

June 2010

# maine townsman

The Magazine of the Maine Municipal Association



**'REEFER' MANAGEMENT:  
Medical Marijuana  
in Maine**

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MMA website: [www.memun.org](http://www.memun.org)

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# maine townsman

The Magazine of the Maine Municipal Association

## From the President

5

"No town is an island," Maine Municipal Association President John Sylvester writes, in an impassioned column about why municipal leaders need to engage with their state legislators. The Alfred Selectman says recent, severe cuts in municipal aid from state government show why doing good public service on a day-to-day basis is no longer enough.

## 'Reefer' Management

7

Now comes the hard part. Last year, Maine voters approved a measure that authorized a system of medical-marijuana dispensaries. Now, as the state starts to roll out more details of how things will work, municipalities are scrambling to site the would-be dispensaries or buy time to make good decisions about where they should go. Make no mistake: They're coming. Municipalities cannot ban them under the new law and the state can authorize eight dispensaries in the first phase.

## More Twin Cities' Collaboration

13

The Maine Townsman's collaboration series continues with a look at the way a new computer system will put the Auburn and Lewiston Public Works departments – among others – in touch with one another in unprecedented fashion. The system should save on operating costs but also is expected to increase transparency and reduce workload, errors and legal fees.

## When Red Tape Matters

19

Many incorporated fire departments in Maine may be behind on state-required paperwork without even knowing it. That can be a big deal for firefighters, who face personal exposure to liability if their departments haven't kept the state up to speed about changes in service or failed to file required annual reports. This piece explains how to rectify the problem and notes that a June 30 deadline looms

## Come One, Come All

21

The 2010 Maine Municipal Association Convention is deep into the planning stages. Keynote speaker Travis Roy will kick off the Oct. 12-13 event, which carries the theme: "Embracing Challenges & Change." A significant part of the programming will revolve around the economy and financial management, with a special eye toward educating elected officials. The article also explains why the Augusta Civic Center will host the convention in 2010 – and in 2011.

## Making Copies?

23

If you've been around a copying machine recently, you know how newfangled they're getting. They scan, memorize, collate, staple – even shine your shoes while you wait (just kidding on that last one). But all the computerization comes at a potential cost: Records that need to be kept confidential by law are stored on the copiers' hard drives. This Townsman article outlines the potential pitfalls and explains how to prevent this from happening in your town.

People

26

News

27

Municipal Bulletin Board

28

Legal

29



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# A Message From MMA



by John Sylvester, MMA President, Selectman, Town of Alfred

## Time to Take a Stand

No town is an island.

Town officers and officials whose philosophies and practices “let the world go by” hurt not only themselves but also their neighboring towns and municipal government across the State.

By our very nature, most of us are introverts, working with heads down, hands on the oars, rowing tirelessly against the tide. We are each a reflection of the people who elect or appoint us. A huge majority of us care deeply about our town and the people we represent.

With head bowed and eyes nearly always on the ground, our work gets done, our towns function and we hide our pride and satisfaction for accomplishment earned and jobs well done. We allow others to define us, dismiss us, decide for us, scoff at us and generally tell us where it is at.

Our reward for our retiring nature over the last five to eight years includes hundreds of millions of dollars in revenue cuts and increased program costs pushed down on us by the Governor and the Legislature. Our reward further includes state administrators, opinion makers and other defined experts who paint local government as wasteful, inefficient, self-serving and generally not worth “a bucket of spit.”

I have listened to hundreds of you express concerns about the treatment we receive, the anger it causes and the lack of trust for state government in general.

Isn't it time to change this dynamic? Yes it is.

It is time to look people in the eye and tell them what we do every day. It is time to share our thousands of successful examples of working with each other – not just recently, but for generations.

It is time to show with our many examples that we are prudent, efficient, resourceful, successful problem solvers who do more with less year after year.

It is time to channel the anger and frustration and do something that doesn't come naturally to us – that is, to promote the dependable, efficient and high-quality services that local government provides on a daily basis.

Last December, one of the gubernatorial candidates asked me, “What do you see as the greatest challenge facing local government?”

“Establishing a solid, working relationship with the new Governor and Legislature, working together to help

the people of Maine”, I replied.

Recently a second candidate for governor responded to my question about working together, letting me know that “we are all in this together” and “those of us in Augusta had no choice but to push down state obligations to the municipalities.” Years ago a friend, then serving in the Legislature, told me that it didn't matter which party controlled the Blaine House or the House and Senate. Every Governor, he said to me, gets 90 percent of his (or, possibly, her) agenda passed year after year.

So what is the action plan?

When the primary election results are available, Maine Municipal Association will invite the gubernatorial party winners and an independent or three to meet one on one with the Executive Committee to respond to specific questions. We expect to post these video-recorded sessions on the Maine Municipal Association website. Any city or town can obtain that material and use it locally.

So, get to know these candidates. Learn how each of them plans to involve local government in helping to solve Maine's problems.

Take a stand and let your friends and neighbors know your reasoned thoughts on each candidate. Schedule regional sessions with other town's officers and officials to hear from candidates for Governor, the Senate and House. Learn how seriously candidates for state office consider the challenges facing cities and towns, what your ideas are to help and what you expect from them if they are elected.

Share the results of these conversations on your websites, in your town newsletters, at meetings and by other means.

There is conversation in Augusta now that a new state budget shortfall of \$1 billion may occur. If that is accurate, hundreds of millions more in cuts and costs will be pushed down to municipalities.

There are no town islands in 2010. Heads down, eyes on the ground, working tirelessly to just hold it together is no longer enough. Now is the time to lift our heads up, look people in the eye and take a seat at the table.

I'm there. I'll be looking forward to shaking your hand as we join together in letting Augusta's elected and appointed officers and officials know and understand that, in order to solve our state's problems, we need to collectively draw upon all of our wisdom and strength. 

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# Municipalities Tackle Medical Marijuana Law

By Douglas Rooks

Catherine Cobb, the state Department of Health and Human Services official who soon will decide where to locate Maine's first eight medical marijuana dispensaries, has heard many stories on the topic since voters passed a new referendum last November.

One that stands out in her mind came from a 76-year-old man, who had been smoking marijuana for a medical condition many years before voters first legalized the drug for medical use in 1999.

"He would go out on a street corner and try to find a kid who said he had access to a dealer," she said. "At least half the time, the kid would take his money and just disappear."

That, in a nutshell, was the problem with the system set up under the first referendum. Those with a recommendation from a physician could grow and process marijuana plants – or seek a supply on the black market. There was no safe, consistent or reliable source, something many patients said was a hardship.

When the second medical marijuana referendum was proposed and certified for the ballot in 2009, there was little opposition. Voters approved the measure, Question 5, by 332,000 votes in favor to 232,000 opposed. Fifty-nine percent of all voters approved the ballot item, a similar margin to the 1999 referendum, which 61 percent of all voters favored.

## OVERWHELMING SUPPORT

"Mainers overwhelmingly support the use of marijuana for this purpose,"

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

said Jonathan Leavitt, director of the Maine Marijuana Policy Initiative, which campaigned for the new law. "Only a few law enforcement and municipal officials have a problem with this."

Some municipal officials beg to differ with that assessment, saying that any expanded access to a substance that remains banned under federal law must be done carefully.

## WIDE PUBLIC SUPPORT

Most acknowledge that the law has wide public support and that, under terms of implementing legislation enacted in April, town and cities can regulate marijuana dispensaries within their borders but they cannot ban them.

DHHS' Division of Licensing and Regulatory Services, which Cobb heads, will soon decide where the first dispensaries will be located. The Legislature directed that there be one in each of the eight public health districts in Maine (See map on pg 11). Those districts generally follow

the lines created for district attorneys more than 30 years ago. After a year of operation, DHHS will evaluate how well the public is being served. It could permit further dispensaries at that time.

There are now emergency rules on the books. Applicants wishing to operate medical marijuana dispensaries – probably at least 60 if then – soon will file their applications. Most are expected at the June 25 deadline.

"Under the law, the applications are public documents and since this is a competitive process, they probably don't want competitors to see what they're proposing," Cobb said.

She expects "a flood" of applications on the last day, after which DHHS will begin its review. Each applicant must pay a \$15,000 filing fee, all but \$1,000 of which is refundable if the application is unsuccessful. Successful applicants will be notified on July 9.

## WHERE WILL THEY GO?

No one knows yet where dispensaries will be, but there are plenty of

## Medical Marijuana at a Glance

**1999:** Maine's first medical marijuana law passed as Question 2 with 61 percent of the vote. It allowed growing for personal use and a presumptive defense against charges for possession.

**2009:** Second medical marijuana law passed with 59 percent of the vote. It created a statewide system of dispensaries and requires patients to register.

**Other states with similar laws, by date:** California (1996); Alaska (1998); Oregon (1998); Washington (1998); Colorado (2000); Hawaii (2000); Nevada (2000); Montana (2004); Vermont (2004); Rhode Island (2006); New Mexico (2007); Michigan (2008); New Jersey (2010).

theories. Since there will be only eight at the start, many municipal officials believe the state will prefer centrally located facilities.

That figured into deliberations at Augusta Planning Board and city council meetings. The capital city became perhaps the first municipality in Maine to enact an ordinance specifically related to dispensaries this spring when it designated its new medical zone as the site where a dispensary will be a permitted use.

The 270-acre zone, adjacent to Interstate 95, is currently home to the Harold Alfond Center for Cancer Care. It also is where MaineGeneral Health hopes to build a new regional hospital by 2015.

"The planning board saw this as a health-related business, with this as the most appropriate place," said City Planner Matt Nazar. Hospital officials raised no objections to the designation and the small number of homeowners in the zone favored it, he said.

"They believe this will increase the value of their property," Nazar said.

Augusta is also considering zoning for the growing operations that will be included with dispensary approvals, probably in one of the industrial parks. Nazar explained that the grow sites can be adjacent to dispensaries but they do not need to be.

Security concerns are to be expected in such situations. Cobb said the final rules will include requirements for lighting, perimeter-intrusion monitors and fencing, but not – so far – security officers on a 24/7 basis.

Nazar said there has been some speculation that grow areas could be centralized, rather than having one for each dispensary. Cobb said that will happen only if a single applicant is awarded more than one dispensary permit. In that case, a single grow site could serve all the dispensaries run by that applicant.

### A SLOWER APPROACH

In other municipalities, officials are taking a slower approach. Bangor and Brewer, which are considered possible sites for a dispensary for the public health area comprising Penobscot and Piscataquis counties, both passed moratoriums on dispensaries shortly after the referendum vote. Both also recently extended them another 180 days, through the end of this year. The

## Implementing Legislation

Highlights of the 2009 law regarding Maine dispensaries:

- Eight dispensaries are authorized initially, one in each Public Health District.
- The Department of Health and Human Services will review the process after one year.
- Municipalities may regulate dispensaries but cannot ban them.
- There is a competitive application process with a June 25 deadline.
- Successful applicants will be announced on July 9

second extension passed narrowly in Bangor, however, with a 5-4 vote by the city council.

Linda Johns, city planner for Brewer, said that the council raised immediate concerns following the November election.

"We have nothing in the zoning ordinance concerning dispensaries and they wanted to make sure we had enough time to properly consider this," Johns said.

At the moment, she said, Brewer is in a "research phase," studying ordinances from Maine and other states. It is likely to go ahead with new zoning rules this fall.

One possible model includes the

methadone treatment center rules that Brewer enacted earlier. There are no methadone centers in Brewer yet, although there are in Bangor. Johns said the council might use some of the same rules for a marijuana dispensary. These include provisions on parking, screening, lighting and security. Municipalities are permitted to enact more restrictive rules than the state's, which will cover many of the same subjects, she noted.

Jonathan Leavitt, whose advocacy group considers moratoriums unnecessary, said there are fewer than a dozen statewide, although he did not have a specific count. At least one moratorium, in Topsham, was approved by

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### THE FARMINGTON PLAN

Farmington is another town that considered using methadone treatment center rules as a guideline. But, according to Town Manager Richard Davis, selectmen decided that would be too restrictive.

"They see this as more of a business that should be permitted in the general purpose zone, along with other businesses," Davis said.

Farmington is one town – neighboring Wilton is another – where applicants have already submitted site-plan applications for a specific building to be used as a dispensary.

In Farmington, that would be the former Rite Aid building on Wilton Road, where Lucas Sirois and Charles Crandall, local businessmen, have submitted an application called Ahead Care.

Davis said he isn't sure how serious a prospect a dispensary would be at either site. Franklin County is grouped with Androscoggin and Oxford counties in a public health district. Lewiston or Auburn may offer more competitive sites, he said. A location near Franklin Memorial Hospital would also be permitted under the proposed new ordinance, he added.

The effect of moratoriums on the state selection process is unknown and Cobb said she could not directly address it.

There is as yet no date for when dis-

pensaries will begin operating. While some would like that to be sooner rather than later, Cobb said that some supporters of the law initially saw the June 25 deadline as too soon.

"They were trying to get their organizations licensed and registered with the state and that takes time," she said.

Along with the question of where dispensaries are located are concerns about how the new system will work.

### DOCTORS ARE SPLIT

Gordon Smith, executive director

of the Maine Medical Association, said that marijuana used for therapeutic purposes remains intensely controversial among physicians.

"Family doctors who work directly with patients tend to be the most supportive," Smith said. "Psychiatrists and addictionologists tend to have the most concerns."

Marijuana is a difficult drug for doctors to work with, he said. "They're used to working with pharmaceuticals, where there's a known, safe dosage and they can be sure what the patient

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is getting,” said Smith.

There are no such assurances with marijuana under current law, he said, though dispensaries are likely to offer more consistency.

Because of the widely divergent attitudes among physicians, Smith served on a task force that crafted the implementing legislation and on panels such as the Maine Medical Cannabis Conference, held in Portland on June 5.

“It didn’t seem that any one doctor could represent the profession,” Smith said. The medical association testified against the initiated bill that became the referendum but did not actively campaign against it.

“The only opposition came from some law enforcement groups, and that was late and not particularly strong,” he said.

If Mainers have made up their minds about the medical potential of marijuana, Smith said he’s glad that the state is erecting numerous safeguards concerning its use.

#### CALIFORNIA OR BUST?

In California, activists have certified a measure for the November ballot that would legalize marijuana for any use by adults. That doesn’t seem likely to happen in Maine any time soon.

Asked about marijuana’s potential, Jonathan Leavitt consistently refers to its medical properties, though he said patients should be the sole judges of its usefulness to them. Leavitt said it’s important that the permission from physicians is considered a “recommendation” rather than a prescription. Ultimately, he would like to see

all health-care providers authorized to write them.

Leavitt noted that caregivers already are authorized under the statute to provide marijuana to patients, even before the dispensaries begin operating. But like the original referendum, there is no regulation concerning how providers obtain their supplies.

Also, new in the law is a provision that anyone seeking marijuana from a dispensary must register with the state. Under the old, informal system, patients simply had the physician’s recommendation, which could lead to conflicts with law enforcement officers.

Cobb said that one of the fine points of the new registry and dispensary system is how law enforcement agencies will be notified who has the legal right to possess marijuana. But the registry will be mandatory. Until Dec. 31, 2010, the old informal system remains, “but after that, people have to choose,” she said.

Marijuana sold by dispensaries is also subject to Maine’s 5 percent sales tax, which will provide some revenue to municipalities through revenue sharing.

Along with the business of setting up legal access to marijuana for medical purposes, there is a certain novelty to this transition for a drug that has long been part of a rebellious youth culture, even if many pot users are now facing old age.

Gordon Smith said that those who haven’t used marijuana in a long time, and now are seeking it as medicine, should be careful.

“The stuff produced today is a lot more potent,” he said. “This isn’t

what people were smoking back in the 1960s and ’70s.”

Catherine Cobb, who usually spends more of her time reviewing Certificate of Need applications from hospitals and other professional licensing issues, said medical marijuana does stand out from the pack.

“This certainly isn’t what I’d been expecting to do after 30 years at DHHS,” she said. **[mt]**

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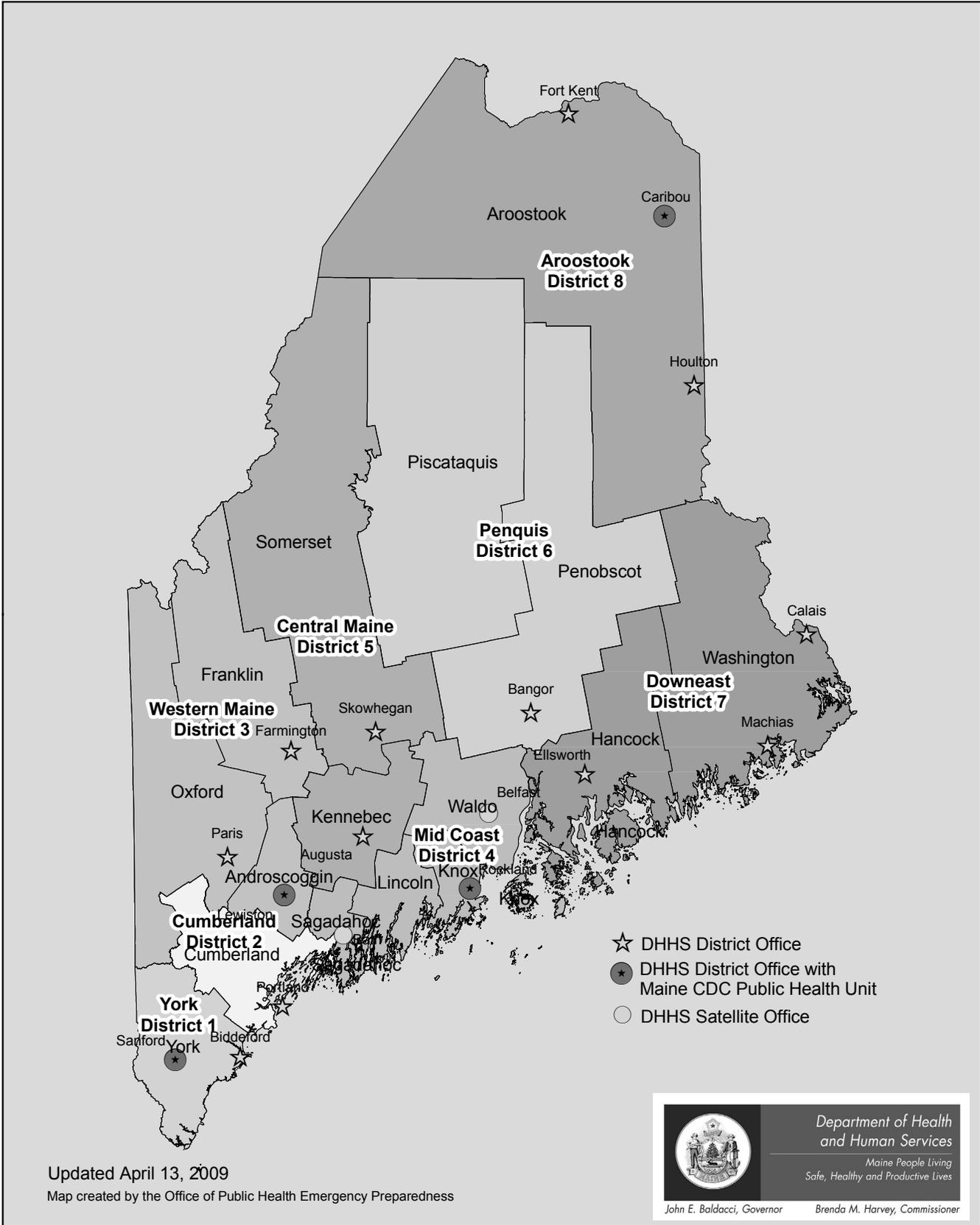
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# L/A Unite Offices, Computer Systems

By Liz Chapman Mockler

The twin cities of Lewiston and Auburn will embark late this month on a one-of-a-kind municipal collaboration effort when they essentially unite six planning and code enforcement offices into one operation.

Although the computer system necessary to bring the offices closer together is costly – at about \$354,000 – that is far less than what the computer conversion would have cost if each city had approached it separately.

Also, officials from both cities expect to save a combined \$36,000 annually, once the system by EnerGov Solutions of Duluth, Ga. becomes operational.

Aside from money, the benefits of the new system to both cities' staffs, contractors and developers, residents and, in later stages, neighboring communities, are both exciting and significant, said Laurie Smith, Auburn assistant city manager and chief project coordinator.

"It has been a great deal of work by staff, in part because we are developing something new," Smith said. "We're not just implementing an automated program. We're revamping everything we do."

Under the new system, Smith said, employees will be trained so they can work from one computer server from two locations. They also can work interchangeably in both cities, she said.

Gil Arsenault, Lewiston director of Planning and Code Enforcement, said the council and City Administrator Edward Barrett "showed tremendous confidence in the staff" and project by funding the conversion last fall, during one of the worst financial eras

for local government in recent Maine history.

"It's been quite a collaborative effort," Arsenault said, noting that long-time Lewiston Deputy City Administrator Phil Nadeau also was an early booster of the project.

"Everyone is excited about the promise" the project represents for both commercial hubs, Arsenault said.

## TAILOR-MADE

Garth Magness, director of Business Development for EnerGov, said the project underway in L/A is the first in Maine. The company has about 200 clients, he said, and about eight active projects around the country.

"The biggest challenge for the two cities was to identify those points of agreement regarding business processes," he said. "They found a lot of efficiencies they were not aware of prior to our analyses of their processes."

The new software "suite" includes six components tailored to the needs of the two cities. Lewiston and Auburn rank second and fifth in population in Maine, at 35,756 and 21,151 residents respectively.

The goals of the collaborative effort are far-reaching, Smith said. The new EnerGov program is designed to:

- Enhance and streamline the planning, zoning, permitting and

code enforcement operations of both cities, including equalizing building fees and allowing developers, builders and residents to do most of the required paperwork online on their own time.

- Align the two cities' planning and code processes for both commercial and residential development, including fees.

- Improve cost efficiency and operational effectiveness.

- Improve public access to planning, building and code enforcement reports and documents, including those dealing with inspections and violations.

- Reduce workloads for city staffs that already have been cut.

- Reduce errors.

- Reduce legal costs.

- Allow municipal officials to analyze data, evaluate the use of human and other resources and make adjustments where beneficial.

- Merge all functions of community, business and residential development permitting to allow the cities to continue working together, rather than competing, for new development.

"One of the most exciting parts of this project is that we (rarely) have an opportunity to review what we do and redevelop our business flow process-

## COLLABORATION CORNER

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

Maine Municipal Association • 60 Community Dr., Augusta, ME 04330

*Liz Chapman Mockler is a freelance writer and editor from Augusta, lizmockler@hotmail.com*

es,” Smith said. “This new program will allow us to redevelop the (land use) processes in both cities so that they are the same processes and the same timelines” to get things done.

Smith said overcoming the typical thinking that “this is the way we’ve always done it” was the first challenge L/A officials overcame in making such a change.

**READY, SET, GO ...**

Auburn City Manager Glenn Aho arrived in the city from Lincoln in May 2008 and began looking for ways to run the city more efficiently while also improving customer service.

At first, he pitched the idea of a joint ordinance book for the two cities. The Citizens Commission on L/A Cooperation “liked the idea but were skeptical,” Aho said. So the new manager decided to start by merging the Auburn code enforcement and assessing departments to reduce redundancy, including buying popular assessing software that allowed anyone to track code and assessing operations online.

That move alone improved service, cut costs and dramatically reduced foot traffic into city offices.

After getting the “virtual assessing office” launched, Aho again approached the L/A commission about Lewiston and Auburn joining forces to expand the idea.

“We identified EnerGov as having exactly what we were looking for,” including making the Land Use Department operations more user-friendly, efficient, accountable and transparent to the public.

**USING GIS**

A crucial element to making the

new system work was finding a program that could be built upon the cities’ Geographical Information System. EnerGov’s software also allowed for that.

Magness, of EnerGov, agreed with Aho. “The cities had staff in place that understood the importance of geography and mapping in land-use planning,” he said. “This project will expand and enhance the use of GIS.”

Arsenault, closely involved in the project from day one, said he and other officials met in early June with L/A



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business leaders to brief them on the project and upcoming Web launch.

"I think the biggest value will be to small businesses that (operate) on both sides of the river," Arsenault said. "We met with a group of business leaders from both cities (on June 4) and they were very excited about what we've been doing and what we're going to do."

But the price was steep, Aho said, so he again returned to the L/A study committee to present the idea of essentially merging all planning and code operations using the EnerGov system – and splitting the costs and benefits.

"This is where Laurie (Smith) really got people involved" from both sides of the river and spearheaded getting the proposal approved by both city councils and then making the actual conversion, Aho said.

"EnerGov will do for L/A what technology has done for UPS," Aho predicted. "Instead of chasing paper, we'll be sending (computer) files

around and getting people to electronically sign off. On the outside, our customer service will be far superior to anyone else's in the state, especially for the end-user, whether it's a developer or the guy who wants to build a deck."

## GETTING CLOSE

The project's first phase is expected to launch on June 28. It is just the latest effort by Lewiston and Auburn to share and streamline services and save money.

Smith said the twin cities, sepa-

## EnerGov system costs

Software: \$208,737

Development, data importation and implementation: \$101,480

On-site training and "go live" support: \$23,760

Travel: \$16,000

Package discount: (\$34,997)

Server: \$10,000

License: \$4,000

Advanced GIS service license: \$19,000

Six laptop computers for field work: \$6,000

**Total: \$353,980**



*Laurie Smith, Auburn assistant city manager, and Garth Magness, director of business development for EnerGov of Duluth, Ga., look over the software that will bring unprecedented collaboration between the Auburn and Lewiston planning and code enforcement departments. The new effort was among the highlights of the 2010 Androscoggin Business to Business Trade Show in Lewiston in early June.*

rated by only the Androscoggin River, have explored for decades ways to join forces – especially in the demanding and expensive areas of economic development, code enforcement and permitting.

The cities' proximity and the development trends that have increasingly overlapped since the 1980s have given officials impetus to join forces wherever possible, Smith and others said.

In fact, official cooperation between the two municipal governments spans 133 years, according to L/A officials, beginning with the creation of the Lewiston and Auburn Horse Railroad in 1874.

"This project shows the (L/A) councils' commitment to being innovative," Lewiston's Arsenault said.

EnerGov Solutions markets itself as a global leader in developing land use and management software for government. The company works exclusively with municipal, county and state governments.

The company was selected from six firms after a Request for Proposals process that took nearly a year to complete.

The company was helping to get staffs from both cities trained in early and mid-June so the initial launch would go smoothly for both employees and contractors.

## PUBLIC BENEFIT

By fall, the second phase of the project will give the public access to myriad information, including: who was issued permits for what; code violations against developers, builders, businesses and property owners; and, what is being planned for "mystery locations" where residents see a new project starting but little is known about what's going on – or up.

Contractors and property owners are expected to appreciate the new program once they are familiar with and confident in it, Smith said. For example, the computer suite will allow builders to request most of their permit documents online. It also will notify developers by email when there is a problem with a project. That should allow contractors to fix problems quickly and keep projects on time and within budget.

Applicants also will be notified by email if their work has failed to pass

code or other legal requirements, again saving them time and money by being able to quickly address the issues.

Individual homeowners will be able to use the new program in the same way, also saving them time, mon-

ey, frustration and travel to city hall.

After the new system has proven itself, other city departments, as well as those in the small towns that ring Greater L/A, will be able to link into the system, according to Smith, who was recently named the new Wiscasset

## Just the L/A facts

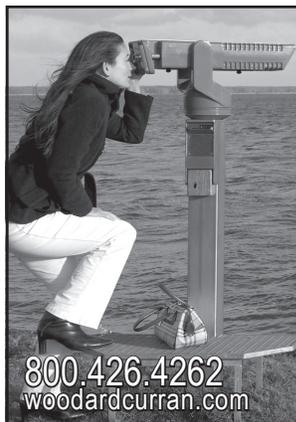
### Lewiston

Population: 35,690  
 Settled: 1770; incorporated 1795  
 Size: 35.2 square miles  
 Historic places: 44  
 Housing units: 16,470  
 Families: 8,654  
 Per-capita income: \$17,905  
 Special features: Bates Mill Complex, Wal-Mart Distribution Center for northern New England; Basilica of Saints Peter and Paul; two hospitals; four colleges (including Bates College)  
 2007 All American City

### Auburn

Population: 23,203  
 Settled: 1786 as part of town of Minot; seceded in 1842 and incorporated in 1868  
 Size: 65.8 square miles  
 Historic places: 21  
 Housing units: 10,608  
 Families: 5,907  
 Per-capita income: \$19,942  
 Special features: Good Shepherd Food Bank (statewide headquarters), Auburn Mall, first municipality to adopt council-manager form of government in 1917  
 1967 All American City

Sources: Various, including 2000 Census



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town manager.

A regional system would bring even higher returns for both municipal government and the people it

serves, she said.

"It is amazing software," Smith said, "that is revolutionizing how our cities do business." 



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Capital financing through the Bond Bank's General Bond Resolution Program allows borrowers to take advantage of the Bond Bank's high investment grade rating, low interest rates and reduced issuance and post issuance costs. **This issue will include the sale of federally subsidized taxable bonds for qualified projects under the Recovery Zone Economic Development (RZED) bonds allocation, the Qualified Energy Conservation Bonds (QECB) allocation, Build America Bonds (BABS) as well as traditional governmental tax exempt bonds.** The Bank will review all applications to determine the most cost effective borrowing available to each applicant. Below is the schedule for the Bond Bank's Fall Issue.

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

**Wednesday, August 4th**  
Application Deadline.

**Wednesday, August 25th**  
Application approval (Board Meeting).

**Thursday, September 9th**  
Preliminary opinions and loan agreements due from bond counsel of each borrower.

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

**Friday, September 10th**  
Last date for signing school contracts and rates in place for water districts.

**Monday, October 4th & Tuesday, October 5th**  
Maine Municipal Bond Bank Pricing.

**Wednesday, October 6th**  
Maine Municipal Bond Bank Sale Meeting (Board Meeting).

**Wednesday, October 20th**  
Final documents due from bond counsel.

**Wednesday, October 27th**  
Pre-Closing.

**Thursday, October 28th**  
Closing - Bond Proceeds Available (1:00 PM).

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

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



# Fire Departments Must Keep Current

By Lee Burnett

Volunteer firefighters in an untold number of incorporated fire associations may be personally liable due to lapses in the filing of routine paperwork with the Maine Secretary of State's Office, according to the Maine Municipal Association.

In some cases, incorporated fire associations have expanded their responsibilities to include emergency medical services without having amended their original articles of incorporation on file with Maine Secretary of State's office.

In other cases, fire departments failed to file required annual reports and have been administratively dissolved by the Secretary of State's Office.

In both cases, incorporated fire association members may not be protected by the Maine Tort Claims Act and may be held personally liable in the event of a lawsuit, according to MMA's Legal Department.

Many volunteer fire departments in Maine organized themselves as private non-profit organizations, independent of town government. But over time, the relationship grew more nebulous. Most volunteer departments now receive town funds but still operate semi-autonomously, electing their own officers and conducting outside fundraising.

MMA is concerned that many fire departments are operating outside their authority, don't realize it – and that the members of these departments do not realize their personal assets could be at risk.

A few simple papers filed with the Maine Secretary of State's Office will address the issue. MMA is urging all

incorporated fire associations to take care of the paperwork before a grace period expires June 30.

As volunteer fire departments have evolved into combination fire and rescue squads during the past two decades, MMA has tried to make members aware of the need to amend articles incorporation on file with the Secretary of State's office. If an incorporated fire department changes its purpose it also needs to change their incorporation papers with the state. Amending articles of incorporation

can be done for a \$20 filing fee.

It is not clear how widespread these problems are, but as many as half the departments in Maine could be exposed. Fire departments in New Sharon, Jefferson and Grand Lake Stream have recently been alerted to the problem and are addressing it.

Both Jefferson and New Sharon have dealt with the problem recently.

"It wasn't complicated; they were most helpful at the Secretary of State's office," said Jefferson Fire Chief Walter Morris. "I don't know how it im-

## VOLUNTEER FIRE ASSOCIATIONS: CORPORATE STATUS IS CRITICAL

Under Maine law, a volunteer fire association *must* be incorporated and in good standing in order to receive municipal support. Here's why:

Only an incorporated association is a legal method of providing fire protection services (see 30-A M.R.S.A. §§ 3151, 3152). (Maintaining a municipal department and contracting with another governmental unit are the other two.)

Also, a municipality may raise or appropriate money only for an incorporated association (see 30-A M.R.S.A. § 5722(4)). (If the total appropriated is more than \$1,000, it cannot be paid over in one lump sum; it may be disbursed only on an itemized basis as expenses are incurred.)

And only members of an incorporated association are protected as municipal employees under the Maine Tort Claims Act (see 14 M.R.S.A. § 8102(1)). If members of an *unincorporated* association cause personal injury or property damage while engaged in firefighting activities, they can be held personally liable and cannot be defended or indemnified at municipal expense.

Finally, only members of an incorporated association are deemed municipal employees for purposes of workers' compensation (see 39-A M.R.S.A. § 102(11)(A)(2)). If members of an *unincorporated* association injure themselves while engaged in firefighting activities, they will be ineligible for benefits.

And it's not enough for an association simply to incorporate. It must also file an annual report with the Secretary of State and maintain a registered agent to remain in good standing. If it does not, it may be dissolved by the Secretary, with no corporate powers other than to wind up its affairs.

To find out if a volunteer fire association is incorporated and in good standing, contact the Secretary of State's Bureau of Corporations, Elections & Commissions (624-7752) or check out the "corporate name search" feature at <https://icrs.informe.org/nei-sos-icrs/ICRS?MainPage=x>.

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

pacted our liability. It's more of an awareness thing. With rules, policies, procedures, you put them on shelf some place and sort of forget about it. It's very important to periodically review them. This is one more reason to do it."

This spring, another problem came to light through a routine underwriting audit involving the community of Grand Lake Stream. Grand Lake Stream organized a fire department in 1981 and organized a separate rescue squad in 1987. But both were administratively dissolved because annual reports were not filed and late-filing notices went unanswered, according to the Secretary of State's Office.

The fire department was dissolved in 2004 while the rescue squad was dissolved in 1990. Cathy Beaudoin at Maine Secretary of State's office said it is likely that the hand-off of paperwork responsibilities was missed due to turnover in the department.

Normally, filing reinstatement papers entails a \$35 fee, a \$25 late filing fee and a \$25 penalty for every year in arrears. But those fees have been temporarily suspended due to

an unrelated law change that created a grace period.

The grace period ends June 30. If reinstatement papers aren't filed

before June 30, then a department would need to file brand new incorporation papers, according to Beaudoin. **[mc]**



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# Money, Finances Focus of MMA Convention

By Eric Conrad, Director of Communication & Educational Services, MMA

Money and the economy supersede other issues in Maine, and in the nation, these days. They will be major components of the 2010 Maine Municipal Association Convention as well.

After several months of receiving suggestions and input about the Oct. 12-13 convention, the program is being put together. The event is shaping up to have broad appeal – training that will help elected officials, town and city managers and municipal employees at all levels. Several changes are being made from last year's successful convention. Some new offerings that worked well last year are being retained and improved.

Here are some highlights:

- The keynote speaker will be Travis Roy. Many of you probably know Travis' story. The standout hockey player at North Yarmouth Academy attained his dream of playing Division I college hockey. During his first minute on the ice for the Boston University Terriers, Roy suffered a devastating injury that left him paralyzed. By no means has that kept him down.

Roy has gone on to be a television commentator, author of a best-selling book and an inspirational speaker. The theme of the 2010 convention is "Embracing Challenges & Change." Who better to talk about that than Roy, a true Maine hero?

- There will be an emphasis on the economy, financial management and guarding the public purse. The MMA staff is working with the National League of Cities – as it did last year – to recruit speakers than can offer national context to the economic and financial issues facing Maine.

Specific speakers from Maine and elsewhere still are being lined up but

at least two, double-length sessions are planned on these topics. The aim is to provide valuable information and hands-on training that will help selectmen in our smallest municipalities and councilors and mayors in our biggest cities make good financial decisions during trying economic times.



- Timely and specific issues also will be explored. The MMA plans to have workshops and roundtables which will include Maine Department of Transportation's Highway Simplification Study and the statewide Building Code.

- One thing we know for sure about 2011 is that Maine will have a new governor for the first time in eight years. A forum is planned on the morning of Oct. 13<sup>th</sup> for the candidates who emerged from the crowded June 8 primary election.

- Among the other topics to be covered at more than 20 workshops and presentations: downtown revitalization; ethics training; management skills for the 21<sup>st</sup> Century; disaster preparedness and response; human resources issues in the technology age; and, many more.

The convention, once again, will be held at the Augusta Civic Center. Recently, a Working Group of MMA members and staff convened in August-

## Nearby Hotels

Be sure to reserve early and ask for the "government rate".

Hotel	Location	Phone
Holiday Inn	Community Drive	622-4751
Comfort Inn	Civic Center Drive	623-1000
Fairfield Inn & Suites	Anthony Avenue	623-2200
EconoLodge	Western Avenue	622-6371
The Senator	Western Avenue	622-5804
Quality Inn & Suites	Whitten Road	622-3776

The Holiday Inn, Comfort Inn and Fairfield Inn are off the Civic Center exit of I-95. The remaining hotels are accessed from Exit 109, which is just one exit south from the Augusta Civic Center. Room availability may be limited.

ta to consider moving the convention around the state. The two-hour meeting offered frank discussion about the civic center and past MMA conventions. Several attendees said it was among the most open and informative meetings they've attended.

The bottom line is that, with upward of 120 exhibitors and 1,100 attendees of both days, only a few facilities in Maine can handle an event like the MMA convention. The Augusta Civic Center can do so, under one roof, with easy highway access and free, ample parking.

This year, the nearby MMA headquarters will be part of the convention program. Tours of the MMA's new conference center will be offered on both days of event. The 70-member Legislative Policy Committee, which guides the MMA on legislative issues and priorities, will meet in the MMA conference center on the afternoon of Oct. 13.

Another outgrowth of that Convention Working Group's efforts was that the MMA has made tentative plans to rotate the annual Tech Conference around the state. Working with its co-sponsor, the Maine GIS User Group, the MMA is looking to

hold the 2011 Tech Conference in Bangor next March. Watch for details on that in the months ahead.

For now, please mark your calendars for Oct. 12-13. The 2010 MMA Convention looks to offer timely and valuable training, for elected officials

and municipal leaders at all levels.

#### REGISTRATION NEXT MONTH

Look for the registration form and complete details of the 2010 MMA Convention in the July edition of the *Maine Townsman*. 

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# Warning: Copiers Have Long Memories

By Geoff Herman, Director of State & Federal Relations, MMA

CBS News aired a story six weeks ago that caught the attention of municipal officials around the country.

Advancements in photocopier technology implemented eight years ago introduced a new element in the process of reproducing a document that did not exist prior to 2002. In at least some of the photocopiers put into service today, there is a “hard drive” device that keeps a digital record of each document that is copied or scanned by the machine, where it can remain forever until the hard drive is “over-written,” scrubbed or destroyed.

Until recently, the fact that the photocopied documents might be permanently etched into digital storage was not widely known. Consequently, when those hard-drive machines are finally replaced and shipped to companies that re-sell or recycle used copiers – or when those leased photocopiers are returned to copier leasing companies – a digital record of all those photocopied documents goes with them. That, in turn, means the stored documents can be subsequently retrieved, reviewed and reprinted by anyone who wants to spend as little as a few hundred dollars for a used machine at the salvage yard.

The CBS story depicted this new-technology phenomenon as a potential gold mine for identity thieves and credit card scammers and a potential mountain of liability for employers, governments, insurance companies and others who have strict obligations to hold certain information about their employees, clients and customers in confidence.

To test the potential for accessing these confidential data sources, CBS

purchased several randomly selected machines from a wholesaler and began mining their hard drives without even knowing where the photocopiers had served their useful lives. It turns out that the first two machines inspected came from the City of Buffalo, New York, and yielded thousands of classified police documents, city employee pay stubs, copied checks, social security numbers and bank account information.

Another machine came from an insurance company and linked specific individuals with their personal medical records, blood-test results and disease diagnoses, all of which are confidential records according to any number of state and federal laws, including the federal government’s Health Insurance Portability and Accountability Act (HIPAA).

## MUNICIPAL CONCERN

Municipalities should also be concerned about inadvertently releasing such confidential records as General Assistance or Poverty Abatement applications, protected personal information in an employee’s personnel file, or documents in the economic development office that are expressly subject to proprietary confidentiality.

David Palmer is the Vice President of Sales for Transco, which is the Augusta-based company that provides photocopier management services to the Maine Municipal Association. MMA asked him how a municipality might best protect itself from inadvertently allowing confidential documents or information getting into the wrong hands as a result of the new photocopier technology.

His core piece of advice is that any municipality replacing a photocopier

should take the steps any reasonably prudent person would follow if they decided to give their home computer to strangers. The specific advice is as follows:

## KNOW YOUR PHOTOCOPIERS

It turns out that not all modern photocopiers use this hard-drive technology.

- Some photocopiers utilize the hard-drive technology and advertise the “benefits” of keeping all your photocopied documents in storage for possible retrieval.

- Other photocopiers use the hard-drive technology simply to produce photocopies, but the document-retention “benefits” are not advertised and you may not, as an owner, be aware that the photocopies are being stored.

- Still other photocopiers use a different scanning-and-reproduction technology that includes neither a hard drive nor the potential for document storage.

- For all photocopiers that have a document-storage capacity, consider one (or all) of the following options:

## THE “OVER-WRITE” FUNCTION

According to Transco’s Palmer, many hard-drive photocopiers come with a pre-installed over-write function designed to block document retention on a document-by-document or periodic basis. If your photocopier has a hard drive but no over-write function, that technology can be installed.

The over-write function allows the user of the machine to block the hard drive from storing a digital record of a particular document being photocopied, although using the photocopier in this way can slow the machine’s productivity. The same function can

be used to over-write the entire hard drive on a periodic basis. As a matter of policy, for example, the entire hard drive might be over-written every Friday afternoon, at the end of the business day.

Having said that, merely over-writing the hard drive may not entirely erase the digital record. Forensic-level hard drive retrieval methods could restore even an over-written document. Businesses or organizations with highly sensitive or classified documents can specially program their machine's over-writing functions to encrypt the records or otherwise make subsequent retrieval of the protected document even more difficult.

### END-OF-LIFE SCRUBBING

Hard drives, apparently, can be entirely scrubbed clean, and a municipality that is concerned about the information on a photocopier hard drive eventually getting into the wrong hands may want to consider ordering the scrubbing of the hard drive of any photocopier going out the door. This service is sometimes included in any contract the municipality might have with its photocopier management

company or the machine's manufacturer. As part of that service, when the used-up photocopier leaves the town office, the municipality is provided with documentation that the hard drive has been scrubbed clean.

### END-OF-LIFE DESTRUCTION

For some photocopier owners, even a thorough hard-drive scrubbing is not enough protection, and they require the photocopier's hard drive to be completely removed from the machine being replaced so that it can be physically destroyed. This is, of course, the most positive way of ensuring that no information on the hard drive will end up in the wrong hands, but it is

also the most expensive. Retaining the hard drive at the end of a machine's lease period or useful life can add several hundred dollars per machine to the cost of a contract.

In summary, municipal officials with document-retention and document-management responsibilities should make sure they acquaint themselves with their town's or city's photocopiers. In addition, they are encouraged to implement clear policies, procedures, contractual agreements or other methods to ensure that confidential documents or information embedded within the hard drives of those machines not leave the town office in retrievable form. m

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**Francis Grey, Jr.** resigned as Town Manager in Danforth on May 10 after 18 months on the job. Grey and the town negotiated 10 weeks' severance pay and town selectmen thanked Grey for his dedicated services. Grey subsequently was hired as town manager in Portage Lake, where he replaces **Rita Sinclair**. Grey previously worked in Gouldsboro and the City of Gardiner.

**Alvina Church** has been named Sangerville town administrator while selectmen seek a permanent replacement for Town Manager **Joseph Clark**, who resigned in April to take the manager's job in Island Falls. Church, Sangerville town clerk, has worked for the town for 16 years.

Dover-Foxcroft voters re-elected **Jane Conroy** June 8 with 588 votes, although newcomer **Gail D'Agostino** collected more votes at 639 to fill a second seat. The pair defeated a challenger, who received 403 votes.

Caribou City Clerk **Judy Corrow** retired in April after 25 years with the city, the final 12 as clerk. She was honored with a retirement dinner and gift from the city council and manager.

Wayne incumbent Selectman **Raymond Giglio** won another term June 8 when he defeated his challenger by a vote of 276 to 148.

**Angela Gordon** has been hired as Chelsea town manager. She replaces **Carrie Khalvati**, who resigned in January. Gordon worked as acting town manager since Khalvati's departure, but Chelsea is the first town she will manage. She worked as the town's assistant town manager until resigning the post in 2004.

Former Orrington Selectman **James Goody** was elected June 8 with 80 votes, beating two challengers, including incumbent **Ralph Holmes**, who garnered 45 votes.

Turner voters elected former Selectman **Lawrence House** during their May town meeting. House replaces outgoing Selectman **Kurt Youland**.

Fryeburg selectmen have hired former Paris Town Manager **Sharon Jackson** after she proved so effective

they decided against a formal search. Jackson has worked as Fryeburg interim manager since March.

Belfast city councilors affirmed the appointment of **Thomas Kittredge** of Brewer as the city's first full-time economic development director. Kittredge was scheduled to begin his new job on June 21. Most recently, he worked as executive director of the Piscataquis County Economic Development Council.

Longtime Richmond Public Works Director **Richard "Dick" LaChance** will retire after 25 years on July 1.

Former York Selectman **Ted Little** won a seat on the board by defeating incumbent **Kinley Gregg** by 54 votes during town meeting voting on May 22.

Former Machias City Manager **Chris Loughlin** has returned to public administration after working for Down East Community Hospital. Loughlin, who served as Machias manager from 1989 to 1994, replaces **Elizabeth "Betsy" Fitzgerald**, who was recently hired as Washington County manager.

Northport Town Clerk **Barbara O'Leary** was promoted to town administrator by voters on June 7 to replace **Jack Driscoll**, whose contract was not extended by selectmen in March. O'Leary has performed many of the tasks of administrator and expects to continue her clerk work until a replacement can be hired. O'Leary is only the town's second administrator. Auburn City Clerk **Mary Lou Magno** counted her last election ballots this month, retiring a day after the June 8 elections. Magno worked as clerk for 28 years. She plans to work part-time for Bates College in Lewiston.

In a four-way race June 8 for two seats on the Norway Board of Selectmen, voters re-elected **Irene Millett** with 690 votes, but incumbent **Bruce Cook** lost his seat to **Michael Twitchell** by a vote of 478 to 447.

Cumberland incumbent town councilors **Stephen Moriarty** and **Michael Perfetti** held off a challenger to win re-election June 8 with 1,998 and 1,378 votes, respectively.

Durham voters on June 8 seated former Selectman **Norman Newell**, giving him 376 votes to defeat two other candidates.

Greenwood Fire Chief **James Owens** has resigned, effective July 1. Assistant Chief **Albert Curtis Jr.** will take over in the interim.

In a five-way race for two Bar Harbor Town Council seats, voters on June 8 re-elected **Paul Paradis** and seated former Councilor **Matthew Horton** with 805 and 663 votes, respectively.

Glenburn voters re-elected Selectman **Kevin Paschal** and elected newcomer **John Caruso** with 619 and 281 votes, respectively, in voting June 8. Incumbent Michael Cote was defeated with 275 votes. **Rhonda Curtis** Doughty ran unopposed to replace **Blake Fryer**, who resigned his term early.

**Michael Pearson** has resigned his seat on the SAD 31 Board of Directors to accept the job of manager of the town of Enfield. Pearson is a former Old Town city councilor and state representative. He replaces **Theresa Thurlow**, who is resigning after 10 years.

Former reporter **Leanne Robicheau** has been named Warren town clerk, effective last month. She replaces **Christine Luce**, who resigned effective June 4 to move to Florida.

**Laurie Smith**, Auburn assistant city manager, has been named the new manager of the town of Wiscasset. Smith replaces interim Town Manager **Don Gerrish**. Smith worked as manager of Boothbay and Oxford before taking the Auburn job in 2005. She has more than 20 years of municipal government experience in Maine. 

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

**HERITAGE POLICY CENTER FILES SUIT**

The Maine Heritage Policy Center sued the Maine Municipal Association on June 2, saying the MMA improperly contributed money and made in-kind donations to political action committees involved in five citizens' initiative campaigns since 2002.

The Heritage Policy Center, described in media reports as a "right-wing think tank," alleged that the MMA is a government entity and, as such, should be barred from participating in citizens' initiatives. Its lawsuit was filed in Kennebec County Superior Court.

The Heritage Policy Center put forth three of the five citizens' initiatives in question: The Taxpayer Bill of Rights (TABOR) initiative in 2006; TABOR II in 2009; and an initiative to reduce the locally collected Excise Tax by 40 percent. That initiative also was put forward in 2009. Voters rejected all three ballot measures. They were opposed by the MMA and other organizations.

The MMA, a non-profit association with 486 municipal members, will contest the Maine Heritage Policy Center lawsuit in court, working with outside counsel, Bernstein Shur.

"Citizens' initiatives are an extension of the legislative process and have the same effect as laws that pass through the Legislature," said MMA Executive Director Chris Lockwood.

"MMA was founded on the principle that municipalities are an integral part of the intergovernmental system and need to be represented during the legislative process," Lockwood added. "We will fight any legal challenge by organizations that cannot win on Election Day to keep voters in the dark about how citizens' initiatives would affect municipal services."

**NEWS ITEMS**

**Bangor:** The city council met with local state legislators this month to talk about how the city might formalize a fee-for-service program for nonprofits,

which represent nearly 40 percent of the total property value of Maine's third-largest community. Although some nonprofits voluntarily pay fees each year, such as the Bangor Housing Authority, local government is not permitted under state law to assess formal fees. The legislators who attended the June 7 council meeting said the state has taken up the issues multiple times, but has never passed a law allowing a formalized system that would relieve some of the city's reliance on property taxes from for-profit businesses and homeowners.

**Presque Isle:** A California woman whose grandmother worked as librarian for the city from 1932 through 1945 has donated \$1 million to expand the Mark and Emily Memorial Library. The benefactor, whose parents grew up in Aroostook County, made the donation after visiting the library over the past year and realizing how much residents depend on it for books, Internet access and computers, as well as passport and notary services. The council voted in June to accept the money, pending final approval of the expansion plans and a budget, among other considerations.

**Wilton:** The Planning Board has approved an early application to establish the state's first medical marijuana dispensary on Route 2 in western Maine. Under state law, only eight dispensaries will be allowed statewide. Wilton, with a population of about 4,200, is located just south of Farmington in Franklin County. The nonprofit operation must await rules for implementing the new

law, which are expected by a state panel in July.

**York:** The town's police department received a "Champion Award" in early June from the Maine Transportation Safety Coalition for outstanding traffic safety efforts that included bike rodeos and ice cream rewards for children.

**Statewide:** Waterville Mayor Paul LePage and former Vassalboro selectwoman Elizabeth "Libby" Mitchell won their parties' nominations to run for governor in the November general election. LePage, a Republican, defeated six challengers to win the nomination, while Libby bested three other Democrats. There are three independent candidates as well.

**Annual town meeting news from June 8:**

**Bar Harbor:** Town officials said town meeting drew the biggest turnout in three decades, thanks to a plethora of gubernatorial candidates, a proposed tax-reform repeal, contested local races and several municipal issues.

**Bath:** After months of debate and consideration by the town council, voters rejected a proposal to borrow \$300,000 to install artificial turf on McMann Field. The vote was 1,522 to 861. The referendum vote was prompted by a citizen petition drive forcing a secret-ballot decision at the polls.

**Clifton:** Residents voted 189-91 to impose new regulations on wind turbines. The changes to the land-use ordinance have been three years in the making. [mt](#)

**NEW ON THE WEB**

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

- **Efficiency Maine:** Executive Director Michael Stoddard's memo explains how municipalities can apply for the second round of Energy Efficiency Block Grant funding. The memo also gives the history and priorities of the program.
- **Citizen Education:** Posters, handouts and a newly narrated presentation of how property taxes work are now available in a branded "toolkit" that leaders can use to answer common questions about municipal government.



# Municipal Bulletin Board

## PROPERTY TAX VIDEO

Searsport and Whitefield are among numerous municipalities already taking advantage of the Maine Municipal Association's recently released Homeowner's Guide to Property Tax in Maine video presentation.

The narrated presentation explains how property taxes are calculated and details the broad array of municipal services that property taxes fund. Some municipalities are showing it before Town Meeting. Others are posting it on their websites or are linking to the MMA site, where the presentation is hosted.

The presentation was produced by Jeri Holt and narrated by Carol Weigelt, both of whom work in the MMA's Communication & Educational Services department. It is part of the MMA's Citizen Education campaign, which is intended to make citizens more aware of the crucial role that municipal government plays in Maine and, perhaps, it will spur citizens to get more involved.

The slogan for the Citizen Education campaign is, "Local Government Begins with You." The Web link to the property-tax presentation and the campaign is: [http://www.memun.org/public/local\\_govt/ed/default.html](http://www.memun.org/public/local_govt/ed/default.html). The property tax presentation also is available as a DVD. To receive one, please contact the Communication & Educational Services staff at: 1-800-452-8786.

## PB/BOA WORKSHOP: MACHIAS

Becky Seel, an attorney with the MMA Legal Services staff, will lead a workshop for Local Planning Boards and Boards of Appeal in the Science Building at the University of Maine at Machias on June 24, from 5:30 p.m. to 9 p.m.

The workshop is designed to introduce officials to legal rules governing decisions made by local planning boards and boards of appeal. It is primarily aimed at new or less experienced board members but long-time members also may find the refresher to be helpful.

Among the topics to be covered: ju-

isdictional issues; conflicts of interest; public-notice requirements; site visits; use of e-mail; and, procedures used for reaching decisions.

The cost for MMA members is \$40 and non-members will be charged \$60. To register, please see the MMA website or call the Educational Services team at 1-800-452-8786.

## MUNICIPAL LAW FOR CLERKS

MMA Staff Attorney Kristin Collins and Portland City Clerk Linda Cohen will present an all-day class on municipal law at the Waterville Elks Banquet & Conference Center on July 14. The workshop is sponsored by the Maine Town & City Clerks' Association. Registration starts at 8:30 a.m. The class is scheduled to end at 3:30 p.m.

The workshop is designed to strengthen clerks' knowledge in major subject areas. Both veteran and new clerks will benefit from a wide-ranging discussion period and an examination of statutory changes and modifications of state agency rules.

Among the topics to be covered: basics of the clerk position; the state Freedom of Access Law; license issuance; and, basic vital statistics.

The cost is \$50 for MTCCA members and \$60 for non-members. Participants are strongly encouraged to bring copies of the MMA Municipal Clerk's Manual with them to this workshop. For more information, or to register online, please visit the MMA website at [www.memun.org](http://www.memun.org).

## VITAL STATISTICS: HOULTON

The Maine Town & City Clerks Association also will sponsor a workshop on Vital Statistics at Shiretown Inn and Suites in Houlton, on Aug. 23. Registration for the workshop begins at 8:30 a.m. The workshop ends at 4 p.m.

Kathy Montejo, city clerk in Lewiston, and Patti Dubois, city clerk in Ban-

gor, will co-present. Vital Statistics is a one-day overview of the law, rules and regulations concerning important documents such as birth certificates, marriage licenses and death certificates. The workshop is among four courses needed for MTCCA certification.

Among the topics to be covered are: a history of vital statistics in Maine; duties of the Municipal Clerk; the integrity of vital records; and, amending vital records. The cost is \$50 for MTCCA members and \$60 for non-members, which includes coffee, lunch and workshop materials.

Participants need to bring their Vital Records Manuals with them. If you need a manual, please call Office Services staff at 287-2558. If you have questions about the workshop or want to register by phone, please call the MMA Educational Services office at: 1-800-452-8786.

## NEW CLERKS WORKSHOP

A workshop designed to familiarize newly elected and appointed municipal clerks with the position will be held at the MMA headquarters, 60 Community Dr. in Augusta, on August 24. Registration begins at 8:30 a.m. Sponsored by the Maine Town & City Clerks' Association, the course will conclude at 4 p.m.

The workshop will cover many topics, including: forms, procedures and duties; where to obtain clerk-specific information; dog licenses; marriage licenses; birth and death certificates; council/selectmen obligations and duties; and, elections. A question-and-answer period will follow the session.

The cost is \$50 for MTCCA members and \$60 for non-members. This program may be used as an optional course for MTCCA certification. Participants must attend the entire day to receive a certificate. Registration can be done online at: [www.memun.org](http://www.memun.org). 

All of the upcoming workshops can be found on the MMA website. Use the following link:

<http://www.memun.org/public/MMA/svc/training.htm>

## AFTER LIEN FORECLOSURE, NO HOMESTEAD EXEMPTION

**Question:** We've had a tax lien foreclosure on a primary residence, but we allow the former owner to remain there and continue to assess him as "person in possession" (see 36 M.R.S.A. § 553). Is he still eligible for the Homestead Exemption?

**Answer:** No. By law, the Homestead Exemption is limited to owner-occupied permanent residences (see 36 M.R.S.A. § 681(2)). Once a tax lien forecloses, title to the property passes automatically to the municipality (see 36 M.R.S.A. § 943). The taxpayer, even if still in actual possession and still being assessed for it, no longer owns the property and is therefore no longer eligible for the exemption.

The same would be true where the taxpayer is purchasing (or repurchasing) his residence under an installment contract or "bond for deed" and is obliged by the agreement to pay taxes – he is not the owner until the final installment has been paid and a deed has been delivered to him.

Assessors have a statutory obligation to evaluate annually the eligibility of property for the Homestead Exemption (see 36 M.R.S.A. § 684(3)). This must include, among other things, a review of whether the ownership has changed in any manner that would disqualify the property for the exemption. A tax lien foreclosure, by itself, would constitute such a change and would require the assessors to discontinue the exemption as of the following April 1.

For more on the homestead exemption, see MMA's "Information Packet" on the subject, available free to members at [www.memun.org](http://www.memun.org). (By R.P.F.)

## MUNICIPAL BANKRUPTCY – NOT AN OPTION IN MAINE

Cash-strapped municipalities in some parts of the country may have the option of filing in bankruptcy to reorganize their debts (New York City famously did so in 1975, and just last year so did Vallejo, California, a San Francisco suburb), but not in Maine.

The federal Bankruptcy Code was

amended in 1934 to allow municipal entities to declare bankruptcy under Chapter 9 of the Code (see 11 U.S.C. § 109(c)), but only if applicable state law specifically authorizes them to do so. Maine law never has.

There is some official "help" available for Maine towns and cities in financial crisis, but it is limited and does not include the power to forgive or restructure debt. It's called the Board of Emergency Municipal Finance (the "board").

The board, consisting of the Commissioner of Finance, the State Treasurer and the State Tax Assessor, is authorized to investigate a municipality's financial situation and, if necessary, temporarily take over the administration of government and management of the municipality's financial affairs.

The board is not an investigative agency for complaints of financial misconduct. Nor is it a standing advisory body for municipalities in financial difficulty. The board is activated only if a municipality is unable to fund general assistance or other public assistance programs and it has received funds for this purpose from the Department of Health and Human Services (DHHS).

If a municipality has received DHHS funding *and* if it has fallen eighteen months behind in payment of State taxes, or defaulted on any bond issue or payment of interest due

on any bond issue, or failed to pay school or other salaries due, the board may conduct an audit. If the audit warrants it, the board may then step in and assume, through an appointed commissioner, full control of the municipality's management and finances until State taxes and the expenses and obligations of the commissioner have been paid and there is a finding that the financial affairs of the municipality should be returned to local control.

The board has extraordinary powers to accomplish its mission, including the authority to appoint temporary new officials, borrow money on the municipality's behalf, levy taxes against property owners to pay municipal debts, and approve all appropriations and expenditures. In the interim, there may be virtually no local control.

And the board's services are in no sense "free" or subsidized. The municipality (*i.e.*, the taxpayers) must pay the compensation of the board, the commissioner, and any temporary new officials and consultants as well as any new indebtedness incurred on its behalf.

So, as with bankruptcy (which, again, is not available to municipalities in Maine), an intervention by the Board of Emergency Municipal Finance is strictly a last resort. For details, see 30-A M.R.S.A. §§ 6101-6113. (By R.P.F.)

 MMA Municipal Calendar

**JULY 4 (Observed July 5)** — Independence Day — A legal holiday (4 MRSA §1051).

**ON OR BEFORE JULY 15** — Monthly/Quarterly expenditure statement and claim for General Assistance reimbursement to be sent to Department of Human Services, General Assistance Unit, DHS #11, Augusta, ME 04333 (22 MRSA §4311).

**ON OR BEFORE JULY 31** — Every employer required to deduct and withhold tax for each calendar quarter shall file a withholding return and remit pay-

ment as prescribed by the State Tax Assessor (36 MRSA §5253).

**BETWEEN MAY 1 AND OCTOBER 1** — Municipal officers may initiate process to close certain ways during winter months (23 MRSA §2953). For further information, see the MMA Municipal Roads Manual.

**BY JULY 31** — Supply certification to the Maine Department of Transportation that Rural Road and Urban Compact Initiative Program funds will be used consistent with the requirements of the law (23 MRSA §1804).

**RIGHT TO KNOW TRAINING  
REQUIRED FOR EACH TERM**

Here's a reminder for those officials who are now (since 2008) required to get training in Maine's "Right to Know" law: The training must be completed within 120 days after taking the oath of office for each new term (see 1 M.R.S.A. § 412). In other words, for officials who serve multiple terms of office, Right to Know training is required at the beginning of each term served.

Right to Know training is required for the following local officials: selectmen, councilors, school board members, and *elected* clerks, treasurers, assessors and budget committee members.

The requirement can be met by thoroughly reviewing all of the information on the State's Freedom of Access website ([www.maine.gov/foaa/](http://www.maine.gov/foaa/)) under Frequently Asked Questions (this is a self-study option and is free of charge) or by attending a training program (such as MMA's) that covers all of this information.

For more on this, see "Update: Right to Know Training Requirement," *Maine Townsman*, "Legal Notes," April 2008. (By R.P.F.)

**WHAT'S THE EFFECTIVE  
DATE OF ORDINANCES?**

Under common law, ordinances generally take effect immediately upon their enactment. There are two notable exceptions to this rule, however. First, where the ordinance itself specifies a different effective date, that date will control.

Second, if there is a municipal charter with applicable provisions, the charter will govern. It is not uncommon, for example, for charters to provide that ordinances take effect 30 days after enactment unless enacted as "emergency" ordinances by supermajority vote.

The same general rule and exceptions apply to ordinance amendments and the repeal of ordinances.

In addition, shoreland zoning ordinances, amendments and repeals are not effective unless approved by the Commissioner of Environmental Protection (see 38 M.R.S. A. § 438-A(3)). If the Commissioner fails to act within 45 days of receipt, the ordinance or amendment is automatically approved. Permit applications submitted to the

municipality within this 45-day period are governed by the proposed ordinance or amendment if it is subsequently approved.

Certain other types of ordinances also must be filed with or reviewed by State agencies, but this does not affect their effective date *per se* (although the failure to comply may affect their enforceability). For details, see "Some Ordinances Subject to State Filing & Review," *Maine Townsman*, "Legal Notes," December 2006.

Finally, while we're on the subject it's worth noting that ordinances may also be given a retroactive effect. That is, they can be made applicable to ap-

plications and proceedings pending at the time of enactment if they clearly and unequivocally say so (see "Retrospective Ordinances," *Maine Townsman*, "Legal Notes," March 2007). This can be an especially useful feature in the case of moratorium ordinances, which are often in reaction to unanticipated development that is already at or near the permitting stage. For details, see our "Information Packet" on moratorium ordinances, available at [www.memun.org](http://www.memun.org).

For more on ordinance enactment procedures, see our "Information Packet" by that title, also available at [www.memun.org](http://www.memun.org). (By R.P.F.) 

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*Executive Vice President*  
1-207-761-8544  
Ted.Scontras@TDBanknorth.com



**Connie L. Brennan**  
*Senior Vice President*  
1-207-828-7583  
Connie.Brennan@TDBanknorth.com



**Marge Barker**  
*Senior Vice President*  
1-207-828-7493  
Marge.Barker@TDBanknorth.com



**Laura G. Warner**  
*Vice President*  
1-207-828-7408  
Laura.Warner@TDBanknorth.com



**Nicole Pellenz**  
*Vice President*  
1-207-828-7440  
Nicole.Pellenz@TDBanknorth.com



**Barbara Durr**  
*Assistant Vice President*  
1-207-828-7457  
Barbara.Durr@TDBanknorth.com



**Shaun McIntyre**  
*Sales and Service Officer*  
1-207-828-7474  
Shaun.McIntyre@TDBanknorth.com



**Christina Townsend**  
*Government Banking Specialist*  
1-207-761-8579  
Christina.Townsend@tdbanknorth.com

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