counsel and David Kane, Treasurer, Portland Water District; Jim Plunkett, President, Government Payment Processing

Is "Cloud" Computing, or Shared Services, for Us?

Is it possible to use a third party to provide services rather than owning and maintaining your own servers, applications, maintenance and network? There may be viable options, even in a tough economy. Hear about the trends, advantages and cautions on this rapidly evolving technical solution.

Presenter: Richard B. Thompson, Chief Information Officer, Maine State Office of Information Technology

9:45-11:45 a.m. *Special Session!*

All Hazards: Lessons Learned

This session will explore challenging incidents that occurred in three Maine communities in 2008. Freeport and Fort Kent experienced flooding that washed out major roads, stranded people and forced evacuations. South Paris confronted a stubborn warehouse fire that burned for days, exhausting fire fighters and resources. These incidents, which called for multiple agencies to respond, could happen anywhere in the State. This session will discuss the commonalities of these incidents, lessons learned in responding to them and what went well in combating them. This session will also introduce Water/ Wastewater Agency Response Network (WARN) which allows water and wastewater systems in Maine to receive rapid mutual aid and assistance from other systems in Maine to restore services damaged by natural or man-made incidents.

Presenters: Lynette C. Miller, Director, Special Projects, Public Information Coordinator, Maine Emergency Management Agency; Don Guimond, Town Manager, Town of Fort Kent; Vernon Ouellette, Director, Aroostook County Emergency Management Agency; Paul Conley, Deputy Fire Chief, Town of Freeport; Ronald Seaman, Freeport Division Consumers

Maine Water Company; Scott Parker, Director, Oxford County Emergency Management Agency; John Storer, Auburn Water District and MEWARN Steering Committee.

10:45-11:45 a.m. CONCURRENT SESSIONS

Shaping Up in Down Times

In these difficult economic times, are your employees neglecting their physical and emotional health? Are poor fitness and stress contributing to absenteeism, low productivity and increased health care costs? This session will focus on health education in the workplace. Learn about municipalities that have successfully established programs and incentivized employees to use them.

Presenters: Steve Gove, Director, Maine Employee Health Trust; Dale Olmstead, Town Manager, Town of Freeport; Phil Nadeau, Acting City Manager, City of Lewiston; Ruth Marden, Town Manager, Town of Jay

Economic Development Tools for Municipalities

This session will focus on how to utilize Tax Increment Financing and Pine Tree Development Zones to promote economic development in your community. Tax Increment Financing (TIF) is a tool that allows municipalities to promote economic development by earmarking property tax revenue from increases in assessed values within a designated TIF district for economic development projects and activities. The presentation will also explain the "tax shift benefit" of establishing a tax increment financing district. Pine Tree Zones offer eligible businesses the chance to greatly reduce taxes for up to ten years. The presentation will also discuss the recent expansion of this program which was passed in the most recent legislative session.

Presenter: Amanda Meader and Shana Cook Mueller, Bernstein Shur

FACEBOOK, Twitter, You Tube and Social Networks...Will They Work for Government?

New tools are available to citizens, but are we keeping up? Do municipalities need to use them to communicate effectively with citizens? Learn just how these new networks operate, who is using them and where to be cautious.

Speaker: Richard B. Thompson, Chief Information Officer, Maine State Office of Information Technology

11:45-1:00 p.m. KEYNOTE LUNCHEON

Inspiration from a Founding Father

Our special guest for the opening luncheon is Thomas Jefferson, as portrayed by speaker, writer, actor and historian, Patrick Lee. As Jefferson, Mr. Lee will speak from an 18th and 19th century perspective, sharing experiences that parallel the challenges of today. Mr. Lee's Jefferson creates an experience that inspires us to embrace the future by bringing us wisdom from the past.

1:15-2:15 p.m. CONCURRENT SESSIONS

National Incident Management System (NIMS): What it Means for Municipal Decision Makers.

What is it, and what does it mean for Maine's municipalities? Why do key municipal officials need to know about NIMS? Compliance with NIMS, which includes a requirement for adoption of a local ordinance, not only enables effective multi-agency response to incidents common in Maine, such as flooding, it gives municipi-

ties eligibility for federal assistance dollars. Maine Emergency Management Agency (MEMA) will present an overview of NIMS, including a review of its components and actions that you will need to take to be NIMS compliant so that you can position your community to take advantage of federal grant monies.

Presenter: Michael S. Grant, State Training Officer, Maine Emergency Management Agency

The State of Today's Real Estate Market: Distressed and Short Sales, Auctions and Foreclosures

This session will present the affects of the economic downturn on real estate markets. How do these real estate transactions differ from "normal" market transactions? How has it changed the working environment for bankers and brokers? How do these transactions affect the municipality from assessing, tax collection to lien? Come to this session to hear our panel of professionals discuss these topics (and more!) from their varied perspectives.

Presenters: Thomas W. Saturly, Tranzon Auction Properties; David Goyet, Saco and Biddeford Savings Institution; Wendy Paradis, Bernstein Shur; Dick Buffum, RE/MAX Saco

Managing the Recession-Era Work Force: Reduce, Restructure...and Get a Release

In these tough times many municipal managers must reduce personnel through furloughs, layoffs, modified hours, early retirement incentives and reassignments. This session will identify the risks that may lurk below the surface of planned work force changes and the practical steps for avoiding them. Topics include wage and hour law considerations; age and other discrimination claim exposure; impact bargaining and labor law obligations; severance packages; termination benefits; and enforceable release and waiver agreements.

Presenter: Glenn Israel, Bernstein Shur

1:15-4:30 p.m. **Special Session!**

NLC Leadership Training Institute Seminar: Performance Budgeting in Government

Budgets can't get much tighter. Where do you start when you have to make cuts to a budget that you've already reduced? Across-the-board cuts hit services and programs that are working well. Learn how to start with a set of results that matter to citizens and to allocate available dollars to each of these results. Come away with strategies that are proven, effective tools for local leaders.

Presenter: Lloyd A. Blanchard, PhD, Director, Public Performance Management, IEM

2:15-3:15 p.m. CONCURRENT SESSIONS

Damage Assessment: What is the role of the Building Official?

This session will describe the role of the Code Enforcement Officer/Building Official in the preliminary (Phase I) and long term (Phase II) assessment of damage to structures caused by natural and man-made disasters. It will describe the need for a disaster assessment plan, the process of compiling information needed for your community's plan, and how you fit in the Disaster Assessment Team.

Presenters: Richard Lambert, Code Enforcement Officer &

Building Inspector, City of Saco; Robert C. Bohlmann, Director, York County Emergency Management Agency.

Contractual Landmines: Are Your Municipal Contracts Ready to Explode?

This presentation will address the various contractual dangers that may be lurking within many of your municipal agreements, purchase orders and rental contracts. We will point out the type of language that should be of concern and provide you information that will assist you with the review of your municipal contracts. Come and listen to actual case studies and learn how to better protect your municipality.

Presenters: Marcus Ballou, Senior Marketing Representative, MMA RMS; Randa Veilleux, P&C Claims Representative, MMA RMS

2:15-4:15 p.m. *Special Session!*

When an Employee's Private Life Has Repercussions in the Workplace

In this workshop we focus on the workplace ramifications of personal employee behavior which threaten to spill over into the municipal workplace. Learn what to do when an employee gets arrested, or posts offensive content on a personal blog, or is widely known to abuse alcohol, and understand the risks of doing nothing versus the risks of invading privacy and violating constitutional and contractual rights.

Presenter: Peter Lowe, Brann & Isaacson

3:15-4:15 p.m. CONCURRENT SESSIONS

Citizen Initiatives 2009—Excise Tax Cuts and TABOR II

The proposal to cut the motor vehicle excise tax revenues that pay for local road and bridge maintenance and repair by over \$80 million a year is clearly the most significant financial threat faced by Maine's towns and cities since the "Palesky" initiative in 2004. This "road show" session put on by MMA's State and Federal Relations staff: (1) provides detailed information to municipal officials about the impacts of the Excise Tax and TABOR II initiatives; (2) offers written materials and resource connections municipal officials can use in their efforts to educate their voters about these initiatives; and (3) updates MMA membership on the overall campaign.

Presenters: Geoff Herman, Director, State and Federal Relations, MMA; Jeff Austin, Legislative Advocate, MMA; Kate Dufour, Legislative Advocate, MMA

Right to Know

This session will review the rights and duties of public officials under Maine's Freedom of Access Act (FOAA), commonly known as the "Right to Know" law. It is specifically designed to satisfy the Right-to-Know training requirement imposed by State law on certain elected officials, including selectmen and councilors and elected clerks, treasurers, assessors and budget committee members. At the conclusion, attendees will be given certificates attesting to their completion of the training session.

Presenters: Richard Flewelling, Assistant Director, MMA Legal Services; William Livengood, Director, MMA Legal Services

4:15 p.m.-4:45 p.m. MMA Business Meeting

4:45 p.m.-6:00 p.m. Welcoming Reception

Thursday, October 8

7:30-9:00 a.m. Registration/Breakfast with Exhibitors

9:00-9:45 a.m. **Featured Speaker**

Cohesive Leadership in Down Times: Building Community

Economic downturns, such as the one we are now experiencing, force us to make difficult changes. How can we adapt to these changes in a constructive way? How can we provide positive and cohesive leadership to our communities during these times? How can we pull the citizens of our communities together to establish and maintain our strong identities? Join us for this inspiring featured session.

Speaker: The Honorable John Jenkins, Mayor, City of Auburn

9:45-10:45 a.m. CONCURRENT SESSIONS

MMA's Citizen Education Program

Last fall, MMA embarked on a Citizen Education Program aimed at creating greater citizen understanding of, participation in, and appreciation for Maine local government. Early this year, MMA selected five pilot communities for the program and has been working with them on community-specific citizen education projects. At this session, representatives from each pilot com-

munity will discuss their project. The session will also be used to get municipal input on how MMA should move forward with, and involve other communities in, the Citizen Education Program.

Presenters: Michael Starn, Director of Communications & Educational Services, MMA; Representatives of the MMA's Citizen Education Program pilot communities

GASB Update

This session offers an update on GASB standards, with an emphasis on GASB 54, Fund Balance Reporting and Governmental Fund Type Definitions. The session will answer questions such as: How will governments report fund balance in the future? How will rainy-day amounts be reported? How have definitions of debt service and capital projects been revised? What note disclosures are required by Statement 54? What is the deadline for implementation?

Presenter: Kathleen Tyson, CPA, Principal, Runyon Kersteen Ouellette (RKO)

Documenting Employee Non Performance

Document! Document! Document! If only it were that simple. While documentation obviously is vitally important in managing employee's performance and behavior, it may be harmful to an employer's legal position if it does not record behavior objectively as opposed to expressing subjective and conclusory judgments.

What should you document and how should you document so that you don't end up in a legal snafu?

Presenter: Lawrence Winger, Esq., Attorney at Law

Grant Funding Opportunities for Municipalities

This session will present information about existing community facilities grants and loans programs. Hear from administrators of the State Agencies through which these monies are distributed to Maine communities. Come with your questions!

Presenters: Mick Rogers, Grants Program Manager, Maine Department of Conservation; Dan Stewart, Bicycle and Pedestrian Program Manager, Maine Department of Transportation; Mike Baran, Director of the Office of Community Development, Maine Department of Economic and Community Development; Ronald Lambert, Director of Community Programs, United States Department of Agriculture Rural Development; Rodney Lynch, AICP, Community Development Director, City of Rockland

9:45-11:45 a.m. *Special Session!*

All Hazards Preparedness for Senior Officials

Truly effective preparedness for, response to, and recovery from a natural or man-made hazard requires the involvement of local elected and appointed officials. Much of the critical decision-making must happen before disaster strikes. This session will discuss the local policy-making and leadership roles necessary for sound emergency management. It will also overview funding available to facilitate sound planning for municipalities.

Presenter: Robert Bohlmann, Director, York County Emergency Management Agency

10:45-11:45 a.m. CONCURRENT SESSIONS

Community Identity: How to Define it and Promote it

Have you taken stock of the unique assets and attributes that your community has to offer? This panel will discuss how communities in Maine have gone through the process of defining their identities and developing efforts to promote themselves as livable communities, business-friendly locations and/or appealing tourist destinations.

Presenters: TBD

Identity Theft and "Red Flag" Rules

This session will discuss local government compliance with the US Federal Trade Commission's "Red Flag Rules." In particular, this presentation will answer the following common questions: What are the Federal Trade Commission Red Flag Rules? Who is subject to them and when is action required? How should local governments comply with the Red Flag Rules and what are the consequences of non-compliance? How should local governments develop a model Red Flag program? There will be time for questions and answers, and there will be materials with links to samples you might use to help develop your own Red Flag policies and programs.

Presenter: James N. Katsiaficas, Director, Perkins Thompson

A Road Runs Through It

What is the jurisdiction of your municipality, and what is the jurisdiction of MDOT when it comes to your roads? What services and funding are available from MDOT to municipalities for roads? How are MDOT and the Emergency Services Communications

Bureau working together to develop a single statewide road inventory, and how will it affect municipalities? Attend this session for the answers to these questions and more.

Presenters: Peter Coughlan, Director, Maine Local Roads Center; Bob White, E911 Spatial Database Manager, MEGIS, E911 support group

Tools for Writing Effective Grants

This session will focus on techniques and technologies for helping communities gather and compile critical data to make their grant applications complete and compelling. Information about using GIS, including CommunityViz™, an advanced GIS-based decision support system which shows community planning and design applications in an interactive, real-time, 3D environment, and information about conducting income surveys will be presented.

Presenters: Jamie Francomano, Planner, City of Presque Isle; Anne Matlack, Assistant to the City Manager, City of Rockland; Representative of CommunityViz™; James Gulnac, AICP, Planning Director, Town of Sanford

11:45-1:15 a.m. Luncheon Celebration:

• Awards and Incoming MMA President

• 1:15-2:00 p.m. Ice Cream Social & Door Prizes in the Exhibit Area

2:00-5:00 p.m. **Special Session!**

NLC Leadership Training Institute Seminar: Conducting Effective Public Meetings to Engage the Community in Dialogue

How can you better engage the public in decision making? Examine the drawbacks of the traditional public meeting format and learn alternative methods of involving the public in a meaningful dialogue about public policy issues. Learn the difference between positions vs., interests, how to effectively frame issues for solutions, and how to engage the public as "partners in problem solving."

Presenter: Nan Stager, Senior Lecturer, School of Public and Environmental Affairs, Indiana University, Bloomington

2:00-3:30 p.m. CONCURRENT SESSIONS

Come with your questions to the following round table discussions:

• To discuss your Human Resources questions, join: David Barrett, Director of Personnel Services and Labor Relations, MMA; Cindy Branscom, Manager, Human Resources, MMA; Suzanne Pilgrim, Staff Attorney, MMA

• To discuss your Roads questions, join: Peter Coughlan, Director, Local Roads Center, MDOT; Michael Stultz, Staff Attorney, MMA

• To discuss your Tax Collection and Abatement questions, join: Rebecca Warren Seel, Senior Staff Attorney, MMA

Come to the following round table presentations:

• Legislative Working Groups Update, presented by Geoff Herman, Director, State and Federal Relations, MMA; Jeff Austin, Legislative Advocate, MMA; Kate Dufour, Legislative Advocate, MMA

- The Basics of Assessment and Taxation, presented by Anne Gregory, Town Assessor, Town of Falmouth

Informed Growth Act (“Big Box Development”)

This session will review the provisions of Maine’s Informed Growth Act, including the amendments enacted in the last session of the Legislature. Learn what the Act requires municipalities to do as part of their review of large-scale retail projects and how a municipality can adopt a local ordinance to modify some of the statutory review requirements. The session will include a discussion of the first project actually reviewed under the Act.

Presenters: William Dale and Natalie Burns, Jensen Baird Gardner & Henry

3:30-4:30 Right to Know

This session will review the rights and duties of public officials under Maine’s Freedom of Access Act (FOAA), commonly known as the “Right to Know” law. It is specifically designed to satisfy the Right-to-Know training requirement imposed by State law on certain elected officials, including selectmen and councilors and elected clerks, treasurers, assessors and budget committee members. At the conclusion, attendees will be given certificates attesting to their completion of the training session.

Presenters: Richard Flewelling, Assistant Director, MMA Legal Services; William Livengood, Director, MMA Legal Services

Affiliate Group Programs

Maine Association of Assessing Officers

Wednesday, October 7

9:00-11:00 a.m. Business Meeting

Maine Chapter American Public Works Association

Thursday, October 8

8:30-1:15 p.m.

- Business/Board Meeting and Elections
- Anticipated Discussion Topics:
 - E-911/Local Road Inventory
 - International Winter Congress
- Noon Luncheon at the Augusta Elks Club

Maine Community Development Association

Thursday, October 8

9:45-10:45 a.m. Convention Program: Grant Opportunities for Municipalities

10:45-11:45 a.m. Convention Program: Tools for Writing Effective Grants

11:45-1:15 Business Meeting and Luncheon

2:00-3:00 p.m. Convention Program: Informed Growth Act

Maine Government Finance Officers Association

Wednesday, October 7

10:45-11:45 a.m. Business Meetings and Discussion

Maine Town and City Clerks Association

Wednesday, October 7

9:00-4:00 p.m. Title 21A Elections Workshop

Lunch is included in the price of the workshop & will be provided at the workshop or you may attend MMA Keynote Luncheon (cost: \$22.00)

Thursday, October 8

9:00 – 9:45 a.m. MTCCA Annual Business Meeting

10:00 – 11:00 a.m. MTCCA Awards & Presentations of Certificates

11:00– 11:45 a.m. Visit with Exhibitors/Networking

11:45- 1:15 p.m. Awards Luncheon with MMA

1:15 – 2:00 p.m. Dessert Social / Door Prizes (in Exhibit Hall)

2:00 – 5:00 p.m. AGENCY UPDATES:

Animal Welfare – Norma Worley; Archives – Nina Osier; Vital Statistics – Theresa Roberts; Census Effort – Gail M. Driscoll; IF&W – Bill Swan

Maine Town and City Management Association

Thursday, October 7

7:30 – 8:30 a.m. Breakfast and Board Meeting

Maine Welfare Directors Association

Thursday, October 8

9:00 - 9:30 a.m. Business Meeting

9:30 - 10:30 a.m. Presentation: Department of Health and Human Services (DHHS)

11:45-1:15 p.m. LUNCH (on your own) or Awards Luncheon at the Conference (Cost \$22.00)

2:00-5:00 p.m. Convention Program: Conducting Effective Public Meeting to Engage the Community in Dialogue

Also Participating:

- Maine Association of Planners
- Maine Building Officials & Inspectors Association
- Maine Fire Chiefs Association
- Maine Municipal Tax Collectors and Treasurers Association
- Maine State Federation of Firefighters
- Maine Wastewater Control Association
- Maine Water Utilities Association

Please see the Program for sessions of Special Interest!

Registration Form

MMA Convention – Augusta Civic Center – October 7 & 8, 2009

One registrant per form (please photocopy for additional registrations)

Name of Municipality/Company/Agency:		First Time Attendee? <input type="checkbox"/> Yes <input type="checkbox"/> No
Mailing Address:		
Attendee Name:	Title:	
E-mail Address of Registrant:		
Telephone:	Fax:	
Name of Guest: <i>(Registration complimentary)</i>		

WEDNESDAY SPECIAL PROGRAMMING <i>(Please check if attending)</i> <input type="checkbox"/> Title 21-A (MTCCA Training) (8:00-4:15) <input type="checkbox"/> Performance Budgeting in Government (1:15-4:15)	THURSDAY SPECIAL PROGRAMMING <i>(Please check if attending)</i> <input type="checkbox"/> Sr. Officials Workshop for all Hazards Preparedness (7:45-11:45) <input type="checkbox"/> Conducting Effective Public Meetings to Engage the Community in Dialogue (2:00-5:00)
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CONVENTION REGISTRATION FEES (For one or both days)		COST
<input type="checkbox"/> MMA Members		\$ 60.00
<input type="checkbox"/> Non-member municipality/Gov't/or Non-profit	Pre-Registration - <i>must be postmarked or received by 9/30/09</i>	\$ 75.00
<input type="checkbox"/> Non-member municipality/Gov't/or Non-profit	Registration - <i>after 9/30/2009</i>	\$ 100.00
<input type="checkbox"/> Business Representative	Pre-Registration - <i>must be postmarked or received by 9/30/09</i>	\$ 100.00
<input type="checkbox"/> Business Representative	Registration - <i>after 9/30/2009</i>	\$ 125.00
Registration Fee		\$

WEDNESDAY LUNCHEON	Location	Cost
Opening Keynote Luncheon	Civic Center	<input type="checkbox"/> Registrant \$ 22.00
		<input type="checkbox"/> Guest \$ 22.00

PLEASE NOTE: *There will be no banquet on Wednesday evening. Look for information about restaurant groups following the Wednesday evening Welcoming Reception.*

	Wednesday Meal(s)	\$
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THURSDAY LUNCHEONS	Location	Cost
Awards Luncheon	Civic Center	<input type="checkbox"/> Registrant \$ 22.00
		<input type="checkbox"/> Guest \$ 22.00
Maine Chapter of American Public Works Association (MCAPWA)	Augusta Elks Lodge	<input type="checkbox"/> Registrant \$ 22.00
Maine Community Development Association (MCDA) Business Luncheon	Civic Center	<input type="checkbox"/> Registrant \$ 13.00

	Thursday Meal(s)	\$
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	TOTAL (Registration Fee & Meals)	\$
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Signature: _____ Date: _____

Fax registration form to: (207) 626-5947 Check will be mailed Payment Enclosed Send invoice PO #: _____

Mail form to: Convention Registration, Maine Municipal Association, 60 Community Drive, Augusta, ME 04330

Make check payable to Maine Municipal Association

Questions/Cancellations: Please call Louise Ridley at MMA, 1-800-452-8786. Notification must be given three business days in advance to obtain a refund. All cancellations are subject to a \$10 processing fee. Registrations may be transferred to another official or employee. Please inform us of any special dietary needs or special requirements you may have due to a disability.

Please keep a copy of this form for your records.

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Creative Revaluation

By Bill Healey

Even in these difficult economic times when assessing departments face substantial budget cuts, revaluations still need to be performed. In the fall of 2006, the Town of Cumberland, Maine, began the process of updating property values with limited staffing and modest funding. This article explains how it was done, why it was successful, and the challenges encountered along the way.

In April 2006, with assessment value to sale price ratios dipping below the state minimum of 70 percent, it was becoming apparent that Cumberland assessments needed to be updated. As in many other Maine towns, the Cumberland Town Council controls how taxpayer money is appropriated. Convincing the town council to fund such an expensive project hinged on proving that a revaluation was *needed*. In Cumberland, however, the task was accomplished more easily than anticipated. In 2004, I began providing the town council with annual updates on assessments and ratios during its regularly scheduled, televised meetings. As a result, council members were not surprised when I pointed out that a revaluation was needed; they expected it. However, funding was still a challenge due to a substantial loss of the town's tax base.

In March 2006, Chebeague Island and 14 other islands in Casco Bay had

Bill Healey has been the tax assessor for the Town of Cumberland since August 2000, and for the Town of Yarmouth since March 2004, in a shared services agreement between the towns. Bill is a former president of the Maine Association of Assessing Officers. This article was originally published in the May 2009 issue of "Fair & Equitable", published by the International Association of Assessing Officers. It is re-published with permission from the author.

petitioned the Maine State Legislature for secession from the Town of Cumberland. After numerous hearings, the legislature voted to approve

the islands' petition, in large part because of the positive feedback from and support of the Cumberland Town Council. On July 1, 2007, the Island

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Territory became the Town of Chebeague Island, Maine. The impact of the secession on the Town of Cumberland was significant—the town lost approximately 13 percent of its tax base, or nearly \$2.3 million of property tax revenue. Nevertheless, the town council believed that a revaluation would be beneficial because the town would be starting a new era with equitable property values.

FULL REVALUATION VERSUS IN-HOUSE UPDATE

With the loss of property tax revenue due to the secession of the islands, the Cumberland Town Council became very apprehensive about funding a revaluation project. Cost estimates from an outside vendor were \$110,000 for a statistical update and \$300,000 for a full revaluation. Knowing that a revaluation was needed to improve equity, I decided to meet with the town manager to discuss the possibility of conducting an in-house statistical update. (Note that Maine statutes do not dictate or restrict what type of reassessment can take place in a municipality.) I knew the assessor's office could perform a valuation update for less money than an outside vendor, but staffing was a concern because my services are shared with another town and an assistant is shared with two other departments. After discussions with my colleagues, I developed a plan to hire temporary staff members, retired assessors, and a consultant to help with database issues. My final estimate for an in-house statistical update was \$60,000. The town manager fully endorsed the plan, and the town council unanimously approved the funding.

TWO SETBACKS

By early 2007, sales had been analyzed; the land and building tables had been updated; preliminary values had been calculated; and a final review was in the works. It looked like the new valuation notices could be sent in April, but then came the first of two major setbacks. First, in our haste to complete the revaluation and mail the tax bills on time, we realized that we had not provided enough public education. After the revaluation in 2002, members of the Town Council received hundreds of phone calls from taxpayers that needed to better understand the process. This is a very

important element of any revaluation project. After discussions with the town manager and town council, I decided that the update should wait another year, until April 1, 2008. It was a scramble to change the values back to where they were in 2006; nevertheless, the task was completed and the tax bills were mailed by August 2007.

The primary reason the update was put on hold was to better educate the public. In discussions with the town manager and town council, it was decided that the best approach would

be to hold informational televised public hearings. The hearings, held in January and February 2008, focused on the different market areas in town: the Foreside, the Center, and West Cumberland (*see Table*). Although the presentations were similar in format, the specific sales and assessment information presented was targeted to the particular audience. Also, other real estate professionals were asked to attend and give their perspective of the market. These hearings were very well attended, and many of the

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Revaluation increases by area

Area Description	Parcel Count	Average Percentage Increase by Area
Cumberland Center	2,232	38
Cumberland Foreside	519	35
West Cumberland	410	53
Total	3,161	38

public's questions and concerns were addressed. This effort proved to be invaluable when the new valuation notices were mailed.

The second major setback had to do with the sale prices used in the update; the sales had taken place between April 1, 2005 and December 31, 2006. By December 2007 it was apparent that the market had dropped and the sale prices used in the update were from the peak in the market. I therefore decided to discard all the sale prices and start over by using sale prices from 2007. That meant that all the tables had to be rebuilt. While it was frustrating having to re-do what had already been done, in hindsight it turned out to be the right decision.

Finally, in April 2008 the new valuation notices were mailed. Prior to the mailing, a dedicated phone line was installed and temporary staff members were hired to schedule informal hearings. Approximately 300 hearings (representing 8 percent of the town's parcels) were scheduled and heard by me and the two retired assessors who were hired. The hearings were completed by the end of May, and (to the joy of the tax collector) the tax bills were mailed on time in August 2008.

KEYS TO SUCCESS

I think that the Cumberland revaluation project was successful because it included the following elements:

- Education and annual updating

of elected officials

- Good reliable data (property cards mailed in September 2006)
- Televised informational meetings
- Dedicated phone line and staff for informal hearings
- Positive attitude.

To date, there have been only a handful of abatement requests. Given the current condition of the real estate market, I am very pleased. I strongly believe that the decision to delay the update to better inform the public was the key to the project's success. A full revaluation will be needed at some point in the future, but Cumberland's experience proves that an update can be successful with limited staffing and funding.

SUMMARY

Whether required by statute or on the jurisdiction's own volition, revaluations, reassessments and updates will continue to be an important and necessary function of the assessment office. Given the current economic climate, it is imperative that assessment professionals find creative ways to overcome budget and staffing issues to achieve a successful outcome. Cumberland's revaluation shows that it can be accomplished. **me**

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People

Brunswick councilors have chosen acting Town Manager **Gary Brown** to fill the job permanently after an exhaustive 11-month hiring process to find a replacement for **Donald Gerrish**. Brown was one of two finalists for the job, the second being Auburn Assistant City Manager **Laurie Smith**.

Charles Curtis Sr. was honored in late June by Cherryfield residents and town staff for 40 years of service as fire chief. The town's fire and rescue facility will be named in his honor. His son, **Charles Jr.**, will succeed him as chief.

Union selectmen have named **Jay Feyler**, 51, as the town's new manager from a field of 24 candidates. Feyler, a Union resident for three decades, has served as selectman and school board member, as well as a member of the budget committee, the regional solid waste governing board, and the town's appeals board. Feyler, a self-employed fundraiser for nonprofit organizations, replaces **Mark Winer**, who resigned in June.

Old Orchard Beach Town Manager **Stephen Gunty** resigned in August to move closer to his family in Indiana. Gunty has held the OOB job since last September. As detailed in the town charter, Assistant Town Manager **Louise Reid** will fill Gunty's position until a permanent manager is named.

After serving as Trenton town clerk for nearly 40 years, **Janet Muise** announced in July she will retire by the end of the fiscal year next June. Selectmen will begin searching for a replacement so the winning candidate will have time to work with Muise before she leaves office.

Longtime Lewiston Deputy Administrator **Philip Nadeau** has been named acting city administrator and has announced his interest in earning the job full-time. The city council in mid-July voted to replace administrator **James Bennett** after seven years. Bennett's contract, which ran about one more year, was bought out.

Clinton Town Manager **James Rhodes** will retire effective December 29 after serving the town for three years. Rhodes, a former manager of the city of Hallowell and town of Oxford, said he wants to retire at age 62. He earned

a master's in public administration in 1990 from Troy State University in Alabama.

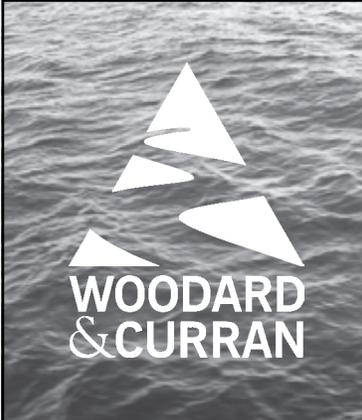
Michael Thorne, a former manager of the towns of Harrison and Raymond, has been named interim Paris manager, replacing **Sharon Jackson**. Thorne will work 25 hours a week under his contract with selectmen. He was hired in July to temporarily take over the town clerk's work, and also some of Jackson's duties.

CORRECTIONS:

Longtime Dexter police officer and

sergeant **James Emerson** has been named chief after almost 30 years with the department. Emerson, 58, has worked as acting chief since the resignation in April of **Arthur Roy**. In last month's issue, the *Townsmen* incorrectly identified the new chief as James Gudroe.

The *Townsmen* also incorrectly reported that **Claude Rounds**, Paris CEO, left his job there for a job in the private section. In fact, Rounds is still in the public sector as the Manager of the Lead Abatement Program for the cities of Lewiston and Auburn. [\[m\]](#)



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September 18 - Strategic Planning and Board Development
 Lead presenter: Craig Freshley of Good Group Decisions.

October 23 - Promotions and Marketing
 Lead presenter: Tripp Muldrow of Arnett Muldrow & Associates, Greenville, SC.

December 4 - Business Recruitment and Retention
 Lead presenter: Noreen Norton, Eaton Peabody Consulting Group, LLC.

Advance Registration Required
 \$35 per session
 \$25 per session for Main Street Maine and Maine Downtown Network communities, as well as Maine Development Foundation members.

Includes training packets, handouts, refreshments and networking.

FMI and to register, visit www.mdf.org/mdc_overview.php



News *From Around the State and City Hall*

Augusta: City officials were unable to find a firm interested in buying the naming rights to the Augusta Civic Center. The city received inquiries about the proposal but none materialized. Some city officials think the poor economy had an effect on the interested parties' ability to make an offer.

Bangor: The city council voted unanimously in August to allow the electronic control device known as a Taser to be used to subdue dangerous or out-of-control patients at Eastern Maine Medical Center. The hospital donated money to the city to buy one of the new devices, which would only be used by a trained city police officer.

Lincoln: Opponents of a wind turbine project were handed a defeat in August by the Maine Board of Environmental Protection, which rejected the Friends of Lincoln's argument that regulators were too quick to approve a 40-turbine project in the Greater Lincoln area. The BEP declined to approve public hearings, as requested by the opponents. Wind projects continue to stir up controversy – and support – throughout Maine as a way to reduce reliance on non-renewable energy, as well as new tax revenue for cash-strapped areas.

Minot: Selectmen will seek legal advice on whether they should refund the portion of development impact fees charged to homeowners for education now that the town's consolidated school is property of the new Regional School Unit (RSU) 16. Over the past five years, the town has charged homebuilders impact fees of \$2,800, with \$2,000 of that money dedicated to education.

Old Orchard Beach: Voters will be asked in November to elect six residents to join three appointed members to serve on the town's new charter commission. The new panel will consider changing the existing charter or devising a new one. The charter, which governs the local government, has not been amended since it was passed by voters in 1998.

Shapleigh: Poland Spring Water Co. will remove its test wells and monitors at a state wildlife area after being unable to reach agreement with the state to use the site to extract water for its Hollis plant. The company also will not pursue

a permit to draw water from a second site in town, this one owned by the municipality.

St. Agatha: Using more fee revenue for services to unorganized territories, the town will be able to keep its mill rate at 18.5 despite a 2.3 percent increase in the town budget, a 7.3 percent increase for education and a 3 percent hike in county taxes.

Wells: Firefighters may continue fundraising efforts during work hours after getting approval by selectmen in late July. The staff raises money

for charities, including the Muscular Dystrophy Association. The firefighters formed a union last year. The agreement requires them to raise money as part of their membership.

Statewide: Community Development Block Grants have been awarded to seven Maine communities. The grants will be used to encourage new businesses and create new jobs. The winning communities were: Brunswick, Boothbay, Kennebunk, Old Town, Rockland, St. Agatha and Sanford. In all, nearly 50 jobs will be created with the money. [m](#)



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HOMELAND SECURITY GRANTS

The grant application period for FY 2009 Homeland Security Grants in Maine is now open.

Eligible applicants are city and county governments, associated public entities and State agencies. For 2009, based on State and Federal Homeland Security priorities, grant application criteria is focused on:

- All-hazards emergency planning;
- Interoperable communications;
- Training and exercise;
- Public education and awareness;
- NIMS compliance measures; and
- School district emergency planning

A total of \$2.277 million is available for allocation under the competitive process. Applications from county and local agencies must be submitted to County EMA offices no later than the Close of Business on Friday, September 25, 2009.

For more information, contact Bill DeLong at Maine Emergency Management Agency, 207-624-4400.

FARM FRIENDLY

The Maine Farmland Trust (MFT) is preparing a toolbox of ideas on how to make Maine more farm-friendly. Using examples, both positive and negative, the Maine Farmland Trust (along with the American Farmland Trust and others) hopes to show town officials *why* planning for agriculture is important, and *how* it can be achieved.

The publication, and companion Web site, will describe ways to generate interest, work with local groups, partner with land trusts, and use non-regulatory and regulatory tools to help maintain farms and assist farmers and farm businesses.

An increasing number of Maine towns are becoming more proactive in planning for agriculture and keeping farms viable. Please help MFT by contributing your ideas. Contact the researchers listed below with information on: well-framed, farm supportive, Comprehensive Plan language; ordinance provisions that support farming; town programs, fees and/or tax that support agriculture; community groups

or partnerships committed to promoting local farms; examples of successful farmland preservation; and examples of impediments to farmland presentation.

Any and all information you provide from Maine or beyond will be appreciated.

Please email or call the following:
Alison Truesdale – landforms@suscom-maine.net or 729-5350

Amanda Bunker – ajb@wright-pierce.com or 725-8721

Brian Kent – kentassociates@myfairpoint.net or 582-1718

PB/BA WORKSHOP

Maine Municipal Association will offer its workshop for Local Planning Boards and Boards of Appeal on September 22 at the South Paris Fire Sta-

tion in Paris. This workshop begins with a light meal at 5:30 p.m. and run until 9:00 p.m.

The workshop provides a basic introduction to the various legal rules that govern decisions by planning boards and boards of appeal. Registration is \$40. For more information, contact MMA's Educational & Affiliate Services office, 1-800-452-8786.

MBOIA FALL MEETING

The Maine Building Officials & Inspectors Association (MBOIA) will hold its Annual Membership Meeting on September 17 in Gray at the Spring Meadows Country Club.

For more information contact, MMA's Training & Affiliate office, 1-800-452-8786. www.mboia.org



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Legal

A NEW LAW FOR WEEKLY PAYMENT OF STATE FEES

A new law makes it possible to pay State fees on a weekly basis even if the municipal officers do not meet weekly.

The new law (PL 2009, c. 6, eff. Sep. 12, 2009) amends 30-A M.R.S.A. § 5603(2)(A), the municipal disbursement law, to authorize the municipal officers to adopt a policy permitting the treasurer to remit State revenues collected by the municipality, such as vehicle registration fees, when a warrant has been signed by one or more designated municipal officers. Similar authority exists under current law for municipal payroll and education costs. All such policies must be in writing and filed with the municipal clerk and treasurer. They must also be renewed annually by vote of the municipal officers.

For samples of disbursement policies for municipal payroll, education costs and State fees, go to http://www.memun.org/members/finance/Policy/finance_policies.htm (By R.P.F.)

BOARD MEETING AGENDAS

Question: Are municipal boards legally required to post an agenda for their meetings?

Answer: Generally speaking, no, unless required by municipal charter or ordinance or board bylaws or rules of procedure.

Maine's Freedom of Access or "Right to Know" law of course requires public notice of all municipal board meetings ("public proceedings"), but the law does not prescribe the contents of this notice, and Maine's Attorney General long ago opined that the Right to Know law does not require notice to include an agenda (*Op. Me. Att'y. Gen.*, Oct. 6, 1981).

Nevertheless, we recommend an agenda, or at least a general description of business to be transacted, for several reasons. First, an agenda tells both the public and the board what business the board expects to conduct, and in so doing permits everyone to be better prepared. Second, an agenda lets the public know approximately when, during the meeting, an item of interest may be discussed. Third, an agenda helps ensure the fair, orderly and ef-

ficient conduct of business and can be an invaluable aid to the chairman or presiding officer.

We also recommend that agendas, besides listing anticipated items of business, include a catch-all item for "other business." This is because there is a common (but generally incorrect) belief that a board may not act on a matter unless it is identified on the agenda. This is true for town meetings and town meeting warrants of course, but not for municipal boards unless barred by charter, ordinance or bylaws. Adding "other business" to the agenda may mollify those who claim (again, generally incorrectly) that the board's business is confined to the agenda.

On a related note, as with posting

agendas, municipal boards are not generally required to take minutes either, but we recommend them. For details, see "Board Meeting Minutes," *Maine Townsman*, "Legal Notes," July 2009. (By R.P.F.)

PRIVATE ROAD REPAIR AT PUBLIC EXPENSE OK'D IF...

A new law authorizes municipalities to repair private roads at public expense, but only to prevent pollution of great ponds.

The new law (PL 2009, c. 225, eff. Sep. 12, 2009) permits municipal repair of a private road if (1) the road is within the watershed of a great pond, (2) the great pond is identified by the Department of Environmental Protec-

Municipal Calendar

ON OR BEFORE SEPTEMBER 1 — Clerks of organized plantations shall make return to the Secretary of State, on blanks furnished by him for that purpose, of the names of the assessors and clerks of their plantation and that the same have been sworn. There is a penalty for failure to make such return (30-A MRSA §7005).

SEPTEMBER 7 — (first Monday in September) — Labor Day — a legal holiday (4 MRSA §1051).

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

BETWEEN MAY 1 and OCTOBER 1 — Municipal officers may initiate process to close certain roads to winter maintenance [23 MRSA §2953]. For further information see MMA's Municipal Roads Manual.

BY OCTOBER 1 — Assessors should receive the municipality's proposed 2005 state valuation from the State Tax Assessor. [36 MRSA §208].

ON OR BEFORE OCTOBER 15 — Monthly expenditure or quarterly 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].

OCTOBER — Registrars of voters shall accept registration prior to the November 1 Election according to the time schedule for their population group [21-A MRSA §122(6)].

— The Registrar shall publish his/her time and hourly schedules in a newspaper having general circulation in the municipality at least 7 days before it becomes effective. In municipalities of 2,500 or less population, this publication is discretionary rather than compulsory [21-A MRSA §125].

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

ON OR BEFORE OCTOBER 31 — Every employer required to deduct and withhold tax for each calendar quarter shall file a withholding return and remit payment as prescribed by the State Tax Assessor (36 MRSA § 5253).

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

tion (DEP) as at risk, threatened or impaired, (3) the DEP or the municipality has determined that the road is contributing to degradation of the great pond's water quality, (4) the repair complies with the DEP's best management practices, and (5) the road is maintained by an organized private road association.

A "great pond" is an inland water body with a surface area greater than 10 acres in its natural state or, if artificially formed or increased, with a surface area greater than 30 acres (see 38 M.R.S.A. § 480-B(5)). Since great ponds are public property and their protection is deemed to be a public trust (see 38 M.R.S.A. § 1841), the use of public funds to repair a private road to prevent pollution of a great pond presumably satisfies the Maine Constitution's "public purpose" clause. (The public purpose clause requires that public funds be expended for public purposes, see *Common Cause v. State*, 455 A.2d 1 (Me. 1983).)

Note that the new law authorizes only road *repairs*, not maintenance or snow removal. Routine maintenance, including plowing, is the responsibility of the road association, which is required (see above).

The new law is an exception to the general rule that maintenance or repair of private roads at public expense is illegal (see "Plowing Private Roads & Driveways Revisited," *Maine Townsman*, "Legal Notes," November 2003).

The new law is found at 23 M.R.S.A. § 3106. (By R.P.F.)

SEX OFFENDER RESIDENCY ORDINANCES NOW LIMITED

A new law limits municipal authority to regulate where sex offenders may live.

The new law (PL 2009, c. 351, eff. Sep. 12, 2009) preempts *all* municipal regulation of sex offenders (e.g., where they may live, work or be present) ex-

cept for ordinances restricting the residency of persons convicted of Class A, B or C sex offenses against persons under 14 years of age. Such ordinances may prohibit residence by a sex offender up to a maximum distance of 750 feet from a public or private school or a municipal property where children are the primary users. Ordinances may not be applied retroactively to sex offenders already living within that distance.

The new law prohibits enforcement of any ordinance other than ordinances that comply with these limitations. The new law is located at 30-A M.R.S.A. § 3013. (By R.P.F.)

SUBDIVISIONS & FARMLAND

A new law requires that farmland be identified on any maps submitted as part of an application for municipal subdivision approval.

The new law (PL 2009, c. 356, eff. Sep. 12, 2009) implements the recommendations of a State commission to study protection of farms and farmland. The law defines "farmland" as a parcel of five or more acres of land that is (1) classified as prime farmland, unique farmland or farmland of state-

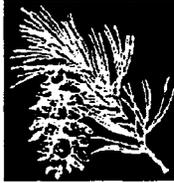
wide or local importance by the Natural Resources Conservation Service of the U.S. Department of Agriculture, or (2) used for the production of agricultural products.

The new law does not prohibit the subdivision of farmland (unlike forestland that has been subjected to liquidation harvesting, see "Liquidation Harvesting & Local Subdivision Review," *Maine Townsman*, "Legal Notes," January 2005). Instead, its purpose is simply to heighten awareness of the existence of farmland where it is part of a proposed subdivision. The requirement is analogous to the longstanding requirements that freshwater wetlands and rivers, streams and brooks be identified on subdivision plans (see 30-A M.R.S.A. § 4404(14) and (15), respectively). Any mapping of farmland may be done with the help of the local soil and water conservation district.

The new law also directs the State Planning Office and the Department of Agriculture to review existing farmland protection ordinances and to provide examples of these ordinances to municipal and regional planning committees. (By R.P.F.) 

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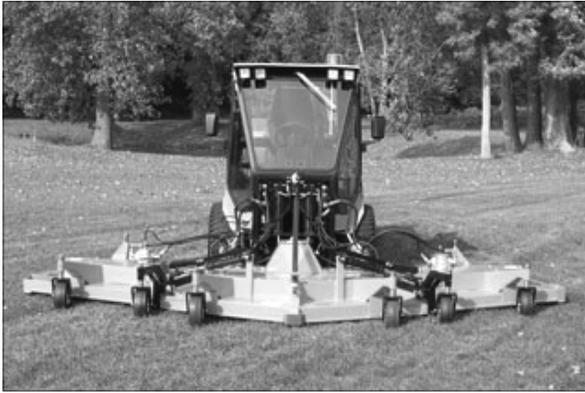
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