

Maine Townsgman

The Magazine
of the Maine Municipal Association

OCTOBER 2016

Monumental Impact

Municipalities
begin responding
to Katahdin designation

ALSO IN THIS ISSUE

Succession Planning Concerns

Can Telecommuting Work?

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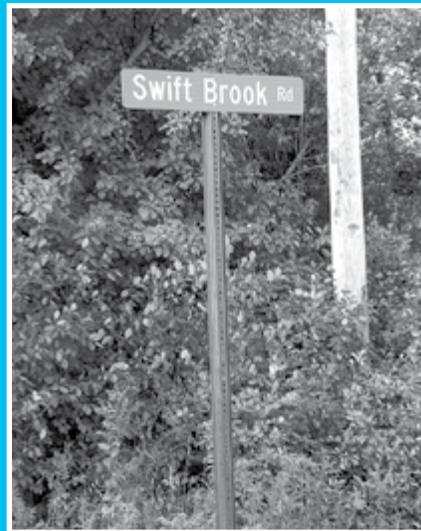
Maine Townsman

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Splendid Isolation



The serenity of Maine's great outdoors cannot be denied. President Barack Obama created the Katahdin Woods National Monument on Aug. 24. Nearby municipalities are beginning to respond.

Constant in a sea of change. Executive Director Stephen Gove writes about how, during turbulent political times, local government stays focused on the tasks at hand. [Page 5](#)

Tax increment financing. These local programs can be misunderstood. Maine Municipal Association recently surveyed members that do, and do not, use TIFs to foster economic development. [Page 31](#)

A Foreseeable Problem

Succession planning challenges exist because, like the rest of our state, the municipal work force is aging. While pending retirements are concerns, thus far local officials say the situation is manageable. [Page 17](#)

What Citizens Expect

Is telecommuting an option for municipal staffs? Few cities and towns offer telecommuting benefits to paid employees. That may change, as younger workers prize employment flexibility and freedom. [Page 25](#)

MMA's Ballot Positions

Our Executive Committee recently voted to support background checks for all firearms purchases and to back a transportation improvement bond. [Page 29](#)

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ABOUT THE COVER: This colorful photo was provided by the Northern Forest Center.

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A MESSAGE FROM MMA

BY STEPHEN W. GOVE / EXECUTIVE DIRECTOR

The municipal constant, in a sea of change

As you read this column, the Maine Municipal Association's 80th Annual Convention, held this year at the Cross Insurance Center in Bangor, will be "one for the books." What is not history is the convention's theme: "Changes." One word. Many implications. The convention explored several of the changes local governments face, such as technology, alternative energy opportunities and policing, and how to manage change in these areas. As John F. Kennedy famously said in a 1963 speech in Frankfurt, Germany: "Change is the law of life. And those who look only to the past or present are certain to miss the future."

We've been talking a lot lately at MMA about the future and changes – internally and with our members. Changes in MMA staff are front and center as we look to the retirements of a number of senior staff members throughout the organization. We are examining changes in how MMA delivers our member services with new technologies. We are looking at changes in the mix and scope of services we offer to best meet our members' evolving needs.

We also recognize the changes occurring in municipal leadership as a number of town and city managers, municipal department heads and elected officials head off to retirement. All of this is happening against a backdrop of dramatically changing demographics in the state as a whole, begging the question: Who will keep municipalities functioning in the future?

MMA's Executive Committee recently discussed the demographic and workforce challenges that Maine faces and, specifically, the future of the municipal workforce, as part of its strategic planning for 2017. The Executive Committee learned that an aging workforce is a global problem, but particularly acute in Maine. We have the oldest population in the country and a shrinking workforce. According to the Maine Development Foundation's 2016 "Measures of Growth" report, "Approximately 200,000 workers will reach their traditional retirement age in the near future and that replacing their numbers, talent and experience will be a significant challenge. If current trends continue, Maine's workforce has been projected to decline by approximately 20,000 by 2020."

We learned that in order to address these issues and grow Maine's workforce we must make our current workers more productive, keep Maine graduates in the state, enhance the ability of seniors to work longer and attract more working-age, skilled individuals to our state.

The Executive Committee explored what the Association can do to assist our members with workforce recruitment and development challenges. We discussed how MMA might help members replace the experienced and skilled employees who will be retiring and generally address Maine's workforce issues. The committee concluded that

the problem Maine faces extends beyond our borders, is multi-dimensional and demands multi-faceted, prolonged strategies. MMA and our members certainly can't address the issue alone. We must participate in statewide discussions on solutions and partner with other organizations that focus on workforce development, including post-secondary education and training.

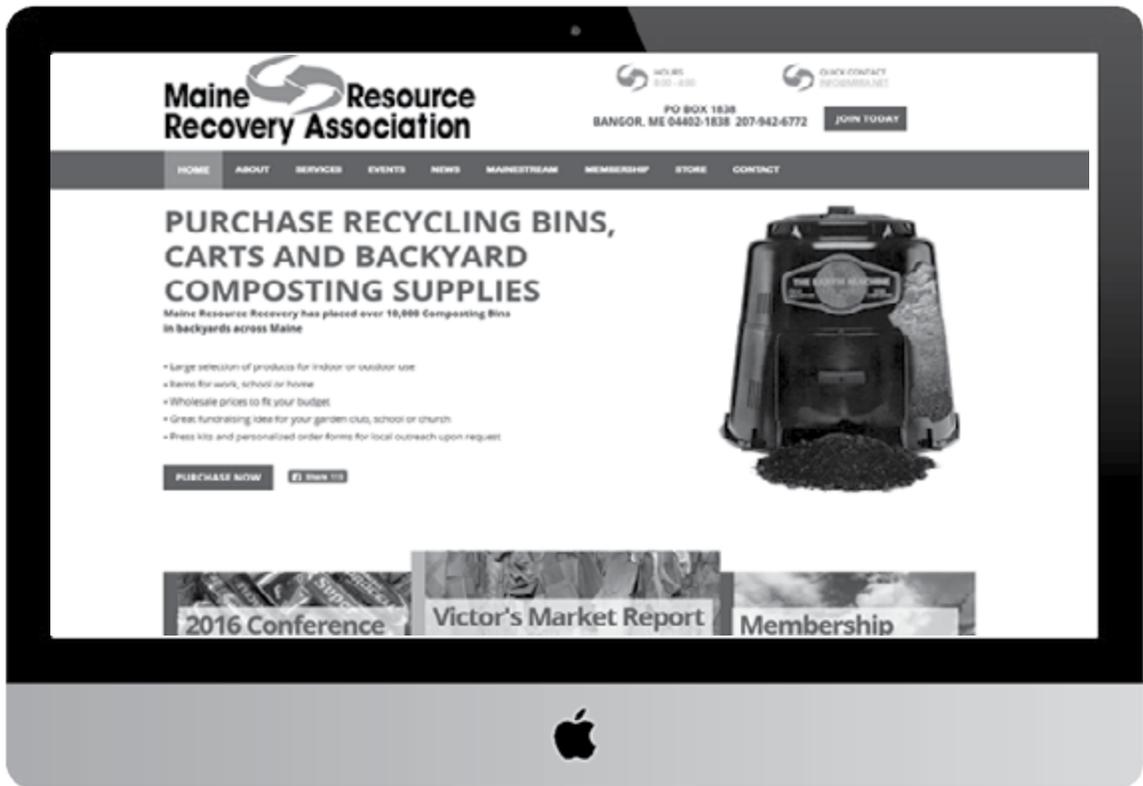
The Executive Committee also concluded that it needs more information on the scope of the challenge facing municipalities. We have primarily anecdotal information on problems cities and towns face in replacing assessors, police dispatchers and code enforcement officers, for example. Learning more from our members on their recruitment issues and what might be working for some communities will be important. Finally, the Executive Committee determined that MMA can play a role in assisting our members increase public awareness of the good jobs and career opportunities in local government. Recent college and technical school graduates, individuals looking for retraining and new job paths and people moving to Maine are target audiences for learning more about career options in municipal government. MMA will work on these issues over the coming months.

I guess it would be an oversight not to mention the possible implications of the upcoming state and national elections, while I write about "change" in this column. But, you know what? I can't begin to predict what changes are in store for local government as a result of the elections – be they state ballot measures or the presidential race. So, I'm not going there.

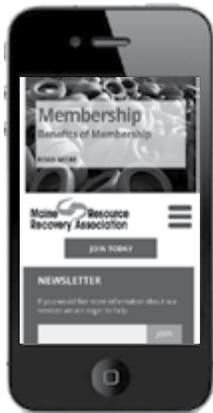
What I can predict is that regardless of election outcomes, municipalities will continue to do the job of delivering necessary services to the citizens of our state. Despite the discouraging lack of substantive debate and civility we have experienced through this national campaign season, city and town elected and appointed officials do their jobs – protecting citizens and their property, responding to emergencies, collaborating with neighboring communities to address solid waste disposal and recycling, maintaining local roads, registering vehicles, fostering economic development and job growth, implementing energy innovations and providing a host of other services we all count on.

While we have been bombarded 24/7 with campaign news over the past year (or more), the local news accounts of municipalities working for citizens are real and impressive. We read of local governments doing the job every day throughout Maine. From small towns to our largest cities, the work represents an island of certainty and competency in a sea of hyperbole and impasse at other levels of government. Local government adapts and works – day in, day out.

That never changes. ■



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Towns near new national monument begin to respond

Reactions to President Obama's recent designation are mixed. Some local officials worry that public access and hunting will be reduced, while others hope for new economic vitality.

By Janine Pineo

"No one is expecting this to be a panacea."
"This" is the Katahdin Woods and Waters National Monument, designated by President Barack Obama on Aug. 24, a day before the National Park Service's centennial. The presidential proclamation calls the more than 87,500 acres east of Baxter State Park "awe-inspiring," and creates protection for the East Branch of the Penobscot River – "one of the least developed watersheds in the northeastern United States."

Mark Scally, chairman of the East Millinocket Board of Selectmen and resident of the former mill town for 33 years, said that while the national monument may not be a panacea, it is an opportunity to find what can benefit the town.

The reason East Millinocket came into existence just over a century ago, Scally said, is because of the now defunct mill. Now, however, there is nothing remaining in town to make tourists stop.

"Our focus," he said, "is what can we do to have them stop?"

For the municipalities surrounding the edge of the national monument and the outlying towns on the two main access routes to reach it, the Katahdin Woods and Waters National Monument creates a host of unanswered questions. It also comes amid longstanding local opposition to any kind of federal control for the land, which is under management by the Secretary of the Interior through the National Park Service.

Janine Pineo is a freelance writer from Hudson and regular contributor to the Maine Townsman, jepineo@gmail.com.

COMING NEXT MONTH

An article in the November issue of the Maine Townsman will look at a 378,000-acre area elsewhere in the United States where a national monument was designated 15 years ago, to show the municipal impact of that project.

The national monument

Thirteen parcels of land east and west of the East Branch of the Penobscot River, worth an estimated \$60 million, were deeded to the federal government from Elliotsville Plantation Inc., one of two foundations created by Roxanne Quimby, an entrepreneur who started Burt's Bees with a partner in the late 1980s.

Known for her environmentalism and philanthropy, Quimby began purchasing land in the North Woods in 2001, announcing a decade later that she would donate 70,000 acres acquired over that time to the National Park Service to create a national park.

Since then, the proposal that polarized communities surrounding the land was changed, resulting in the creation the Katahdin Woods and Waters National Monument under the Antiquities Act of 1906. It takes an act of Congress to create a national park, which was not supported by the state's congressional delegation or the Maine Legislature.

The Antiquities Act, which allows the president to declare a site of historic or scientific significance to the nation, was signed into law by President Theodore Roosevelt, who crossed the East Branch in 1879 and traveled up one of its major tributaries, Was-

sataquoik Stream, before summiting Mount Katahdin.

According to the proclamation, "As Roosevelt later recalled, he lost one of his hiking boots crossing the Wassataquoik but, undaunted, completed the challenging trek in moccasins. Many, including Roosevelt himself, have observed that his several trips to the Katahdin region in the late 1870s had a significant impact on his life, as he... experienced the wonder of nature and the desire to conserve it."

Roosevelt created 18 national monuments under the act, including Devil's Tower in Wyoming and the Grand Canyon in Arizona. The Grand Canyon was later named a national park by Congress.

The largest section of the Katahdin Woods and Waters National Monument marries to the eastern edge of Baxter State Park, just south of Grand Lake Matagamon, and stretches to the western side of the East Branch. It includes a section of the International Appalachian Trail and an 18-mile loop road recently improved under the management of Elliotsville Plantation Inc. Its southern border is adjacent to Millinocket Forest, one of three parcels of Maine Public Reserved Land bordering the monument.

The western section of the monument is closed to hunting, while the four parcels east of the East Branch are open to hunting, although hunting bears with bait or dogs is not allowed. Trapping is allowed on one section, the Hunt Farm parcel, which is accessible through Stacyville. Snowmobile access will continue on the Millinocket to Matagamon Interconnected Trail System, as guaranteed through deeds.

Traditional uses, such as canoeing, kayaking, hiking, mountain biking,

fishing, cross-country skiing and snowshoeing are allowed in all areas of the monument.

An early issue in the management process is the use of all-terrain vehicles. A state conservation easement on the Hunt Farm section allows ATVs on that parcel, according to a National Park Service Frequently Asked Questions document, which states the NPS does not have the authority to designate off-road trails for ATVs in national monuments. The document states that under review and discussion is a loop road outside Patten, where Elliotsville Plantation Inc. had permitted the use of ATVs.

The Town of Patten addressed that concern in the middle of September, according to Town Manager Raymond Foss. "The town decided to open up all town roads as access routes," he said. Part of the problem is that ATVs are registered through the Department of Inland Fisheries & Wildlife, Foss said, and not the Motor Vehicle division.

A major issue is general access to the monument.

"There's no way to get to that monument unless you cross someone's private land," said Stacyville Selectman Alvin Theriault.

One of the Park Service-recommended access roads is the Swift Brook Road in Stacyville, part of which the town owns and maintains. Theriault said the road is damaged already. "We're starting to get complaints from taxpayers," he said. "We're going to have to decide how much money to put into that."



Mount Katahdin rises in the distance from the Swift Brook Road in Stacyville.
(Photo by Janine Pineo)

Access rights transferred to the National Park Service (NPS) with the deeds, said Tim Hudson, Facilities and Parks Manager for the NPS, and the recently named leader of the Katahdin Woods monument project.

The NPS is directing visitors to the monument via the Swift Brook Road through Stacyville and the privately owned American Thread Road through Patten. The northern access road is on Messer Pond Road, crossing through Baxter State Park, south of Grand Lake Matagamon.

Ben Carlisle, president of Prentiss & Carlisle, a forest management company and representative for the owner of the Swift Brook Road land, said safety is a major issue on the gravel

road. "These are haul roads," he said, with 100,000-pound vehicles traveling on them.

"We've been concerned all along at the lack of clarity," Carlisle said, and while they have had initial talks with the Park Service, "We really don't know the full impact. We've tried to raise the issue a number of times."

Carlisle pointed to the endowment fund given by Elliotsville Plantation Inc. and asked whether that will help with access.

In addition to the \$60 million land gift, the foundation gave a \$20 million endowment and pledged to raise another \$20 million to support the administration of the monument. The presidential proclamation gave the



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The view along Main Street in East Millinocket, from a small park across the street from the municipal building. (Photo by Janine Pineo)

NPS three years to prepare a management plan “with full public involvement.”

The NPS FAQs also address two access questions. The first states that the NPS is prohibited by law from using eminent domain without congressional approval. The second is that rights-of-way for logging trucks remain, “subject to valid existing rights.” It further states that “NPS is interested in working with private landowners and towns to address safety conflicts through rules of the road, signage, publications, and good road management.”

Neighboring towns

With all of the national monument bordered by or part of unorganized

townships, only four municipalities are next door to the lands, and just two of those have direct access.

The northernmost town, Mount Chase with a population of 200 residents, is the last municipality on the way to the northern entrance of the monument.

“We see a lot of tourists coming through for Baxter (State Park),” said Albert Roy, chair of Mount Chase’s board of selectmen. The town also has Upper and Lower Shin Ponds, long a destination with Shin Pond Village.

When asked about the reaction to the monument designation, Roy said: “We have some happy business people.”

Roy said a majority of residents vot-

ed against a national park, saying they are “not going to be able to use the land as they have been.” He believes hunting in the area will be affected and possibly even eliminated.

The Mount Chase board itself is not doing anything at the moment. “We’re just sitting back waiting to see what’s going to take place,” Roy said, adding that there is “nothing really spectacular about it (the park).”

South of Mount Chase is Patten, one of the towns with direct access to a large portion of the monument, where hunting is allowed. The NPS already has a welcome desk at the Patten Lumbermen’s Museum. Town Manager Foss, who started in his position last February, said that the town has not been proactive on anything for a long time, including what he believed was the imminent change in status of the Quimby lands.

“Did we prepare?” he asked. “Not really. But we are trying to respond to it.”

Foss said the town, with a population of about 1,000 residents, is on track to update its comprehensive plan for the first time since 1970. The Board of Selectmen updated ATV policy for town roads in mid-September, responding to the initial issue of access by meeting with the local ATV club and the NPS. And the state Department of Transportation has talked with the town about signage projects and a pull-off area related to the monument, Foss said.

“A lot of people don’t know what it’s going to mean,” Foss said. “It is



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what it is and it's here. This is sort of the mode that we are in, keep it as positive as possible."

The plan, he said, is to "lead with purposefulness and transparency."

Stacyville, population 400, also has direct access to the national monument at its southern end, not only to the lands on the eastern side of the East Branch, but to the largest parcel west of the tributary and its 18-mile loop road. Selectman Theriault said that while the board expected the designation of a national monument, "we're kind of waiting to see what happens here."

Hudson of the NPS said that there has been an increase in visitors already.

"Definitely, there's been an uptick since it's been proclaimed," he said. In the first couple of weeks after the designation, the manual counter on the loop road recorded 189 hits the first week and 169 the second. That was up from 30 to 40 hits per week in July.

South of the monument is Millinocket, with a population of 4,500. Even with no direct access to the monument, the NPS located its official welcome center there, in a storefront across from the municipal building.



Between Mount Katahdin and Ash Hill lies the Katahdin Woods and Waters National Monument. (Photo by Janine Pineo)

Hudson of the NPS said the park service has "administrative" rights on the Stacyville Road, which is the straightest access route from Millinocket. "You don't want to send someone with a car up Stacyville Road," he said. Its current condition includes flooding from a beaver dam.

Town Manager John Davis said he

thinks the town wants some access to the monument. "We're still waiting to see what's going to happen," he said.

"You've got certain people who are upset," Davis said, saying a major issue is having the land pass to the federal government. "There's going to be some eminent domain."

A paper mill in Millinocket closed

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permanently in 2008, although there are still small-scale forest industry businesses operating. “The concern is we’re trying to make a comeback in forest products,” Davis said, and the belief is that the monument will hinder or stop that from occurring.

Outlying towns

The two main routes to reach the Katahdin Woods and Waters National Monument are Interstate 95 and Route 11. The interstate offers a straight shot north, with Medway and Sherman the two closest exit points at 20 miles apart that visitors would use to reach Route 11. That route meanders in from Brownville, approaching Millinocket from the west and then traversing East Millinocket to Medway before shooting north again as it wends its way alongside the East Branch for a number of miles on its way to Stacville, Patten and beyond.

Bruce Jones, chairman of the Medway Board of Selectmen, said the board had a regular meeting right after the designation was announced, and the decision was made to draft a letter to Secretary of the Interior Sally Jewell, requesting a seat at the planning table.

That letter was dated Aug. 30 and reads in part, “The Medway Board of Selectmen would like to be active participants in the process of working to make these lands ‘accessible’ and relevant to all people from all backgrounds, and to build a connection between the great outdoors and a new generation of Americans.”

It continues: “We recognize this is an important turning point in our community’s history and look forward to providing a hope for the future of our town.”

Jones believes tourism and the forest industry can co-exist. “Forest products can function with the national parks and national monuments,” Jones said.

Jones said the town is looking at Route 157, which is also Route 11 between Medway and East Millinocket, as its focus. “That’s what we’re looking at, that corridor right there,” he said. “We’d like to work on building that area up. We’ve taken that stance pretty much from the get-go.”

Part of that vision involves East Millinocket and its plans for a new wastewater treatment facility, with the intention of expanding its line down Route

157 to help new businesses. “I think that would benefit East Millinocket as well as Medway,” Jones said.

East Millinocket Chairman Scally thinks that water is the way for his municipality. Construction of a \$10 million wastewater treatment facility begins in the spring. It will replace the facility inside the defunct mill, which has “electrical costs through the roof.”

But Scally suggested that hydro-power is another option for the town, along with another liquid business: bottled water. “We would like to encourage a water bottling facility,” he

said, saying the local water is the “purest in North America.”

“The most aggressive part” of East Millinocket’s economic development effort “is still repurposing the mill, which has been shuttered,” he said.

For the most distant towns en route to the monument, Brownville and Sherman, both are interested in what may occur as a plan is established.

“We’re willing,” said Brownville Town Manager Kathy White. “We haven’t really discussed it at a board level.”

“Hopefully this will have a positive

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effect,” said Debbie O’Roak, Sherman town manager. “I think tourism is good but, no offense, we need better jobs than that.”

NPS’ three-year plan

The NPS held a series of community listening sessions in September to begin the process of shaping a management plan, which must be completed in three years.

“We welcome anybody who has an interest, question or concern,” said Christina Marts, community planner for the NPS. “They certainly shouldn’t wait to get in touch.”

At a meeting in Medway on Sept. 20, about 80 people participated, forming smaller groups to answer three questions:

1. What makes the place special and how do you use it?
2. What are the opportunities for your community and the monument
3. What questions or concerns do you have that should be explored further?

Along with answers from the other sessions, the responses will be compiled into a larger document that will set the foundation for the manage-

ment plan.

When the audience was asked what their biggest hopes were going forward, one said he wanted to see the east side of the monument set aside as a destination for hunters.

Another said a regional economic development plan was needed, instead of one town by town.

One resident stood and painted a larger picture. “History,” he said, “is being made before our eyes.” ■



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Meet Our Attorneys Andrew Hamilton

Andy brings many years of experience to counseling municipalities. He has served as General Counsel for a number of Maine towns, and provides advice on economic development initiatives and environmental/land use matters.

Andy is committed to improving Maine communities through public and private investment, and has served in many leadership roles in the Bangor region and eastern Maine.

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Steven Buck: Managers listen, learn and lead

Born into a municipal family, Sanford's manager has experience in Corinna, Caribou and York County, as an elected and appointed official.

By Liz Mockler

The most important duty of a municipal manager is to find a balance between listening and leading, according to Sanford City Manager Steven Buck.

Identifying what residents expect from local government, what they can afford, and providing leadership to achieve the community's goals are paramount to success, he said.

"You have a duty to both listen and to provide guidance," said Buck, who is 52 years old. "Learning the balance between these two can be the difference between success and failure. If you cannot identify where the town is willing and wanting to go, you will never be able to provide any meaningful leadership or management toward achieving their desires."

Buck got his first taste of municipal government as a boy growing up on his family's fourth-generation farm in Corinna, Penobscot County. He liked it. He watched his grandfather, who served as selectman for 35 years, as he interacted daily with town leaders and residents and how he worked with others to improve services and set a path for the future.

"I thought every town had a local auctioneer with a gavel and spittoon serving as (town meeting) moderator, colorful language, stern words for those who spoke too much or out of turn, and the general respect that was granted to those 'town fathers' who gave of their time and experiences

Liz Mockler is a freelance writer from Randolph and regular contributor to the Maine Townsman, lizmockler@hotmail.com



Steven Buck

to better the place we called home," Buck recalled.

His childhood proximity to local governance inspired him to serve. After earning an engineering degree at the University of Maine, he returned home to serve on the planning board, then the Maine Potato Quality Control Board and numerous other committees, including

planning commissions.

He was taught and still strongly believes that volunteers are vital to the well-being of communities and their residents – and that it should not be optional.

"Volunteerism was not something you were asked to perform. It was expected and was a way of life," he said. That could mean serving on municipal boards, coaching ball teams, firefighting "or being anywhere your talents and interests could be of service to your community."

'Tumultuous time'

When Buck returned to the family farm, he worked to expand the business and to pursue his passion for governance. When his grandfather retired as a selectman, the grandson was elected to replace him. He was named chairman two years into his first term and served 11 years during a very "tumultuous time," when the town lost the last of its manufacturing muscle, as the Eastland Woolen Mill was shuttered and later deemed a Superfund site.

As an elected official himself, "I

learned from those with years of service, of different thought processes, of varying means of swaying the opinions within a room. It was this last skill-set that most intrigued me and does to this day," said Buck, who managed the City of Caribou for 11 years (population 8,200) before taking the Sanford job in 2012 (population 20,800).

"A city manager is first and foremost an asset and a resource manager," Buck said.

"There is such a sense of satisfaction being able to work with elected officials and residents... and to be entrusted to manage their resources to provide for and improve upon the community," he said. "That is a responsibility I do not take lightly and I feel fortunate for every day that I can continue to serve in such a capacity."

Buck said it's crucial for managers to fully develop accurate and unbiased work that allows elected officials to make informed decisions.

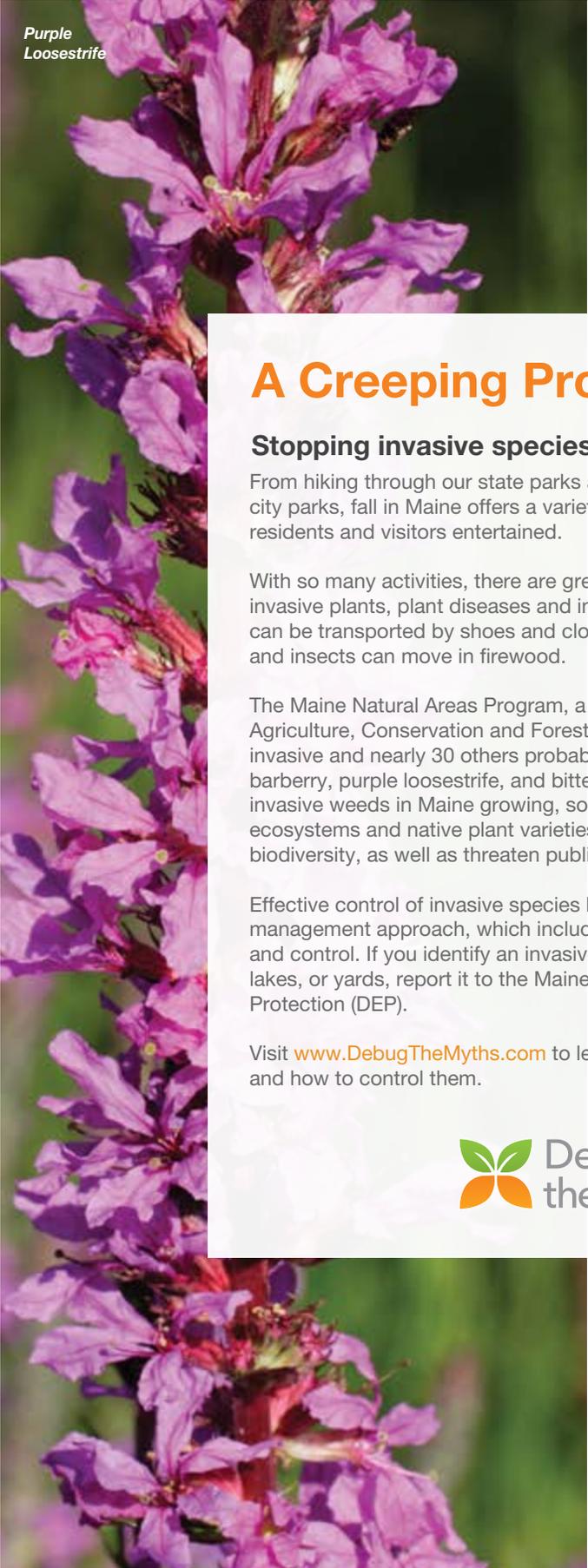
"I have never lost sight of who I serve as a city manager," he said.

"As a manager, you do not create businesses or wealth. You do not create individual wellness or happiness, but you do foster the services, infrastructure and ordered society that ensures the potentials of all are well served." ■



ABOUT THIS SERIES

Elected and appointed municipal officials provide essential services to their communities all across our state. As Maine Municipal Association celebrates its 80th year – we were founded in 1936 – the Maine Townsman will highlight our members and honor the work that they do.



Purple
Loosestrife



Japanese
Honeysuckle

A Creeping Problem in Maine

Stopping invasive species

From hiking through our state parks and national forests, to picnicking in city parks, fall in Maine offers a variety of recreational activities to keep residents and visitors entertained.

With so many activities, there are greater opportunities to spread invasive plants, plant diseases and insects across the state. Seeds can be transported by shoes and clothing, weeds can move on boats and insects can move in firewood.

The Maine Natural Areas Program, a branch of the Department of Agriculture, Conservation and Forestry, considers 19 plant species invasive and nearly 30 others probably invasive, including the Japanese barberry, purple loosestrife, and bittersweet. With the number of invasive weeds in Maine growing, so does the potential harm to ecosystems and native plant varieties, which can result in loss of biodiversity, as well as threaten public health and safety.

Effective control of invasive species begins with an integrated pest management approach, which includes prevention, early detection and control. If you identify an invasive plant or insect growing in parks, lakes, or yards, report it to the Maine Department of Environmental Protection (DEP).

Visit www.DebugTheMyths.com to learn more about invasive species and how to control them.



Succession planning a workplace concern, not a crisis

Maine's largest municipalities – including Portland and Bangor – say workers are aging. However, the trend was foreseeable and numbers are manageable at this point.

By Glenn Adams

As five of Freeport's department heads – from police chief to chief librarian – retire, they walk out the door with nearly 130 years of combined municipal experience.

The five officials are all part of the baby boom generation, whose members are fleeing their long-held workplaces everywhere to settle into the next phase of their lives.

Municipal governments in Maine are seeing – or are going to see – and exodus of long-term employees who are reaching the age at which they can stop working. Freeport, a town of 8,100 residents with about 70 full-time employees, is getting hit hard, perhaps harder than most, especially for a town its size.

"I think we've known about it, I think we try to prepare for it, but the real question we have no control over is the labor pool that's out there," said Town Manager Peter Joseph, who has seen the trend in three other towns in which he's worked.

In Freeport, the retirees included Beth Edmonds, who stepped down as library director in January after three decades in town service, and Police Chief Jerry Schofield, who left in March after 39 years with the department, 28 of them as chief. Darrel Fournier, who served two stints with the Freeport Fire Department, his last 16 as chief, left in May. Albert Presgraves, the public works director and town engineer who worked 13 years in Freeport, left in July. And around the end of this year, Code Enforcement Officer Fred Reeder, who's worked about 30 years with the town, plans to retire, Joseph said.

Glenn Adams is a freelance writer from Augusta and new contributor to the Maine Townsman, gadams6786@aol.com

The U.S. Bureau of Labor Statistics defines the "baby boom" as the period between 1946 and 1964, when 76 million people were born in the United States. The bureau observed in a December 2013 report that "instead of entering the labor force, baby boomers are retiring in large numbers and exiting the workforce. Once again, the baby-boom generation has become a generator of change, this time in its retirement."

The exodus of the bulging, baby-boom work force was on labor experts' radar screen for some time before 2013. In 2000, bureau Economist Arlene Dohm predicted in the Monthly Labor Review that the implications for the work force could be "enormous" as the oldest baby boomers begin retiring over the next several years, hindering economic growth and putting added burdens on those remaining in the work force.

Older professionals

"Professional occupations also have a disproportionate number of older workers, particularly those requiring postgraduate degrees," Dohm's article noted.

Workers listed as administrators and officials in public administration comprised the fourth-highest percentage of workers ages 45 and older in 1998, according to Bureau figures. For that group, the median age was 47, with 58.7 percent of those work-



Peter Joseph



Darrel Fournier



Beth Edmonds



Jerry Schofield

ers 45 years old or older. (The three groups with higher percentages of 45-and-older workers were farmers, construction inspectors and real-estate occupations.)

The Conference Board, a 100-year-old global business research and membership organization, issued a report last April that said retiring baby boomers are leaving jobs faster than young workers can replace them. That is especially true, says the report, in workers who came of age in the 1950s and '60s, including people in skilled

trades, manufacturing and health care.

Municipal governments tend to keep professional employees longer than many fields because they generally offer decent pay and good benefit packages, and are typically pleasant places to build careers, Freeport's Joseph said. There are positives to employee retention.

For one thing, towns and cities get experienced people with meaningful and useful institutional knowledge. Also, as one retirement-age worker decides to retire, another seasoned employee who's risen through the ranks can step in and run a department. But that also is part of the problem, because that new supervisor will also soon reach retirement age as well, leaving a gap.

"Thirty years ago, when all those people started working here, they kind of progressed up through management (to) supervisory-level" positions, said Joseph. "So the problem now is they are going to retire at the same age."

Mindful of the exodus, local governments are reaching out to young potential candidates by offering internships and highlighting the idea that work at the local level offers a wider variety of experiences and can yield results more quickly than in, say, state government where a worker tends to be funneled into a single task.

Maine communities understand that the baby boom demographic demands that they prepare for the future, even if flight of the older employees isn't an immediate problem.

Getting creative

"I think that we – along with many other employers looking at this issue – are going to have to get creative with how we structure this potential loss of brain power and institutional knowledge," said Gina Tapp, Director of Human Resources for the City of Portland.

"This may include things like setting up more flexible work schedules, job shares or more part-time jobs with benefits, so that instead of the retirement option being an 'all or nothing,' we are able to provide employees with a way to gradually reduce their full-time work schedules to a more comfortable part-time work schedule as they ease into their full retirement,"

Tapp said. "Also, we know from many employees that the health insurance benefit is an important factor in deciding when to retire."

Tapp provided figures showing that the largest group of employees in Maine's largest city – 402 out of 1,385 employees, or 29 percent – is in the 45 to 54 age group. The next largest group, 288 employees, is in the 35 to 44 age bracket. But close behind are the 285 people in the 55 to 64 age group. Portland also has 61 employees who are 65 to 81 years old, and who choose to work past "normal retirement age," said Tapp.

"While we aren't currently experiencing the trend of large numbers of city employees retiring all at once, the potential is certainly there," Tapp said.

In Lewiston, four city employees within the baby boom bracket – a firefighter, police officer, recreation director and public works employee – have retired this year, said Human Resources Director Carol Burnham.

"Considering that we have 350 employees, that isn't a lot," Burnham said.

In Augusta, 75 of the city's 223 full-time employees – one third of the total – are baby boomers, said City Manager Bill Bridgeo. As of now, there's no rush of those people heading for the door, but the numbers suggest something like that could happen down the road.

"Many of the people in managerial positions may very well retire in the next five years," said Bridgeo.

Few deputy directors

He added that "it's not easy to have a succession plan in place" for a possible exodus, because in the capital city's government, many of the departments don't have assistant or deputy directors who can step right into their retiring boss' shoes.

Bridgeo also said the potential job gap due to retirements could result in something of an irony: Stepped-up hiring of some people in their 50s, perhaps part-time, who have the qualifications required.

Bangor figures reflect a similar trend. Of the city's 460 full-time employees, 33 percent fall into the baby-boomer age range, according to Assistant City Manager Bob Farrar.

"We're certainly aware of that group, but it's not a huge group," said Farrar.

Bangor employees in the 20-35 age group constitute 24 percent of the total, while those ages 36 to 61 account for 44 percent. So, taken together, those two brackets account for two-thirds of the total work force, Farrar said.

'Not alarmed'

While city officials have been aware for some time of the one-third share of baby boomers, they "are not alarmed," said Farrar, who is retiring this year himself. For one thing, the total work force is large enough that it can absorb multiple retirements without having the same impact as they would on a smaller town, he said. Also, more people are willing to work longer these days rather than taking retirements at age 55 or 60, largely because of health insurance considerations, Farrar said.

(And then, some older workers just don't have enough money to retire. Investopedia, a financial education website, cites a survey of 1,504 adults over age 55 in which 30 percent claimed to have no retirement savings and another 26 percent had less than \$50,000 in retirement savings.)

Bangor already has seen a "fairly large" turnover in the city work force, primarily in the police and fire departments, over the last three to five years. Turnover is not entirely a bad thing, as it brings new ideas and styles into the workplace, Farrar said.

The numbers are lower in other towns and cities, a spot check showed. Presque Isle, which has 85 full-time employees, has seen one baby boomer retire in the last two years, although two department heads are qualified to retire, said city Human Resources Director Kellie Chapman.

The Maine Chiefs of Police Association was assisting the Town of Cumberland in finding a replacement for Police Chief Joe Charron, who retired in April. Charron began work with the town in 1982 and became police chief in 1995.

Back in Freeport, searches are on, or have been, to fill the five baby boomer vacancies. A final field of candidates for police chief was to be presented to town council, more than 30 applications for the fire chief's job had been submitted by June, the engineer's job has been posted, and code enforcement officer's job search is still a few months off. ■

20-20 Hindsight: Looking Before Backing

From 7/1/2015 to 7/1/2016, 89 accidents involving the backing of a vehicle or mobile equipment were reported to Risk Management Services resulting in nearly \$185,000 in loss or damage. That means almost twice a week vehicles, equipment and property are damaged or people are being hurt due to collision while backing a vehicle.

Some simple tips to avoid accidents while backing:

- Check visibility: Are windows clean, clear of snow or ice, defrosted and clear of obstructions?
- Check distractions: Turn the radio off so your focus is solely on the backing operation.
- Check mirrors: Are they properly adjusted to avoid blind spots?
- Check the situation: Is the area in back of the vehicle clear? If possible, get out and check all sides of the vehi-

cle for potential hazards. If backing a large vehicle such as a fire truck, or backing into a tight space or a crowded bay, is a spotter needed? Is there means of clear communication between the operator and spotter?

- Check alarms: Are backup alarms in place and working?
- Check equipment: If a backup camera is installed, is it working properly? Is the lens clean?
- Check lights: Are backup lights working and not covered with road grime? Are exterior warning lights operating?
- Check what's overhead: Vehicles with a tall profile such as dump trucks or ladder trucks may strike overhead wires.

These simple steps will help avoid accidents, and may avert a tragedy.

The Loss Control division of MMA Risk



Management Services offers several Vehicle Fleet Training courses to members of our programs. Please contact your Loss Control Consultant or contact Risk Management Services. Members may also access online training on the MMA website by clicking on the Risk Management Services and Online Safety Training links. The Light Truck Safety Series – Backing Safety course provides more detail on safe backing practices. ➤

What “Additional Insured Status” Does For You

Municipalities utilize the services of independent contractors on a daily basis. Typically, a municipality will contract with outside businesses to perform tasks that the municipality considers too risky or that they do not have the resources to complete on their own.

As an example, a municipality is planning to construct a new town office. For such a project the municipality will engage the work of a general contractor, sub-contractors, architects and engineers. The municipality will enter into a contract or agreement with these businesses which will specify the objectives, responsibilities, timelines and costs prior to any work being started.

At this time, the municipality should also be looking at insurance requirements and contractual tools to protect the municipality from the potential risks and exposures brought on by the actions of the contractors, vendors, or sub-contractors throughout the project. When a municipality is obtaining services from a contractor, it is strongly recommended that the municipality always requires evidence of insurance including at a minimum, proof of General Liability, Auto Liability, Completed Operations, Property/Builders Risk and Workers Compensation insurance. This is also where being named as an “Additional Insured” should be

requested by the municipality.

Within the written agreement, it is important to require that the contractors, vendors and sub-contractors add the municipality as an “Additional Insured” on their commercial liability policy. By doing so, your municipality is protecting itself against the potential negligent action of the contractor. For example, if we review our construction project above, the municipality should require that the general contractor has all subcontractors name the municipality as an additional insured on the subcontractor’s policies. In this way, if the

Story Continued on Page 20

RMS Delivers Dividends to Members - Did You Receive Yours?

All of us at MMA Risk Management Services (RMS) would like to recognize the extraordinary efforts and continued commitment of our membership. We are pleased to announce that the Property & Casualty Pool and Workers Compensation Fund have awarded dividends to those members who met the dividend criteria. Because of the efforts of our members, sound management, responsible underwriting and favorable loss experience, this year the Workers Compensation Fund has distributed almost **\$650,000** in dividends to participants and the Property and Casualty Pool has paid dividends of nearly **\$550,000**, for total payments of just under \$1.2 million returned directly to MMA members. Since 1997, the two programs have returned almost **\$20 million** in dividends to participating members.



For more information about any of the MMA Risk Management Services programs, including online training programs and other services, check the offerings on our website at www.memun.org and click on the Risk Management Services link, or call 1 800-590-5583.

“Additional Insured Status” (cont'd)

municipality is sued due to an alleged event or accident arising from the work being done by the subcontractor, the subcontractor's insurance then has a duty to protect the municipality and by doing so, the municipality has successfully transferred the risk.

It is important to note that “Additional Insured” does not mean that the municipality doesn't need their own insurance. It simply means that the additional insured (your municipality) has taken steps to control the risk of the other party's negligence.

Whenever your municipality enters into a project with other contractors, businesses or vendors we recommend that you apply these basic principles:

Always require and obtain proof that the other entities have liability and workers compensation insurance by obtaining a Certificate of Insurance as evidence of their coverage.

Utilize a written contract which demands that your municipality is named as an Additional Insured and added by endorsement. If you are in doubt have the certificate reviewed by your insurance agent and legal representative.

Carefully review all contracts to make sure that your municipality is not jeopardizing your own coverage by agreeing to extend coverage or assume liabilities that are not yours. ■



The Municipal Risk Manager

The Municipal Risk Manager is published seasonally to inform you of developments in municipal risk management which may be of interest to you in your daily business activities. The information in these articles is general in nature and should not be considered advice for any specific risk management or legal question; you should consult with legal counsel or other qualified professional of your own choice.

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Leveraging Best Practices To Avoid Workers' Compensation Claims

Excerpts provided Courtesy of HUB International New England

There are six steps companies can take to reduce both the severity and frequency of workers' compensation claims.

Regardless of the industry, any employer can leverage the following best practices to create a safe environment that promotes accountability among employees and employers alike.

Screen employees before hire. Take extra steps to make sure only qualified employees are hired for the demands of their job. A healthy and fit employee is less likely to get injured on the job and will recover faster should they sustain an injury. Have a third party perform physicals and functional capacity evaluations to assess prospective employee's ability to meet the physical requirements of each job.

Maintain the physical workplace. Make sure worksites are well maintained and regularly evaluated for hazards, including performing preventive maintenance where applicable.

Promote the physical and emotional health of employees. Without the right balance of physical and emotional health, stress and anxiety can surface and with it comes an increase in injuries and illnesses. Make sure supervisors aren't emphasizing production goals at the expense of safety. When possible, utilize performance management strategies that engage workers in shared decision-making. Consider a corporate health and performance program that promotes healthy living and rewards healthy lifestyle choices.

Provide the necessary tools for the job. Sometimes it's the nature of the work itself that poses the greatest risk. Assess the required work, establish on-the-job

rules accordingly, train employees to do their jobs safely and provide the necessary tools and protective equipment they need.

Institute a twice-daily check-in. For physically demanding jobs like construction, that are especially injury prone, establish a meeting at the beginning as well as the end of the day that requires everyone to pass in front of the foreman's eyes. The morning meeting might include five minutes of stretching or warm-ups, while the evening meeting could require everyone to sign something that says "I left the job healthy today," to prevent an injured claim tomorrow.

Establish a return-to-work program. Known

to curb long-term WC costs by bringing employees back to the office/project more quickly, return-to-work programs can include part-time, telecommuting and modified work duties and schedules. Such programs can improve productivity and morale across an organization, saving time and money, while protecting companies from loss of talent.

When companies apply both general best practices and those specific to their corporate culture and employee base, they will see real results. Pre-screening new hires, creating optimal conditions in the workplace and instituting post-injury support for employees can create a culture of health and safety that is felt across the entire organization. ■

Fraud Alert?

One poor hire can become a huge setback for any organization. At best, a poor hiring decision can negatively impact employee morale and production. At worst, it can lead to fraud, embezzlement, and a blemish on your organization's reputation. Investing your time and resources at the front end in employee screening and selection can ultimately pay dividends down the road.

Screening prospective employees begins with the resume and/or job application. Your applicants have provided you with information about their education and experience. You may be tempted to accept all the information at face value without conducting any

investigation, especially if you have a small applicant pool or a hard-to-fill position and little time to devote to the process. Some applicants are counting on your reluctance to verify their credentials and references. A *CareerBuilder* survey of hiring managers and Human Resources (HR) professionals reported that 58% of them have caught a lie on a resume. The study revealed that the most common lies were embellished skills and job responsibilities, but job titles and academic degrees were also commonly fabricated.

To help reduce the risk of bad hiring decisions, we recommend that you take

Story Continued on Page 22

Welcome New Member

**Unemployment
Compensation Fund**
Town of Harrison

Workers Compensation Renewal Reminder

It is renewal time again and we are here to help. The renewal applications for the Workers Compensation Fund are due by October 17, 2016, and we want our Members to know that we are available to assist you. If you would like help with the completion of your application or just have questions, please contact Marcus Ballou (mballou@memun.org) or Judy Doore (jdoore@memun.org) at 1-(800) 590-5583.

Serving Maine Communities Is What We Do And All We Do

Proper Cash-Handling Protects Us All

Every municipality handles some type of revenue. Whether the transaction is cash, check, or credit, the need to properly control and account for each transaction is essential. Appropriate policies and procedures are especially important to municipalities because the revenue municipalities generate belongs to the public they serve. Any policies and procedures a municipality adopts should serve to protect its capital, the safety of its employees, and the confidence of its constituents. To assure success, the municipality should implement cash-handling policies and procedures based on established business practices. These practices, over time, have proven to minimize the risk of losses and establish accountability for transactions from inception through reclamation.

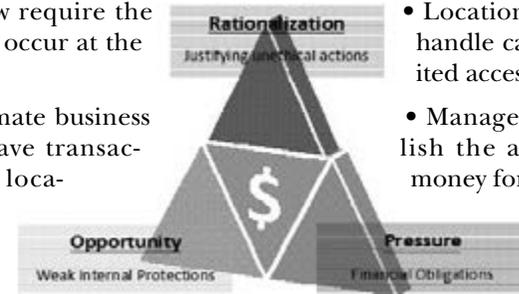
Developing a sound revenue handling policy and procedure requires that the municipality evaluate each component of its operations to determine needs. Regardless of the size of the operation, municipalities should consider the following as they develop their policies and procedures:

- Identify all locations where the municipality collects revenue, including temporary and seasonal locations.
- Review the reason monetary transactions occur at each location.
- What exact service does the municipality provide at each location?
- Do transactions have to occur at each location?

- Does the law require the transaction to occur at the site of service?
- Is it a legitimate business practice to have transactions at each location?
- Identify the risk exposures at each location.
- Lighting: Does the location have proper lighting around the point of transaction during business hours?
- Design: Does the location where transactions take place limit access to funds and reduce the threat of theft or robbery?

Often a municipality allows tradition or convenience to determine the way it handles its operations. This can make implementing change difficult. However, following safe and secure business practices, particularly when cash transactions are necessary, is essential if a municipality is to provide a safe and secure workplace for its employees. By initiating appropriate revenue handling procedures, the municipality will reduce the risk of losses and limit the apparent opportunity to become a victim of crime.

In order to maintain the integrity of any operation, management must establish a series of checks and balances that will protect the organization's employees and assets. To meet this responsibility, management should establish proper policies and procedures that will guide employees while engaged in the performance of their duties.



The following are important points to remember:

- Employees should handle cash only in secure locations that are away from public view.

- Locations where employees handle cash should have limited access.
- Management should establish the amount of start-up money for each cash drawer.
- Employees should count cash and sign receipts before going to their workstations.

- All transactions should be recorded by receipt or preferably by electronic means.
- To protect employees they should count all monies in their drawer at the end of the day or shift, seal it in an envelope and sign it. Employees should give their envelopes to the proper authority for audit and to re-establish the start-up cash.
- Once they receive the money, managers should audit the envelopes against the receipts and/or cash register tapes and re-establish the start-up drawer. Management should then total all the envelopes, make up the bank deposit, and check the contents of the safe. ■

Fraud Alert *(cont'd)*

time to thoroughly vet your applicants. Create a core list of background checks and verifications that you use on all applicants. You may wish to add additional checks based on specific job duties of the position. For example, a core screening could include a criminal background check, driving records, verification of previous employment and education history. Utilizing a core screening list for all applicants is not only cost-effective but also reduces the risk of hiring discrimination, since all applicants receive similar screening.

Don't rush hiring decisions. Work with your attorney and HR professionals to create an Applicant Checklist and perform background checks on all prospective new hires. Hiring the right employee will always save you time and money in the long run. ■

MARK YOUR CALENDARS!

**2017 Municipal
Technology Conference**

Thursday, May 11, 2017

DoubleTree by Hilton, South Portland

**2017 Municipal HR and
Management Conference**

Thursday, June 15, 2017

Thomas College, Waterville

2017 MMA Convention

October 4 & 5, 2017

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As part of our ongoing efforts to bring training to our members, MMA is pleased to announce that this course will be offered in two formats: In classroom and remotely at the Northern Maine Development Commission in Caribou. Attendees can participate via ITV Technology by viewing the presentation remotely. ITV broadcasting allows for live viewing as well as interactive participation with the attendees. A facilitator will be onsite to assist. Should you wish to attend this session at NMDC, simply fill out the registration form and select the Caribou live broadcast.

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Telecommuting is avoided by municipalities, but for how long?

Few towns and cities in Maine have telecommuting policies or offer it formally as an employee option, but younger workers prize the flexibility. Some experts say it's worth a look.

By **Stephanie Bouchard**

Telecommuting has become a top work trend across all employment sectors – even for the federal government – but it isn't happening much on the local government level.

According to San Diego, California-based Global Workplace Analytics, local government trails other sectors in adopting workplace strategies like telecommuting. For instance, from 2005 to 2014, telework at the local government level grew 78.5 percent, whereas it grew 94.8 percent for for-profit companies.

Anecdotal, the number of towns and cities in Maine with formal telecommuting policies is low, said Jessica Factor, the human resources manager for the Town of Brunswick and president of the Maine Local Government Human Resource Association.

In the 10 years she has worked in Brunswick, she said, she's only had one employee request telecommuting, and the town wasn't able to accommodate it because of the importance of that person's interaction with the public.

"Telecommuting is really not something that is very frequent in the public sector because the whole interaction is customer service, and helping residents who are coming into our respective entities," she said.

That is the crux of the matter: Telecommuting for municipal employees doesn't make sense in most cases.

"You have to understand that the main function of a public service employee is to serve the public. It's hard to do that from home," said Alan Gould, president of Municipal

Resources, Inc., of Meredith, N.H. Gould served more than 20 years as a police officer and police chief in New Hampshire before retiring from the police force to work as a town administrator. MRI is a consulting firm servicing municipal governments.

"Most people think they should be able to walk into town or city hall and engage somebody face to face that can help them resolve their problem, answer their question – whatever it is," he said. "You have to have staff there."

That said, Gould does see towns and cities offering flexible schedul-

ing that benefits both employees and their residents.

For example, employees work four, 10-hour days, giving them a day off during the week and the public gets hours of operation beyond 8 a.m. to 4 p.m. or 9 a.m. to 5 p.m. Some full-time municipalities close town or city hall one day a week so work can be done without interruption. On days when the office is closed to the public, Gould said, employees could work from home, if that's appropriate.

The difficulty is attracting and retaining modern-day workers who want flex schedules and cherish their per-

TELECOMMUTING ON THE RISE

Here are some numbers about telecommuting and employment trends.

- Outside of the self-employed population, regular work-at-home has grown by 103 percent since 2005.
- From 2013 to 2014, the employee population grew by 1.9 percent. In that same time period, the population of employees who telecommute grew 5.6 percent.
- 3.7 million employees (2.8 percent of the workforce) now work from home at least half-time.
- From 2005 to 2014, telework at the local government level grew 78.5 percent, the slowest of work sectors. The federal government sector grew the fastest, at 424.3 percent.
- The typical telecommuter is age 50 or older, college-educated, salaried and a non-union employee.
- Non-union companies are more likely to offer telecommuting than those with unions.
- 46 percent of companies that allow telecommuting say it has reduced attrition.
- 72 percent of employers say telework has a high impact on employee retention.

Source: GlobalWorkplaceAnalytics.com

Stephanie Bouchard is a freelance writer from Bath and occasional contributor to the *Maine Townsman*, stephanie@stephaniebouchard.net.

sonal time, yet serving a sometimes-demanding, taxpaying public.

Striking a balance

“It’s a real challenge for municipal managers to try to strike that balance of meeting the needs of the employees and meeting the expectations of the public – and being able to hire and retain quality talent that very often is being attracted to the private sector,” he said.

Being able to attract talent is important, said Jennifer Ogden, the human resources director for the City of Westbrook, one of Maine’s few municipalities with a formal telecommuting policy.

According to a survey by national talent acquisition and career development firm Mom Corps, nearly 75 percent of U.S. workers say flexibility is one of the most important factors when looking for a new job or deciding who to work for.

Traditionally, municipal governments could attract and retain employees with robust benefit programs, but those benefits have been eroding because of tight budgets and reduced state revenues. Offering a common

TIPS FOR MUNICIPALITIES

The public sector may be behind the private sector when it comes to telecommuting, but that doesn’t mean it shouldn’t be prepared to address it, says Sarah Newell, an attorney specializing in labor management at law firm Eaton Peabody.

- Put a telecommuting policy (or at least have some thought-out guidelines) in place if you’re going to make that option available to employees, even if it’s available only to some employees. Having a policy in place that clearly defines who can work from home based on job function will help protect you from potential discrimination complaints.
- Keep in mind that there’s a difference between employees requesting telecommuting to make their lives easier and those requesting it as an accommodation for a disability. You must address a telecommuting request as an accommodation of a disability by taking the steps required under the law for disability accommodation.
- Employees who work from home tend to overwork, which can be problematic if the employee who is working from home is paid hourly and is entitled to overtime pay by law. To keep control of wage costs, put in place a way to monitor the time employees spend working from home. Make sure employees working from home using a time sheet understand there are negative consequences to falsifying a time card – even if falsification takes the form of undercutting the total number of hours worked.
- Use a telecommuting agreement to lay out how the opportunity for telecommuting will work. The agreement could include, for example, directives ensuring only the employee will have access to government laptops in the home.



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private sector perk such as telecommuting could make a big difference.

Part of the reason that Westbrook began allowing working from home for particular administrative roles was to make employment offers more attractive to potential employees, Ogden said.

“The name of the game (in the private sector) is top talent,” she said. “You get the best people, you’re going to win the game. Municipalities aren’t any different.”

Working from home is not open to everyone in Westbrook, Ogden noted, and the telecommuting policy is pretty bare bones. It says in cases where appropriate, the city will allow staff to work remotely for certain situations, pending approval. No one can work from home full-time, for instance. Of the city’s 230 employees, about 18 management team members qualify for telecommuting. Only five, including Ogden herself, use the opportunity on a regular basis.

She thinks part of the reason telecommuting isn’t utilized as much as it could be at the municipal level is that there isn’t the kind of awareness



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in the public sector as there is in the private sector of how to effectively structure day-to-day work to accommodate some level of telecommuting.

However, she said, telecommuting at the municipal level could become more the norm in coming years, especially as the millennial generation – a group that strongly values work flexibility, according to various researchers – takes on more roles in local government.

But it will take more than just changing the perspective of those running municipal governments, in order for telecommuting to make inroads in the public sector. Residents will have to go along with it, too.

'Tons of people'

"Residents might not like that town employees aren't in the office," said Stephen Eldridge, Town Manager in Berwick. From his perspective, that's just small mindedness – people not understanding the way the world has become.

"I know tons of people who work from home," he said. "Jobs don't require them to be any place but on a computer."

For his part, while he has not instituted a formal telecommute policy in any of the towns he's worked in over the last 17 years, Eldridge makes a point of trying to be flexible with his various staffs and thinks working from home is OK, as long as it's right for the position.

"With both husbands and wives working – and if they have young children – it just makes sense if the mom or dad has to be home and they want

to do some work, you should embrace that. It's productive time even though they're gone. That's a win-win for both of us." ■

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MMA Executive Committee backs Question 3, transportation bond

By Geoffrey Herman, Director State & Federal Relations, MMA

Every year during its September meeting, Maine Municipal Association's 12-member Executive Committee establishes the association's position on any ballot measure, either initiative or referendum, scheduled for the November election and identified as having both a direct and statewide impact on local government.

There is no shortage of citizen initiatives this year to at least review with respect to municipal impacts.

Question 1 would legalize the recreational use of marijuana, and there are municipal regulatory impacts to consider.

Question 2 would increase by 3 percent the state income tax rate on filers with an adjusted gross income over \$200,000 in order to generate additional state resources to support K-12 public education.

Question 3 would expand the reach of required background checks when guns change ownership and licensed gun dealers are not involved in the transaction.

Question 4 would incrementally increase the state's minimum wage over the next four years to reach \$12 per hour in 2020.

Question 5 would implement the "ranked choice" voting system for the election of Maine's Governor, U.S. Senators, U.S. Representatives and all state legislators when there are three or more candidates on the ballot for a single office.

Question 6 is a referendum advanced by the Legislature proposing to issue a \$100 million bond for the purposes of highway and bridge maintenance and construction, as well as other transportation infrastructure investments.

The Executive Committee's discussion on all five initiatives was robust and aided by background information on each initiated measure. Several months ago, MMA's 70-member

Legislative Policy Committee (LPC) staked out positions on several of these initiatives when they were printed bills submitted to the Legislature, and the various LPC positions were considered. Several weeks ago, both the proponents and the opponents of each initiative were invited to provide the Executive Committee with written materials outlining the reasons for their advocacy positions. Six of the ten advocacy groups on either side of the five initiatives provided informational material.

In addition to reviewing all of the available information, the Executive Committee paid particular attention in its discussion to the task of sorting out personally held opinions from an analysis of more objective, quantifiable or direct impacts on local government.

As a result of that focus, the Executive Committee voted to take "no position" or "neither for nor against" positions on four of the five initiatives. (In some cases the "neither for nor against" position would be more aptly described as a position "both for and against.")

Question 3: Gun sales background checks

The only citizen initiative that received an unambiguous vote of support was Question 3. As the question on the ballot describes it, Question 3 would require background checks prior to the sale or transfer of firearms between individuals not licensed as firearms dealers, with some excep-

tions for family members, hunting, self-defense, lawful competitions and shooting range activity.

Just a day before the Executive Committee's meeting, the Maine Chiefs of Police Association announced its support of Question 3, and the position of the Maine's local law enforcement officers was certainly noted in the MMA discussion. Earlier this year, when the citizen initiative was merely a printed bill and potentially subject to substantive review by the Legislature, MMA's Legislative Policy Committee also voted in support of the measure, after an extensive discussion.

The reason for both the Executive Committee's and the Legislative Policy Committee's decision to support Question 3 boils down to public safety. The Executive Committee members were particularly struck by the information provided through the police chiefs' announcement, which indicated that that in states that already require background checks on all handgun sales, there is nearly a 50 percent reduction in the incidences of gun suicides, women shot to death in domestic violence assaults and law enforcement officers killed with handguns.

The Executive Committee also noted its opinion that the wide availability of store-based and home-based licensed firearm dealers would ensure ample opportunity to connect with a dealer in order to conduct a background check for firearm sales at gun shows and through magazine and Internet advertising, which are the types

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of sales at the focus of this initiative.

In summary, the Executive Committee could not logically reconcile the fact that there are currently two systems for purchasing firearms in Maine. One system involves the buyer undergoing a background check, the other system does not.

Question 6: Transportation infrastructure

The other ballot question that MMA's Executive Committee voted to support is Question 6, which is a \$100 million bond proposal for transportation infrastructure.

It might be noted that two years ago MMA's Legislative Policy Committee advanced a \$100 million transportation bond proposal, which was submitted to the Legislature in January 2015. Although the MMA proposal was structured a little differently than this final product, there is no doubt on the municipal level that the level of investment behind this proposal is entirely appropriate.

Specifically, this bond will dedicate \$80 million of the issue to the construction, reconstruction and rehabilitation of Priority 1, 2 and 3 state highways,

the municipal partnership initiative and the replacement or rehabilitation of bridges. The remaining \$20 million of the issue is dedicated to capital improvements to ports, harbors, marine transportation, aviation, freight and

passenger railroads, transit, and bicycle and pedestrian trails. In addition to the direct bond proceeds, an additional \$137 million in federal and other funds is projected to be leveraged if the voters approve Question 6. ■



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Perspective from municipalities that do, and do not, use TIFs

Whether they use them or not, most of the municipalities responding to a survey said the Tax Increment Financing program works, though some tweaks are possible.

By Kate Dufour, Senior Legislative Advocate, MMA

On June 1, the Maine Municipal Association in partnership with the Economic Development Council of Maine (EDCM) and Maine Development Foundation (MDF) issued two-related Tax Increment Financing (TIF) program surveys. More than 200 representatives from municipalities that use the TIF program, as well as municipalities that do not, were invited to participate. Participants were asked to provide information, feedback and input about their experiences, or lack thereof, with the development, adoption, implementation and management of TIF districts.

TIF primer

In brief summary, the state's TIF program is an economic development tool that allows new property tax revenues generated within the boundaries of a defined development district to be used for specified economic development purposes. The plan describing the boundaries of the TIF district as well as the uses of the tax revenue must be certified by the Maine Department of Economic and Community Development (DECD) and adopted by the local legislative body (town meeting or town or city council).

The state regulations that guide the TIF program provide for TIF district-based improvements, direct business-based investments and more generalized municipal economic development purposes. The value of the new property located within the district is "sheltered" (e.g., excluded) from the calculation of state assessed value up to a period of 30 years, thereby providing revenue sharing, general purpose aid for education and county tax assessment advantages to TIF communities.

Report and data

An executive summary of the survey results and accompanying materials and data are posted on MMA's website (www.memun.org; scroll down on home page). What follows are the highlights of the survey results.

Forty-one municipal officials from the 105 communities that *manage active TIF districts* participated in the survey, for a response rate of 39 percent. The survey sent to communities with active districts was designed to gather information to determine if the TIF program as currently constructed is adequately meeting the economic development needs of communities of varying size, fiscal capacity and location throughout the state.

Some 119 municipalities with populations greater than 1,500 that *do not have active TIF districts* were surveyed and 60 participated, yielding a response rate of 50 percent. The survey sent to municipalities without districts was designed to learn why these communities do not use the TIF program as a means for economic development and whether changes to the law would encourage participation.

Feedback from TIF participants

From municipal leaders in communities with active districts we learned:

The 41 communities participating in the survey manage a total of 153 TIF districts with a combined captured assessed value of over \$1 billion.

The newly generated TIF revenues are used to either: (1) fund "credit enhancement agreements" (CEAs), where a portion – and in some cases all – the tax revenue is returned to the business to pay for authorized investment-related costs; or (2) make infrastructure improvements either

directly related to the businesses within the TIF district or more generally designed to improve the municipality's economic development potential (e.g. sewer treatment plants upgrades, expanded public water services, development of recreational trails, etc.).

Under current law, the original base assessed value in all TIF districts cannot exceed 5 percent of the total value of taxable property within the community. According to the information provided in the survey, on average municipalities are well within the statutory limit, having original base values equaling only 2 percent of the total value of taxable property.

However, nine of the survey respondents expressed concern that the 5 percent limit will impact their community's ability to establish TIF districts in the future. When asked how best to address that concern, the most popular solution was to increase the cap, with recommendations ranging from a low of 7.5 percent to a high of 10 percent.

Fifty-one percent of the responding municipal officials described their TIF approach as targeted/selective, meaning that the program is aggressively pursued only in cases where community goals (e.g., job creation, development of brownfields, creation and expansion of recreational trails, etc.) are advanced by the creation of the proposed TIF district. The remaining responses were evenly split between municipal officials from communities with more aggressive philosophies that use the TIF program as their primary, and in some cases sole, economic development tool and communities that describe their TIF philosophy as conservative.

To help underscore their commu-

nities' TIF philosophies, 17 of the participating municipalities have adopted formal TIF policies.

Participants in the survey reported that, typically, appointed and elected municipal officials have a more positive perception of the TIF program than members of the general public.

Many of the municipal officials completing the survey stated that the program's general mischaracterization as a business "tax break" program rather than an economic development program can generate negative perceptions. To address program-related concerns, municipal officials rely on public hearings, workshops, newsletters, websites, annual reports, and brochures to keep interested parties (e.g., elected officials, business owners, general public, etc.) informed of the benefits associated with existing and proposed TIF district programs.

Some municipal officials observed that broad-based interest in the program is often project-specific. Some proposed economic development ini-

tiatives attract more attention – both positive and negative – than others.

While, in general, municipal officials believe that the TIF development and implementation process is clear, some municipal officials expressed frustration with certain elements of the program. Specifically, some communities find the approval

process confusing, the deadlines unreasonable and the record-keeping requirements muddled. Some of these respondents suggested that the program's shortcomings may be related to DECD staffing shortages.

Most participants were surprised by the question asking for a description of the working relationships with

Tax Increment Financing (TIF) Survey

Website address for more details:

memun.org/LegislativeAdvocacy/ResourcesPublications/TIFSurveyReport.aspx

Materials at the website:

- Tax Increment Financing (TIF) Survey Report
- List of participating municipalities *with* active TIF Districts (*Appendix A*).
- List of participating municipalities *without* active TIF districts (*Appendix B*).
- Number, type and base assessed value of TIF districts (*Appendix C*).
- Sample TIF revenue use/investment protocols adopted in Caribou, Gray, Machias, Manchester, Norridgewock, Portland and Yarmouth (*Appendix D*).
- Sample TIF policies implemented in Augusta, Belfast, Caribou, Dover-Foxcroft, Farmington, Fort Fairfield, Gray, Kennebunk, Lincoln, Old Town and Skowhegan (*Appendix E*).
- List of reasons why communities do not TIF (*Appendix F*).
- Recommended TIF program improvements (*Appendix G*).
- Copies of surveys sent to TIF & Non-TIF communities (*Appendices H & I*).

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municipal officials in the region or county that may perceive themselves as adversely impacted by the community's TIF-related decisions. Many of the survey participants could not recall conversations with other municipal officials that felt adversely affected by their community's TIF activity.

Feedback from non-participants

Municipal officials from the communities without TIF districts were asked two questions related to their philosophy or perspective on the program. The first question asked participants to share the reasons why they believe their communities do not use the state's TIF program as an economic development tool. The second question asked non-TIF participants to describe their reactions to the observation that some municipalities are deeply involved in the implementation of TIF programs while other communities have avoided implementing a TIF program altogether.

From the non-TIF survey partici-

pants we learned:

A majority of the respondents believe that current levels of economic development within the community's borders do not warrant TIF activity.

When asked if the existing TIF laws could be amended to encourage participation, a vast majority responded "no." The few "yes" respondents suggested that a simpler process or a program focused on the needs of small rural communities could stimulate some interest in the program.

Two-thirds of the respondents stated that they do not believe that there is a problem with the program and that what works for some, might not work for others.

Common themes

Although the survey shed light

on the differences (e.g., fiscal capacity, level of business activity, public infrastructure needs, community philosophy, etc.) that exists between communities that do and do not use the TIF program to advance local economic development goals, two common themes emerged from this data gathering effort.

First, there is universal interest in gaining greater access to information about the mechanics of the program. Second, municipal officials from communities that do and do not utilize TIF districts generally believe the program as designed is working and the implementation of the program in one community can yield regional benefits. ■

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PEOPLE



Tony Plante

Anthony "Tony" Plante, Jay Feyler, Elaine Abbott and Bob Farrar were honored recently at the Maine Town, City and County Management Association's Annual Institute at the Sunday River Resort and

Conference Center in Newry.

Plante received MTCMA's "Linc Stackpole Award," which goes annually to the association's Manager of the Year. As town manager in Windham for more than 18 years, Plante is credited with implementing a strategic plan for his growing community, dealing with state cuts in revenue sharing, improving the town's credit rating and building a better road system.

Plante's nomination – nominations, actually – came from throughout Maine, as fellow managers in places like Fayette, Yarmouth and Cumberland County backed Plante for the award.

David Nadeau, a council member in Windham, wrote that Plante "always handles his duties in the highest professional manner, even in stressful times of conflict."

Jay Feyler, manager in the Town of Union, won MTCMA's Leadership Award. Feyler is active on many municipal fronts, as a highly visible MTCMA member, a board member of the Maine Welfare Directors Association and as a speaker at sessions organized by Maine Municipal Association.

Feyler was nominated by his entire board of selectmen. John Shepard, in writing Feyler's nomination letter, said that Feyler stepped into his position during a time of town turmoil and "distress" and eventually calmed the waters, largely through effective and consistent communication.

In fact, Shepard wrote: "It's a fact that I never wanted to run for the office of selectman before Jay's influence improved our municipal 'climate.' Now, I can say I'm proud to be a selectman."

Elaine Abbott, City Manager in Eastport, won MTCMA's Rising Star Award, given annually to a manager with five or fewer years on the job. Her numerous nomination letters included one from

Charles Rudelitch, executive director of the Sunrise County Economic Council.

Rudelitch went to the heart of a key municipal duty, when he credited Abbott for outstanding leadership and organizational skills during the winter of 2015, when Washington County received unprecedented amounts of snow and record cold.

Finally, Bob Farrar, the well-known assistant city manager in Bangor for more than 27 years, received special recognition, as he enters retirement. Farrar worked in the towns of Brunswick and Topsham before moving to Bangor.

Cathy Conlow, city manager in Bangor, wrote that Farrar holds "deeply ingrained beliefs that people are to be treated with kindness, fairness and equity, regardless of circumstances." The city has over 500 municipal employees, Conlow noted, and Farrar diligently made a point of recognizing personal triumphs and tragedies that occurred in the employees' lives.

Edward Dube, retired Saco deputy fire chief, was hired as Old Orchard Beach fire chief effective Aug. 15. He replaces **Ricky Plummer**, who resigned in May. Dube was chosen from a field of 40 candidates and said he is happy to return to firefighting after working in the private sector since his retirement in 2012. Dube served Saco for 33 years, working his way up the career ladder to ultimately serve as deputy

chief. **William Farley** served as interim fire chief and plans to remain as a town firefighter.

Michael Reynolds has retired as Raymond selectman after serving 12 years. Town officials and leaders said Reynolds earned respect for his many efforts to improve the community. Reynolds was serving as a volunteer on the town's technology committee when he was elected in 2004.

Veteran Brunswick Police Commander **Marc Hagan** has been named Lisbon police chief, effective Sept. 1. He replaces **David Brooks**, who retired in June after serving the department for 36 years. Hagan was hired as a Brunswick patrol officer in 1990 and served in a number of positions until being promoted to patrol commander in 2008. Hagan also served as the Brunswick department's special response team commander.

Former Paris Selectman **Victor Hodgkins** was named town manager, effective Sept. 6. The town had hired two interim managers while searching for a permanent replacement for **Amy Bernard**, who resigned last December to take the town administrator's job in nearby Newry. Also, Fire Chief **Brad Frost** retired on Aug. 31 after 53 years with the fire department, the last 16 as chief. Oxford Fire Chief **Scott Hunter** was named interim chief while the town searches for a permanent replacement. ■

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STATEWIDE

As another winter approaches, nearly 200 Maine municipalities are counting their blessings for – and revenue from – city and town forestland that ranges from just a few acres to thousands. The state reports that 170 communities own and manage 150,000 acres of woodland. For example, in Winterville Plantation, south of Eagle Lake in far northern Maine, the plantation's wood harvesting pays for one-quarter of the annual budget. In the tri-towns of Mapleton-Castle Hill-Chapman, in central Aroostook County, wood harvesting totals about 2,000 cords per year, generating \$100,000 in revenue for the three towns that share a manager and operational costs but retain their individual identities.

AUGUSTA

Maine state and local police departments have a new vehicle to help combat drunk driving. In September, the \$300,000 "hulking" truck was unveiled to the public. The truck, paid for with a federal highway safety grant, holds an Intoxilyzer 8000 device, as well as enough space to conduct "walk-and-turn" sobriety tests. Cameras also are included to capture the tests, providing evidence for a jury, if necessary. Officials said 34 percent of all highway fatalities involve impaired drivers with blood-alcohol levels at or above the legal limit of 0.08 percent. A collaborative use of the new vehicle was tested in September in the Greater Augusta area. The vehicle can be used by any police department on any given night, as long as it has not been scheduled for another location. Officials hope the truck will be used somewhere in Maine every night of the year.

BOOTHBAY

An 11-year-old girl received a nice surprise in September when she asked Planning Board members for permission to care for two mules on her family's land and was told she didn't need to ask. The young animallover was told residents only need an animal breeding and care permit if they want to keep four or more hoofed animals. The girl was concerned a permit was required because her parents' home is located within the town's watershed district.

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MMA Executive Committee. MMA soon will have new leadership. Kennebunk Town Manager Laurie Smith will become president in January, and South Portland City Councilor Linda Cohen will be our vice president.

Shooting Range Grants. The Maine Inland Fisheries & Wildlife Department is promoting its Maine Range Access Improvement Grant program, which provides grants up to \$50,000 for archery and firearms facilities.

Stormwater Finance. The New England Environmental Finance Center will hold a stormwater finance forum on Nov. 15-16 at the University of New Hampshire in Durham, N.H. Innovative financing strategies are part of the two-day agenda.

months of work paid off for the nation's easternmost city when the Eastport Telecommuter Recruitment website went live in September. The site promotes Eastport as a beautiful, diverse and "remarkable" community where young professionals and others can work from home. Eastport, which also offers the deepest shipping port on the East Coast, is located two hours from the City of Bangor. The new website is another effort by municipal and city leaders to lure people to the area, which has been losing population for years. Officials said response to the new website has been overwhelmingly positive.

JAY

Town officials have applied for a state valuation adjustment after the tax value of the Verso Androscoggin Mill dropped by \$122.8 million. If successful, the reduction would reduce the town's share of education costs by as much as \$1 million, while slightly increasing state revenue sharing funds. The application was filed under the state's "sudden and severe disruption in value" program. Last August, Verso shut down two paper-making machines and eliminated 300 full-time employees. Verso filed for bankruptcy early this year. Selectmen have asked for a joint meeting this month with Livermore and Livermore Falls officials to more closely study the impact of the mill downsizing.

PORTLAND

In a possible sign that the city's housing shortage is intensifying, a developer has asked for a permit to build 12

to 14 condominiums on Peaks Island, the most populated island in Casco Bay with a year-round population of about 860. Located three miles from downtown and accessed by ferry, the summer population swells to 2,000 to 4,000. The proposed condo project is controversial on the island of nearly all single-family homes. Some residents worry the development would adversely impact views of Casco Bay. The site being considered also would require razing a one-time popular bowling alley and could open the island to further objectionable development. The developer, from North Carolina, has long ties to the island and his family owns a home there. The city's zoning board would have to agree to waive several existing zoning rules in order to approve the project.

TOPSHAM

Town voters will decide on Nov. 8 whether to impose a five-cent fee on single-use shopping bags and completely ban the use of polystyrene foam containers. The question made the local ballot via a citizen petition. Meanwhile, Belfast residents are asking the city council to consider similar action. The plastic bag fees and bans are being supported more and more in Maine. The plastic bags take hundreds of years to degrade in landfills, while the ones that make it to state lakes and the ocean often cannot be seen by the naked eye once they break down. Microscopic pieces of plastic, however, are being found inside fish. The municipalities of Portland, South Portland, Falmouth, Freeport, York and Kennebunk already regulate single-use plastic bags. ■

MUNICIPAL BULLETIN BOARD

NOV. 1

Planning Boards/BOA: Calais

MMA's Legal Services Department will host a session for local Planning Board and land use Boards of Appeal members from 4 p.m. to 8:30 p.m. on Nov. 1 at Washington County Community College in Calais.

The workshop is designed as an introduction for new or less experienced members, but veterans may find an update useful as well. Among the topics to be covered: jurisdictional issues; conflicts of interest and bias; public notice requirements; site visits; procedure for decisions; and, variances. The cost is \$55 for MMA members and \$110 for non-members.

NOV. 4

Leadership Crossroads: South Portland

The Maine Local Government Human Resources Association will hold a one-day session on leadership and management on Nov. 4 at Southern Maine Community College's Jewett Auditorium in South Portland.

Faith York, a retired certified rehabilitation counselor and dynamic speaker with over 30 years of experience, will lead the session, which is suited for local government HR professionals, city and town managers, department heads, managers and supervisors. It begins with registration at 8:30 a.m. and concludes at 4 p.m. Cost is \$65 for MLGHR members and \$75 for non-members.

NOV. 15

Personnel Practices: Portland

Attorneys from the law firm of Bernstein Shur will lead a workshop on Personnel Practices on Nov. 15 at the Fireside Inn and Suites in Portland. MMA's sought-after workshop provides a comprehensive overview of important personnel laws that every public leader, manager, department head and staff member should know about.

Among the topics to be addressed: discipline and discharge; family medical leaves; discrimination complaints; and, how to handle difficult employee situations. The session begins with registration at 8:30 a.m. and is scheduled to end at 3:30 p.m. Cost is \$85 for MMA members and \$170 for non-members.

NOV. 16

Municipal Law for Tax Collectors, Treasurers

Susanne Pilgrim and Rebecca Seel of Maine Municipal Association's Legal Services Department will present a workshop on Municipal Law, sponsored by the Maine Municipal Tax Collectors' & Treasurers' Association, on Nov. 16 at MMA's Christopher G. Lockwood Conference Center in Augusta.

The workshop will cover topics such as: qualifications of office; oath; bond; right to know and document preservation laws; borrowing; investments; and, much more. The session begins with registration at 8:30 a.m. and will conclude at 4 p.m. Cost is \$55 for MMTCTA members and \$75 for non-members.

NOV. 29

Grant Writing for Municipalities: Augusta

This is a new session and expert speaker. Jack Smith, a consultant with The Smith Group in Freeport, will present a day-long workshop about Grant Writing for Municipal Programs and Projects at the MMA Conference Center in Augusta.

The class is designed to meet the needs of participants who: are completely new to grant writing and need a basic understanding of the process; are currently working on a grant writing project and have specific questions and issues; and, staff who are successful practitioners of the grant process and seek specialized information.

Registration will begin at 8 a.m. The program runs until 4 p.m. Cost is \$70 for MMA members and \$140 for non-members.

DEC. 6

Elected Officials Workshop: Lewiston

Attorneys and staff from MMA's Legal Services and Communication & Educational Services departments will lead a workshop for Elected Officials on Dec. 6 at the Ramada Inn, 490 Pleasant St. in Lewiston. The evening workshop begins with registration at 4 p.m. and ends at 8:30 p.m., including a light dinner.

The workshop is designed for newly elected officials, but veteran councilors and select board members may benefit

from the refresher and legal updates as well. Topics include: open meeting and records; roles and responsibilities; effective communication; media relations; and, conflicts of interest, among others. Cost for the workshop is \$55 for MMA members and \$110 for non-members. ■

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I certify that the statements made by me above are correct and complete.

Eric Conrad, Editor

LEGAL NOTES

Board vs. Committee

Question: What's the difference between a municipal board and a municipal committee?

Answer: Other than the nomenclature, there is none. Neither "board" nor "committee" is defined by statute, but both terms, as well as others (e.g., "council," "commission"), commonly denote a body or group of individuals, usually at least three, chosen to perform a particular task or exercise a certain function.

In local government, both the number and nature of boards and committees vary widely. Some are provided for by statute, while others are the product of municipal charters, ordinances, town meeting votes or the actions of existing boards or officials. Also, some are "standing" or perpetual committees, while others are "special" or "ad hoc" committees with a limited mission and an end date. Moreover, while some have final authority, at least over certain matters, some are purely advisory, with no final authority at all. Finally, some are elected, some are appointed, and some are a hybrid – a mix of both.

Obviously, the characteristics of a particular board or committee will depend on how it was created. But regardless of its origin, purpose or authority, or how its members are chosen, if a board or committee was established by or on behalf of a municipality, one thing is certain: Its meetings will be subject to Maine's Freedom of Access Act (FOAA) or "Right to Know" law. For more on this, see our "Information Packet" on the subject, available free to members at www.mecommun.org. (By R.P.F.)

Law Court – No Liability for 'Negligent' Firefighting

For the first time we know of, the Maine Supreme Court has held that municipalities cannot be held liable for allegedly negligent firefighting operations.

In *Day's Auto Body, Inc. v. Town of Medway*, 2016 ME 121, the plaintiff, whose shop was destroyed by a fire, claimed the town's fire department improperly deployed and operated its trucks and equipment in a manner that exacerbated his loss. This, he argued, fell within the plain meaning of the exception to immunity under the Maine Tort Claims Act (MTCA) for negligent ownership, main-

tenance or use of motor vehicles, machinery and equipment (see 14 M.R.S.A. § 8104-A(1)).

The Court, however, noted that this particular exception to immunity under the MTCA has long been construed to include only risks that flow naturally or directly from the negligent operation of a vehicle (i.e., the possibility of collision and resulting harm). In this case, though, the Court found that the essence of the complaint was that the town "made imprudent tactical decisions" in fighting the fire, not that the plaintiff was injured in a vehicle accident. The Court was thus unwilling to make an exception just because vehicles and equipment were involved.

Incidentally, in 2002 the Law Court reached a similar decision involving emergency rescue operations. In *Thompson v. Dep't of Inland Fisheries and Wildlife*, 2002 ME 78, 796 A.2d 674, a

snowmobiler hurt in an accident claimed his injuries were exacerbated by a delayed rescue due to an inadequately fueled helicopter and inadequate communications and navigation equipment. The Court refused to allow an exception under the MTCA because the complaint was essentially for a botched rescue, not for injuries sustained by contact with a vehicle or other equipment. (The *Thompson* holding is applicable to municipalities because the MTCA applies to all governmental entities, including municipalities.) For details, see "State, County Not Liable for Negligent Rescue or High-Speed Chase," *Maine Townsman*, Legal Notes, June 2002. (By R.P.F.)

Property Tax Records – What's Confidential?

There's a common (and mistaken) belief that most property tax records are confidential. But in fact, the vast major-

MUNICIPAL CALENDAR

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

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

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

PRIOR TO NOVEMBER 8 — Election Day. Registrars of voters shall accept registration prior to the November 8 election according to the time schedule of their population group (21-A §122[6]).

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

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

NOVEMBER 11 — Veteran's Day Observed. A legal holiday (4 MRSA §1051).

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

NOVEMBER 24 — Thanksgiving Day, a legal holiday (4 MRSA §1051; 20-A §4802)

LEGAL NOTES

ity of property tax records, including, for example, valuation books, tax maps, property cards, commitment warrants, tax bills, liens, and tax abatements and exemptions, are public records (see 36 M.R.S.A. § 191(2)(I)). Hence, under Maine's Freedom of Access Act they are accessible by the public on the same terms as any other public record (see 1 M.R.S.A. § 408-A).

Nevertheless, there are a few property tax-related records that are confidential by statute. Here are all the ones we know of:

Tree Growth Tax Law. The forest management and harvest plan required for continued eligibility under the Tree Growth Tax Law is confidential (see 36 M.R.S.A. § 575-A).

Proprietary information. Information submitted by a taxpayer to an assessor in response to a request and that is proprietary (i.e., a trade secret or commercial or financial information that would impair the taxpayer's competitive position) and clearly labeled as such is confidential (see 36 M.R.S.A. § 706).

Poverty abatements. All records associated with tax abatements for poverty or financial hardship, including applications, supporting information, files, communications, and decisions, are confidential (see 36 M.R.S.A. § 841(2)(E)).

Veterans' exemption applications. Applications and proof of entitlement for veterans' exemptions are confidential (see 36 M.R.S.A. § 653(1)(G)).

Certain taxpayers' addresses. The residential address of any participant in the State's Address Confidentiality Program to protect victims of domestic violence, stalking or sexual assault is confidential (5 M.R.S.A. § 90-B).

Social Security numbers. Social Security numbers are confidential wherever they may appear in property tax records, for example, on the Maine real estate transfer tax declaration form (see 1 M.R.S.A. § 402(3)(N)).

If we've missed anything, we're confident that some sharp-eyed reader will bring it to our attention. (By R.P.F.)

Winter Roads Reprised

After a classic Maine summer and a mild winter last year, it may seem both premature and improbable to contemplate the possibility of a harsh winter and

overdrawn snow removal budgets. But, climate change or not, our winters can be notoriously unpredictable. (For what it's worth, the 2017 *Farmers' Almanac* foresees a cold and snowy one.) So just in case, we decided to repeat the advice we've given here before about winter road budget overdrafts.

Let's start with this: The municipal officers (selectmen or councilors) have no general or inherent authority under State law to exceed appropriations (see "Budget Overdrafts," *Maine Townsman*, Legal Notes, May 2007).

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

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

Moreover, if the municipal legislative body (town meeting or town or city

council) has established a contingency account or has authorized expenditures from other accounts in case of emergency, the municipal officers may utilize these funds for unanticipated snow removal costs.

If there is no contingency fund or emergency spending authority and the statutory 15% overdraft has been exhausted, the municipal officers may have to seek additional funding from the legislative body. Funds may be appropriated from any available source, including surplus, unexpended balances in other accounts, or even short-term borrowing (but not from additional taxes if taxes have already been committed for the year). The municipal officers may want to couple this request with a request for emergency spending authority in the event that even the additional funds prove insufficient.

If the voters are the legislative body, the municipal officers should, if at all possible, request extra funding before the winter road budget is overdrawn. Waiting until afterwards for the voters to ratify an overdraft can be risky strategy unless the municipal officers are confident of the voters' after-the-fact approval. (By R.P.F.) ■

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