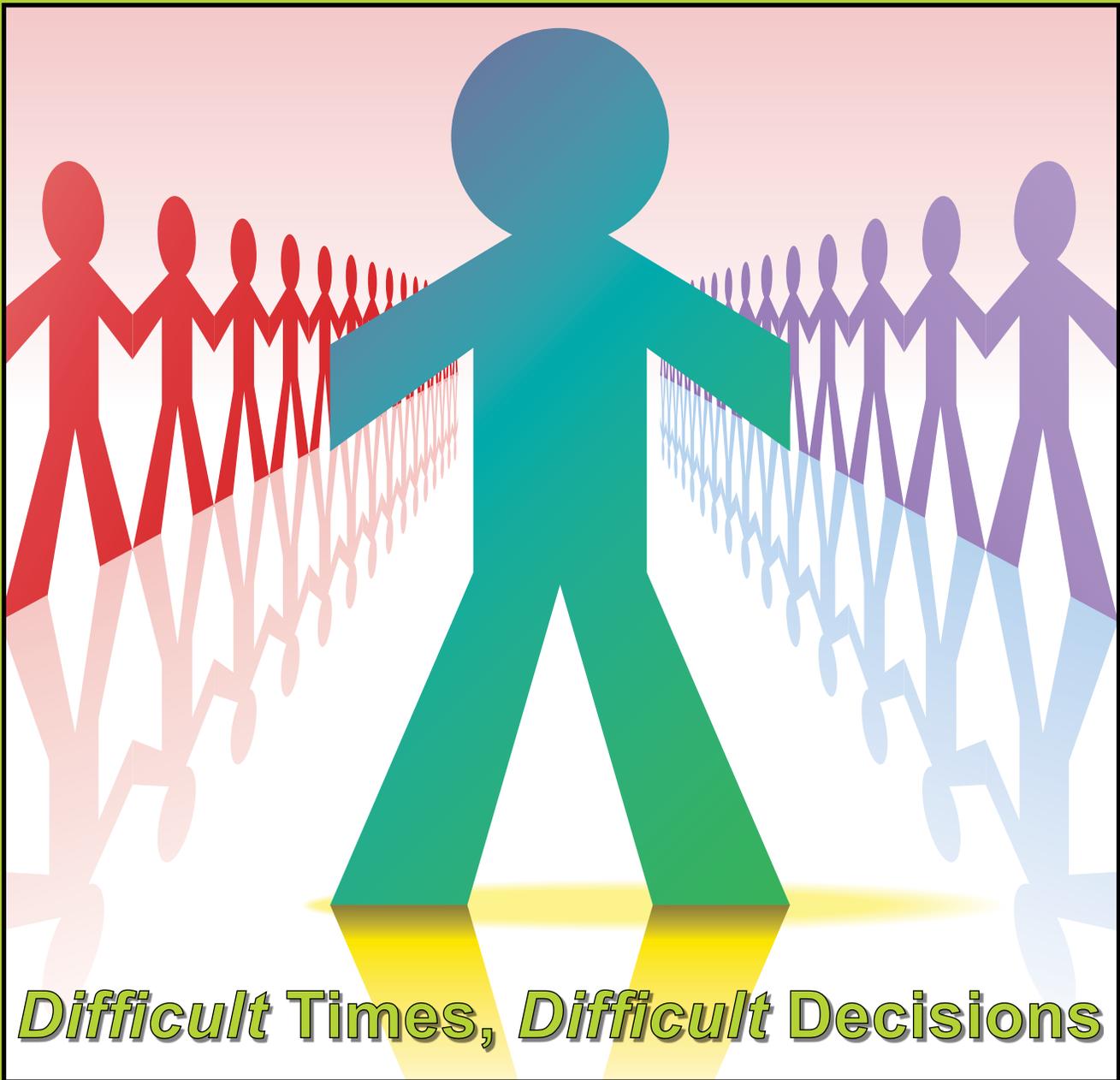


May, 2009

maine townsman

The Magazine of the Maine Municipal Association



IN THIS ISSUE:

Difficult Decisions • Contracts • Bullish on Bangor

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Across the state, municipal officials are having to make some very difficult personnel decisions in this down economy. Many describe the municipal budgeting situation as the worst in decades. Layoffs, union wage concessions, employees picking up more of their health insurance costs, cutting back on overtime . . . everything is on the table, according to the city and town managers interviewed for this article by Doug Rooks.	
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Much of what Maine municipal government does involves entering into contracts with private companies or other public agencies. Sometimes the contract involves the purchasing of products, such as heating oil; in other instances, the municipality is actually "contracting out" the work, for such services as road paving or providing emergency dispatch services. A thoughtful, prudent process for purchasing products and contracting out services is important for every municipal official to understand. This article by Lee Burnett looks at some of the different approaches that municipalities take.	
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Ed Barrett has been the city manager in Bangor, Maine, for the past 22 years. He likes his job and is quite "bullish on Bangor", feeling the city has accomplished a great deal and has a bright future. The current financial situation for Bangor and other Maine communities concerns him. He is very worried about the devastating impact that the statewide Excise Tax referendum would have, if it was passed by voters in November. Liz Chapman Mockler interviewed the Bangor City Manager in early May.	
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Difficult Decisions

By Douglas Rooks

As with most government budgets, personnel costs represent the majority of municipal spending in larger communities. Now caught between a steep economic downturn and continued high expectations from the public, municipal managers have had to execute some intricate and sometimes difficult maneuvers to keep their staffs intact.

So far, municipalities are weathering the financial crisis without resort to wholesale layoffs and downsizing – though it’s possible that could come later. Passage of an initiative to slash the motor vehicle excise tax – likely to go to the voters on Nov. 3 – would be another significant blow.

“What I really worry about is what happens in 2010,” said Ed Barrett, Bangor’s city manager. “We’ve managed to hang on this year by using reserves and finding short-term savings,” but a prolonged slump would be another matter, he said.

Even so, several city managers said the slump of 2009 has produced the most difficult budget deliberations they’ve ever seen. Many Maine cities, for instance, substantially reduced staff over the last decade and have less room to cut than they would have had before. Lewiston had more than 400 employees eight years ago, but has cut 58 positions, or 13% of the workforce, and now has about 355 full-time equivalent positions, according to City Administrator Jim Bennett.

Around the state, managers have been taking unusual actions in a bid to stay ahead of what continues to be a declining revenue curve – not only

from local taxes, but also from state aid. The continued uncertainty over what municipalities will receive – Gov. John Baldacci has proposed further cuts in property tax relief programs including revenue sharing – means that municipal budgets may open July 1 without firm state revenue figures.

At least two managers have volunteered to give up their salary increments this year – Ruth Marden in Jay and Bill Bridgeo in Augusta. Marden said hers was intended as a good-will gesture to recognize Jay’s difficult situation; one major employer, Wausau Paper, announced it was shutting down operations on May 3, eliminating 100 jobs and a substantial amount of valuation.

Bridgeo said that he hopes his action would spur the city’s unionized employees to make similar reductions. “The city council appreciated it, but the unions decided not to go along,” he said. This has forced significant reductions both in staffing and programs.

AUGUSTA

Bridgeo was one of the managers who said this had been the most trying time in 28 years as a municipal leader, including the last 11 years as Augusta city manager. “This is the toughest year ever,” he said. “There’s no money and state aid is a moving target.”

Cutbacks in Augusta started during the current budget year, as revenues fell sharply beginning last fall.

The city laid off nine staff members and the school board voted to close the capital’s last middle school, with students moving to Cony High School in September of this year, saving \$850,000. Even though the new

Cony was completed in 2005, it has sufficient space to accommodate the middle school students due to falling enrollments.

“There’s something about sitting across the table from a 25-year employee and telling them they no longer have a job, through no fault of their own,” Bridgeo said. “That’s not something you ever want to happen.”

For next year, the city is hoping to make fewer personnel reductions, though switching to biweekly trash collection would eliminate two public works positions, and ending the senior outreach program at the library would cut a part-time position.

Other planned cutbacks include reducing police and fire department overtime, closing one of the city’s three swimming pools, closing the Bicentennial Nature Park, a popular summer destination, and switching to a cheaper salt-sand mixture for winter road maintenance.

All of these steps were necessary to avoid any property tax increase, and – like the state’s biennial budget – Augusta’s budget will be smaller next year, down from \$24 million to \$22 million.

Bridgeo said that with the latest proposed state reductions, though,

**Nominees Sought
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(see details on pg. 24)**

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

these reductions might not be enough. "So far the city council has not wanted to consider a tax increase," he said, though Mayor Roger Katz raised the possibility of a "small" increase at a meeting in early May. Otherwise, more cuts will be needed.

"This is the land of no good choices," said Bridgeo.

JAY

Ruth Marden said that the municipal unions, which are in the third year of a contract calling for a 3% increase, elected to keep their salary increments but were willing to negotiate for reductions in health insurance costs.

Jay, which contracts with MMA for health insurance, will go from the "A" level of benefits to the "C" level, which maintains eligibility but requires employees to pay higher deductibles and co-payments. That saved \$50,000 for the 35-employee staff, and allowed the town to avoid a significant tax increase.

"The budget is up about 1%," Marden said, "and that was because of some sewer work that couldn't be put off." Other cost-saving initiatives include aggressive bidding on fuel contracts, and energy savings from insulating buildings and turning down thermostats.

Marden, who's been town manager in Jay for more than seven years, said this was the most difficult budget to put together. "It was harder, and more emotional. Not only are town employees worried about their jobs, but the townspeople are anxious about the future." She said that she's "optimistic by nature," but that she "wouldn't even venture to guess" about what next year's budget and personnel situation will look like.

KENNEBUNKPORT

In Kennebunkport, Town Manager Larry Mead said that things went relatively smooth, in part because the sole municipal union contract expires this year, and selectmen are budgeting no salary increases for next year, although negotiations continue.

Kennebunkport has 48 municipal employees, and Mead proposed cutting 2 1/2 positions to avoid a tax increase, and selectmen accepted cutting 1 1/2, including one police officer. Overall, the salary account is down 4.6%, and the town was also able

to reduce health insurance spending by 8% by covering fewer people, despite what Mead called "a standard increase" of 6% from the town's insurance carrier.

The town will also cut its capital spending by 6.5% by not replacing two police cruisers, as previously scheduled, and postponing purchase of a new front end loader. There will also be significant cuts to road repairs and sidewalk maintenance, Mead said.

Town employees were also in the spotlight in April when the York County Coast Star published a series of front-page articles detailing municipal employee salaries in its coverage area, which also includes Kennebunk, Wells, Ogunquit, and Sanford.

Despite the media splash, Mead said he saw little reaction from the public. "We didn't get any calls, and selectmen said they didn't either. I didn't even see anything in the letters-to-the-editor column."

Mead isn't sure why there wasn't a response similar to listings of state employee salaries, which prompted an unsuccessful bill to bar publication of employee names. "My guess is that the people likely to be outraged are already upset about other aspects of municipal government, and this is nothing new to them," he said.

One of the questions raised by a reporter was the use of overtime in the police department, which results in six officers being among the town's top 10

highest paid employees.

Mead says that paying overtime is necessary to provide 'round-the-clock police protection – including two officers on the night shift – and that it's cheaper than hiring additional officers. With the costs of benefits being at least a quarter of annual salary, or more, it really doesn't make sense to add to the payroll, he said. Kennebunkport will stick to its 12-member department, plus some summer help.

Portland attorney Larry Winger, author of the Maine Employee Handbook, agrees that the old formula of hiring to avoid paying time-and-a-half for overtime rarely works anymore.

"When wage-and-hour laws were first passed, during the Great Depression, the intent clearly was to get employers to hire more workers rather than have them work more hours," Winger said. But the rising cost of benefits, particularly health insurance, has defeated that purpose.

"I don't think you'll find anyone who says that avoiding overtime will save much money anymore," he said. "There may be a case where an employer is routinely scheduling tons and tons of overtime, and it would make sense, but not very often."

Winger said that for purposes of evaluating overtime use, municipalities should consider police and fire departments, which often demand 24-hour staffing, separately from other departments. If overtime costs are siz-



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able elsewhere, it might make sense to do additional hiring. "I'd make sure that there was a deeper analysis of costs, though, before taking on any long-term commitments," he said.

Mead said that Kennebunkport uses a call fire department, so overtime there isn't an issue. "I wouldn't say the same thing about fire department overtime," he said. "That could be a whole different situation."

LEWISTON

In Lewiston, like several other cities, putting together this year's budget has been a protracted process.

Jim Bennett, the city administrator, engaged the six union bargaining units due for pay increases in negotiations that were part of the city council's strategy of ensuring no tax increase for the coming year. The plan included a six-month deferral of scheduled increases, and was designed to avoid layoffs, though some vacancies might not be filled.

Four of the units agreed to wage deferrals, and the other two agreed to find comparable savings, such as eliminating uniform allowances.

Once the agreement was complete, however, Bennett was not successful in convincing the council to ratify it. On a 4-3 vote, the council rejected the deal, sending city budgeters back to square one.

Lewiston is going ahead, however, with other personnel moves designed to cut costs. The city has offered incentives for early retirement to several senior staff members, who can then collect retirement benefits but also be rehired, generally for 15% below their previous salaries. "And some positions will not be refilled," Bennett said.

He doesn't have a prediction about when the city will have a budget "but I hope it's soon," he said. At this point, he's not sure layoffs can be avoided, but given the existing shrinkage in staff, it's a last resort. "We've been downsizing for at least five years," he said. "We're running out of things to cut."

BANGOR

Ed Barrett is one of the longest-serving city managers in the state, and was around to oversee cutbacks from the last previous severe recession,

which hit during 1991-92.

In some ways, that was worse for Bangor, he said. At the time, the city charter required the city to roll over its surplus each year, much as school districts are required to do, and as a result, the city had few reserves to draw on when the recession hit.

One of the financial reforms undertaken after that experience was a change in the charter, approved by the voters, that allows the city to accumulate reserves.

One of those accounts, for health insurance, has proved useful in the past – such as when Bangor faced a 50% increase in premiums from its existing carrier. While the city was able to get a more reasonable rate from a competitor, planning for health insurance costs over several years remains a good policy, Barrett said.

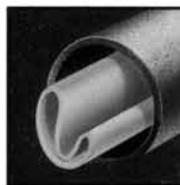
A 12% premium increase last January required drawing on reserves; next year's rate hike is "not as bad," Barrett said, though the city will continue to shop around.

The city has a half dozen union agreements with overlapping expiration dates, covering such services as

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fire, public safety, and Bangor International Airport, and a large number of non-union employees as well. So the impact of wage increases is hard to sum up, though salary increments have generally been 3%. The city has not attempted to negotiate reductions, but tries to treat union and non-union workers similarly, Barrett said.

The city council continues to work on the budget, and is aiming for a "minimal" tax increase, if any. So far, the budget shows a reduction of 2 1/2 positions, plus a small number of fee increases, such as a jump from \$10 to \$15 for parking tickets and increased off-street parking fees.

The council has asked for a new cost analysis of switching city dispatch services to Penobscot County, whose call center is also in Bangor. A previous analysis, in 2006, found scant savings, said Barrett, in part because the city performs non-dispatch services with the same personnel, such as monitoring fire alarms. Penobscot County would not provide such services.

Even if a switch were made, it probably wouldn't have much effect until the following budget year. Penobscot

County "would have to double their staff" to accommodate the call volume Bangor covers, Barrett said.

Even without the potential effects of the initiative to cut vehicle excise taxes, non-property tax revenue is shrinking fast. Even before the latest proposed changes, Bangor was facing an \$850,000 reduction in state revenue sharing. "It's getting harder and harder to make that up anywhere else," Barrett said.

A LONGER PERSPECTIVE

Jim Bennett has a reputation of being a municipal finance rescue expert. He was elected selectman in Lisbon in 1982, at a time when the town had defaulted on its bonds.

In 1990, he was recruited by Old Orchard Beach amid a budget year in which the town had overspent its budget by \$850,000 – more than 10% -- and was about to market a school bond issue. "No one wanted to lend us money," he said. "Paychecks bounced. We were getting disconnect notices for our 911 service."

Nevertheless, he considers this year his most difficult experience as a mu-

nicipal manager. This is not a good time to be laying off employees, he said. "You just know that a good employee won't necessarily land on their feet."

The emotional wear and tear of the process, for everyone involved, has been considerable. The prospects ahead, including lower state school subsidies, are also bleak, and the effects of previous downsizings is still being felt.

But the most difficult aspect, Bennett said, is that people's expectations of what government can deliver are undiminished. While citizens often oppose cuts in services that benefit them while simultaneously insisting that taxes can't go up, they increasingly seem to believe this is possible, he said. "There's a sense that people really don't think they have to pay for the things they want from government," he said.

While it seems likely that hard times will continue, even a sense that the bottom has been reached would be helpful, he said. "People are so afraid right now," which has made a difficult job that much harder. ME

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Contracts and Contracting Out

By Lee Burnett

The list of municipal services delivered under contract continues to grow. Road paving and trash collection are now commonly done by the private sector. In smaller communities, police service, emergency radio dispatch, property assessment, and code enforcement may be delivered under contract with neighboring towns or regional entities. The Town of Belgrade, for example, now expends 85 percent of its \$2.2 million budget under contracts.

Contracts can provide municipalities with flexibility, predictable and sometimes lower costs, and often a higher-end service.

But contracting is not as easy as shopping around and awarding the low bid. There's a lot of judgment involved in timing, length of contract, and how much risk to assume. The volatility of prices for home heating oil, liquid asphalt and recycling materials are adding complexity to the equation. Let's just say contracting is not a good home for conventional wisdom

ROAD PAVING

Saving taxpayers' money usually means going with the low bid, but not always. Last year, Pike Industries was the low bidder on a good share of municipal road paving projects by excluding from its bid proposals an escalator clause covering a potential increase in the price of liquid asphalt. Pike had gambled and lost: the price of liquid asphalt did indeed spike from \$307.50 per ton in January to \$850 per ton by late summer and Pike Industries later informed its customers that it could not honor its contracts.

Kennebunkport had awarded Pike Industries a \$1.6 million contract just

weeks earlier and had already begun prep work when it received the news. "I'm not happy with the turn of events," Kennebunkport Town Manager Larry Mead told the Biddeford-Saco-Old Orchard Beach Currier.

In Kennebunkport's case, there was a semi-happy ending. The work wasn't completed until this spring, but Kennebunkport got it down within its budget by parting ways with Pike awarding the contract to Dayton Sand & Gravel, the next lowest bidder. Mead said Kennebunkport's long-standing positive relationship with Dayton Sand & Gravel helped resolve the money crunch.

"We have confidence and trust in (them) and a history of feeling secure," said Mead. "That being said, we're under no illusions that if fuel goes crazy, we'll need to adjust the price. We understand that and they also feel confident working with us."

In the future, Mead said paving contracts will almost certainly include an escalator clause for liquid asphalt prices. The escalator clause will shift additional risk to the town, but without it, bidders would almost certainly offer much higher bid prices to cover their uncertainty. "Otherwise, we won't get proposals, at least for the foreseeable future," said Mead. "In the next two years, if things settle down and we get comfortable again, it may fall by the wayside."

Most of Pike's voided contracts were eventually renegotiated, said Jonathan Olsen, general manager for Pike Industries in Maine. "We all shared the pain," he said. Olsen agreed that insisting on escalator clauses will level the playing field and ultimately produce lower bids by removing an element of uncertainty from bidders' calculations.

Road paving is fast outgrowing its low-tech, informal roots, explained

Olsen. "It's changed a lot in the last 20 years. There's specialized training. OSHA regulations expect a certain level of expertise. The DOT specs have evolved – even in the last five or six years – in the area of quality control. The days a guy could get a backhoe and a small dump truck and call himself a contractor are over," he said. Towns and cities now find it cost-effective to contract out all but the smallest projects, he said.

Olsen has some contracting suggestions. A series of smaller projects should be bid as a package for the lowest price. But a couple of larger projects – stretching over many months – should probably be bid separately for the lowest price.

Following Maine Department of Transportation specifications usually produces "a better product and better pricing," Olsen said, although many towns still prefer "informality" in the bid process. "A lot of public works directors like to go with a contractor he's familiar with. He (the PW director) thinks that's in the best interest of the town. And that's fine. It's an individual choice."

DISPATCH SERVICES

Sometimes, shopping around for the best deals can lead to unintended consequences. Belgrade, for example, shopped for the best prices on emergency dispatch and 911 service and now finds itself in the less-than-ideal situation where emergency communications are handled by three different agencies.

Emergency calls are first fielded by Somerset County Communications and – once the nature of the call is determined – it is relayed to one of two dispatch centers. Police calls are relayed to the Maine Department of

Lee Burnett is a freelance writer from Sanford.

Public Safety's Regional Communications Center (RCC) in Augusta, which dispatches Kennebec County's sheriff's deputies. Fire and ambulance calls are relayed to Waterville Fire-Rescue, which dispatches the volunteer fire and ambulance squads in Belgrade.

Although the relays are done instantly, the hand-offs and division of responsibility introduce complexity to what should be a simplified crisis response, says Dennis Keschl, Belgrade Town Manager. "There are three different organizations involved; I'd prefer one," he said. "But we are continually under pressure to keep property taxes down and our budgets low."

The complicated arrangement has developed as Belgrade (and other Kennebec County communities) shopped for the best deal at a time of state-mandated consolidation of emergency 911 calls. Originally, the Kennebec County Sheriff's Department ran a dispatch center for area towns, but when the Department of Public Safety opened up the RCC, the dispatching landscape changed in Kennebec County.

Mostly for budgetary reasons, Kennebec County shut down its dispatch center altogether, shifting dispatch of

patrol deputy sheriffs to the RCC. For Belgrade, which had been using the county dispatching, this move increased the town's cost of dispatching. Belgrade opted to have its fire and rescue squads dispatched by the less expensive Waterville Fire-Rescue.

The final complication came last year when the Public Utilities Commission approved a rate increase for the handling of emergency calls by the RCC. The net effect was a near tripling of communications costs for Belgrade. Earlier this year, Belgrade and a dozen other Kennebec County communities sought permission from the PUC to switch its emergency calls to the less expensive Somerset County Communications Center.

"The consolidation of PSAP was not a bad thing," said Keschl, "But how it was done in Kennebec County was not a good thing." Keschl said the best solution is to take the cost of answering emergency calls off the property taxpayers entirely and have it funded through a surcharge on cell phone users.

Clifford Wells, the director of the RCC, worries about the fragmentation of responsibility, but said shopping for the best price is understandable. "There

is a loss of continuity," he said. "I don't think it's a serious concern, but it needs to be watched."

BUYING HEATING OIL

Locking in the price of heating oil in May used to be prudent because recent history has shown there are significant savings – to say nothing of predictable costs – in bulk purchasing in advance of the heating season. But now, new strategies are being hatched in response to last year's tumbling oil prices.

Last May, the City of Augusta locked in at \$4.43 per gallon only to see the price drop by half in the next six months. For a city that purchases 400,000 gallons of heating oil a year, there was a lot of angst and second guessing over that decision. This time around, Augusta still isn't willing to play the market, but also doesn't want to wait until late in its budget year to make such a consequential decision. It changed its policy on the timing of purchasing oil and when the price hit \$2.27 in late December, Augusta locked in a full year in advance of the 2009-2010 heating season.

City decision-makers made it clear, they are not shopping for the absolute



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lowest price, but they think they stand a better chance of achieving some savings by giving themselves a wide window of opportunity. "If the market gives you an opportunity and you can stay within your budget, that's the lesson we learned: grab it," explained Ralph St. Pierre, assistant city manager and finance director. "That's the earliest we've ever bought it. If they would have let me lock in for two years, I would have done it."

Likewise, Bridgton has a new perspective on what's in the best interests of taxpayers. Last year, Bridgton locked in at \$3.79 per gallon for approximately 20,000 gallons of heating oil. "Had I not locked in and played the market, it would be reasonable to say I would have saved \$1.50 to \$1.75 on each gallon," explains Bridgton Town Manager Mitchell Berkowitz. "I might have been too conservative."

This year, Berkowitz is again locking in – this time at \$2.19 per gallon. "We do the best we can, but we're not in a position to gamble," he said. But Berkowitz is willing to assume a little risk, deciding against paying an additional 30 cents a gallon for "downside protection." Berkowitz reasons that for

downside protection to be worthwhile, the price of oil would have to fall to below \$1.90 per gallon – which has only happened once (last year) in the past four years. He terms the \$6,000 cost of downside protection "an expensive insurance policy."

RECYCLABLES

A few towns are rethinking the practice of selling recyclable materials themselves. A decade ago, as it became obvious that trash disposal costs could be substantially reduced through recycling, many communities capitalized by not just recycling, but selling their recycled materials. It meant investing in balers, compactors and storage sheds, but it seemed to be worth it if the processed commodities fetched a much higher price.

Selling cardboard, newspapers, plastic and glass isn't as appealing as it used to be. Two years ago, Brunswick stopped selling processed recycled materials. Last November, Bridgton followed suit. Today, most of the communities that truck their recycled materials to ecomaine, a municipally-owned recycled materials wholesaler in Portland, are less interested in getting top dollar for

their materials than in avoiding \$50 to \$100 per ton trash disposal costs, says ecomaine General Manager Kevin Roche.

The decision to get out of the recycled materials markets is being driven by economies of scale as most small programs really aren't that profitable, says Roche.

"I know some people claim they're making money," he said. "I've operated a small program myself and the proof is if they were truly profitable the private sector would open a processing center in every community. They don't. Most small programs are very labor intensive ... Most recycling is not full cost accounting. They might use the public works building, or electricity another department, or they think the labor is free. All of these costs should be accounted for."

Bridgton stopped selling recycled materials last November, even though it had earned between \$51,000 and \$65,000 a year for the past decade. Bridgton got out just as the markets were crashing, but that was "pure luck," according to Town Manager Berkowitz. Bridgton now pays extra to truck unsorted recyclable materials to ecomaine

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and gets no income at all.

Why is Bridgton willing to forego a substantial revenue stream and let \$150,000 worth of processing equipment stand idle? Because Berkowitz calculates there's more money to be saved in boosting recycling rates than in selling recyclables.

Bridgton already achieves a 40-41 percent recycling rate by having homeowners sort their own recycled materials into separate compartments when they deliver them to the transfer station, a process that has been timed to take on average between five and seven minutes. By going to ecomaine's single-sort recycling, homeowners toss all their recyclable materials into a single compactor, which reduces their drop-off time to between 30 and 90 seconds. If that convenience induces another 20 percent of Bridgton's population to recycle, then Berkowitz comes out way ahead. There will be lower trash disposal costs, a reduction in salaries by 1.5 employees, slightly higher trucking fees, and the loss of the recycling revenue stream. Net savings: potentially \$71,000 to \$85,000, a year.

"We won't know for a while if it makes sense. We'll monitor the situation closely," said Berkowitz. Bridgton is mothballing its processing equipment just in case the economics dictate reverting to town selling its own recycled materials.

Some 60 Maine communities have opted for single-sort recycling, observes George MacDonald, director of community assistance for the Maine Waste Management and Recycling Program. "I think they are evaluating their options more closely than before," he said. "The real savings is in avoiding disposal fees."

Counter to this trend, the small

community of St. George, south of Rockland, recently began selling its rigid plastic and e-waste on recycling markets. Assistant Town Manager Tim Polky said it cost \$2,000 to acquire the trailers, but the income from the sale of rigid plastic and e-waste will pay for the trailers in a couple of years.

"We've got a real good sorting mechanism: people," said Polky. "We charge 'em to dump [trash] but no charge to sort [recyclables]. We're pretty fortunate." Polky said St. George evaluated going to single-sort recycling through ecomaine, but concluded the trucking costs were too high to justify it. [me](#)



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Wednesday, August 5th - Application Deadline

Wednesday, August 26th - Application Approval

Thursday, October 7th - MMBB Sale Meeting

Thursday, October 29th- Closing/Bond Proceeds Available

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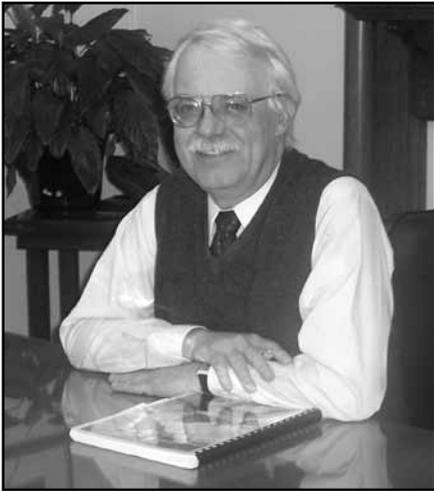
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Barrett Bullish on Bangor

By Liz Chapman Mockler



City Manager Ed Barrett remembers the Bangor of 1987, when he was hired as a manager for the first time in his public service career. The ground was frozen. The snow was deep and slippery. The roads were a mess.

At least to someone from Texas.

Twenty-two years later, despite uphill climbs and ongoing municipal challenges, Barrett told the Maine Townsman recently he had no regrets about moving to Bangor.

"I really love living in this community and this part of the state," he said. "It's really a small big city in a lot of ways."

Prior to coming to Maine, Barrett worked as director of administration and then as assistant manager of Wichita Falls, Texas, a city of about 100,000 on the Texas-Oklahoma border.

A Cleveland native, Barrett earned bachelor's and master's degrees in political science from the University of Dayton and then completed three years of graduate school in political science at the University of Arizona.

Liz Chapman Mockler is a freelance writer and media advisor from Bangor.

He was hired in the budget office for the city of Tucson, Arizona, and was promoted to the head of the department before leaving for Texas.

At a conference in 1986, Barrett met the person who was hired by the Bangor council to recruit manager candidates. When asked, he "took a look (at the Maine job) and applied."

"I wanted to manage a city of my own," Barrett recalled, "but I also really liked that it was a 'real place.' It was not a suburb. It wasn't socio-economically similar. I just thought it was a terrific place. Small enough to be friendly, but big enough to be diverse."

Barrett also was attracted to the environment of the Greater Bangor area, where he canoes one day every weekend, skimming around different lakes and enjoying the "relatively or totally undeveloped" landscape.

"I love being out there in the natural world," he said.

The city's school system, which Barrett called "fine," also makes Bangor a place where people want to live. His son, Will ("He was born in Texas so we avoided 'Billy'") graduated from Bangor High School before earning a degree in cello from the Peabody Institute in Baltimore.

These days, Barrett's son runs his own business as a Web designer in the Chicago area.

"If you don't have a quality school system," he said, "it's a detriment to your ability to maintain diversity and an economic balance (among) residents. We don't want people not choosing Bangor because we are not (welcoming) to everyone."

AHEAD TO THE PAST

During his two-plus decades in Bangor, Barrett is most proud of the

ongoing effort of scores of Bangor leaders and municipal employees in transforming a dilapidated, mostly-empty and dirty downtown into one of the city's brightest gems.

Gone are unused rail yards, brown-fields and broken windows, replaced by new shops, a parking garage, senior living complexes, a renewed theater presence, the Maine Children's Museum and second- and third-floor private residences.

"Now it's a neighborhood," Barrett said, also handing out praise and credit to Rod McKay, the city's longtime economic and community development director who was pivotal in convincing many city councils over many years to make often-controversial and always-significant investments in the downtown.

The crowning jewel has become the city's historic renovation and redevelopment of its Penobscot River waterfront, which sits in the shadow of the state's only racino/hotel complex. In many situations, the city spent money and helped developers to make success a reality along the river, Barrett said.

Now home to the annual crowd-pleasing Maine Folk Festival and other popular events, the waterfront project includes a playground, walking trails and large stretches of green space where people fly kites and bring bagged lunches.

The effort, already 20 years old, will continue, Barrett said. "It's amazing that the vision for the waterfront has remained intact, over so many years and because of the courageous votes of councilors and the hard work of city staff.

"It's taken a very long time," he added, "and a lot of city commitment

and money.”

Barrett credits his own longevity as city manager to numerous people, particularly elected officials who have not run from controversy or tough times.

He also thinks his willingness to listen to new ideas and try different ways of solving problems has helped him be an effective manager.

One of his “favorite failures,” as he called it, was trying to resolve the city’s traffic and parking problems by developing standards for different neighborhoods, depending on the width of the road, the character of the place and the volume and speed of the traffic.

It all looked great on paper, but when the time came to try out the new standards on the ground in one quadrant of the city, Barrett and the council quickly dumped the idea in the face of heavy public opposition.

Barrett didn’t take the response personally and said the city still ended up with a set of standards it now uses on a street-by-street basis as problems arise.

Communication with the public also is imperative to success, Barrett said. He takes extra time to respond to emails and complaints, insists on transparency and widely publicizes important decisions and meetings.

He often is surprised, he said, by the number of people who comment to him about city issues and decisions they followed on local access TV.

“In this job, you experience every emotion possible except boredom,” he said, smiling.

Regarding his long tenure in the same city, Barrett offered another possible explanation. “One is tempted to say that maybe I’ve just been lucky.”

TODAY’S CHALLENGES

If you haven’t seen Barrett lately, that’s because he’s back at the drawing board responding to the governor’s latest proposed cuts in funding to Maine municipal government.

Budget shortfalls are no stranger to Barrett, but not since the tumultuous recession of the early 1990s has balancing needs against money been such a challenge.

“We’re right back where we started,” he said, referencing Gov. John Baldacci’s new proposal to cut State Revenue Sharing an additional 5 percent to 15 percent, a move that would

reduce the city’s share by a total of \$730,000 for fiscal year 2010 that begins July 1.

“It’s really a disproportionate cut to municipalities,” Barrett said, since SRS declines along with state tax collections, topped off by an across-the-board second cut in the local share in order to help balance the state budget.

Instead of waiting for help that likely won’t arrive, Barrett is busy re-vamping his \$45 million municipal budget, which is now \$1.3 million in the hole. He has asked his top managers to go back to their already-reduced department plans to find more places to cut spending or generate revenue to offset the latest cut to State Revenue Sharing of \$244,000.

Barrett said he expects next year’s budget to be even more trying as the city’s coffers catch up with the economy. Moreover, should a referendum pass in November that would dramatically reduce vehicle excise taxes on the newest cars and trucks, Bangor’s 2011 budget would lose another \$1.8 million in revenue.

That scenario, Barrett said, would be disastrous to Maine’s third-largest city and could even stymie city improvements that have been 20 years in the making. Just for starters, Barrett

said, 35 to 40 city employees would lose their jobs.

Barrett said the city council and staff will do what they always do: Try to find a fair balance between the services people want and how much they are willing to pay for them.

He said municipal government budgets always lag behind the economy, and so they are developed and approved long before actual economic factors are known.

“We passed a budget (last year) in a recession we didn’t know existed,” he said. “That has been mitigated this year by the (federal) stimulus money, but I expect next year will be even more challenging.”

WARNING: BUMPS AHEAD

Barrett said Maine city and town managers have decided not to budget for the potential loss of excise tax, even though if statewide voters pass the November referendum it could take effect as early as January 1.

In Bangor’s case, city officials would then go back to the budget drawing board again to revamp the spending plan by an estimated \$900,000 for the final six months of the fiscal year.

All municipalities with July-to-June fiscal years would be forced into the

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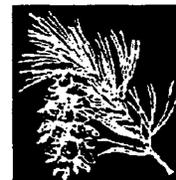
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"After a lot of discussion among manager groups, we decided the general approach would be to assume it will be as is," Barrett said, meaning voters would reject the proposed dramatic cut in excise tax, which finances nearly all local road maintenance in Maine.

"We thought it was inappropriate to either make significant cuts in services or raise taxes in advance of the actual vote. Most managers agreed there would be terrible impacts on individual employees and services, and that would be punishing them and our residents for a vote they have not yet taken.

"It's a decision most managers thought was right," he said, while admitting he fears what would happen if the referendum passes.

Many residents think the excise tax collected annually on Maine vehicles goes to the state, when it actually stays in the municipality, Barrett said.

He is hopeful when people understand the direct link between the excise tax and the condition of roads and sidewalks, they will reject the question.

Cities like Bangor have never-ending financial challenges that will only grow as the population ages; more concern – and cost – is committed to the environment; insurance and other

basic expenses continue to climb; and the state's and nation's economies remain in crisis, Barrett said.

"We are going to see challenges not seen before," he predicted. "We will need to seriously think and re-think how to adapt to those trends."

Barrett said he is proud of his experienced, effective and efficient staff who help operate a much larger community than its population would imply, mainly because it acts as the economic hub for nearly half of Maine.

Barrett favors a local-option sales tax ("Always have, always will") to help cities such as Bangor – Maine's so-called "service centers," both large and small, that maintain the infrastructure and services for thousands of Mainers who live in small towns that might offer lower taxes but far fewer services,

jobs, cultural events and retail opportunities.

To underline the city's service-center status, Barrett quotes two statistics: Two-thirds of all traffic accidents involve one or both drivers who don't live in Bangor; and on the Saturday before Christmas, 50,000 people shop at the Bangor Mall alone, in a city of about 33,000.

Barrett said he thinks the Legislature understands the unique and additional strain on property tax payers in Maine's service-center communities, but he also has no illusions state officials would provide any relief in the short-term at least, especially during such trying financial times for every level of government.

As Bangor has historically, "The city has to find its own way," he said. 

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People

Marian Anderson of Boothbay has been hired as the new town manager of Richmond, effective in early May. Anderson most recently worked as Boothbay's tax assessor, code enforcement officer and General Assistance director. She is a former Richmond selectman, ending her most recent term in 2005. Anderson replaces **Thomas Fortier**, who accepted the Ogunquit manager's job in February.

James Chaouis II has been named Livermore Falls town manager, replacing **Martin Puckett**, who now manages the tri-town governments of Mapleton, Chapman and Castle Hill. Chaouis was one of 32 applicants for the job. He will earn a degree in public administration in December from the University of Maine at Augusta. He is a former Marine and private-sector supervisor and a native of neighboring Livermore, where he now lives.

Fort Kent Town Manager **Donald Guimond** has been recognized nationally with the 2009 Phoenix Award for his steady and effective work in the wake of the worst flooding in the border town's history last spring. The U.S. Small Business Administration planned to present the honor, which recognizes extraordinary service by a public official, during a ceremony in May in Washington, D.C. In announcing the award, SBA Administrator Karen Mills said Guimond's work was heroic and courageous as he led the community's flood recovery efforts, as well as saving lives after he ordered a mandatory evacuation of the town.

Arundel Selectman **David Lane** has decided not to seek re-election in June after serving 21 straight years on the board.

Newcastle Selectman **Art Mayers** has resigned after serving just more than one year. The resignation was effective immediately and Mayers did not give a reason for his decision. A special election was scheduled for May 22 to elect a successor.

Carlo Puia has been named Rumford town manager, replacing interim manager **Len Greaney**. Puia, who has worked as the town's tax collector for the past 13 years, held off more than 20 other candidates to get

the job. The vote was unanimous. Puia will continue as tax collector until the June municipal elections, as required by law, and then begin his new job as manager.

Dexter Police Chief **Arthur Roy** resigned effective May 1 after five years, saying he wanted to retire and let someone else do the job. Roy, 63, is a former member of the State Police. Sgt. **James Emerson** has been named interim chief until a permanent replacement is hired.

Sebago selectmen have named **James "Jim" Smith** as town manager, affirming his performance as acting manager for five months after **Robert Nicholson** resigned last November. Smith had worked as the town's code enforcement officer since 2006. He was chosen to "fill in" as manager last fall.

The Town of Camden has been

recognized by the Government Finance Officers Association of the United States and Canada for excellence in financial reporting. The Certificate of Achievement for Excellence in Financial Reporting was awarded to the town and the Award of Financial Reporting Achievement went to the Finance Director **Carol Sue Greenleaf**.

Bridgton Selectman and former Police Chief **Robert "Bob" Bell** died of skin cancer April 28 at the age of 72. Bell, a U.S. Air Force veteran, served as the town's police chief for 32 years, from 1972 until his retirement in 2004. Bell introduced the idea of the now-popular Law Enforcement Torch Run as part of Maine's Special Olympics and remains the only Maine police officer to be inducted into the International Law Enforcement Special Olympics Hall of Fame. 



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News *From Around the State and City Hall*

Frenchboro: The tiny island town off Mount Desert Island was featured on the Oprah Winfrey Show in late April. Winfrey was seeking a small and unique community to feature and one of her producers remembered Frenchboro from a visit several years ago. The town has a year-round population of about 50 people.

Hamlin: A small U.S. Customs house will be rebuilt in this northern Aroostook county border town under the federal stimulus package (aka, American Recovery & Reinvestment Act) recently enacted by Congress. In all, Maine will receive almost \$19 million for border protection and improvements.

Kennebunk: Selectmen in mid-April rejected a proposed no-idling ordinance drafted by its Energy Efficiency Advisory Committee. Idling laws exist in 32 states, but only two Maine municipalities presently have local ordinances: Bar Harbor and Portland.

Millinocket: Town councilors are poised to sign a resolve calling for the Legislature to abolish the Land Use Regulation Commission and to shift its responsibilities for the state's unorganized territories to the 16 county commissions and the legislative committee that oversees forestry and agriculture. There are six bills pending in Augusta that would either eliminate LURC completely or significantly reduce its authority.

Milo: The town will receive a \$150,000 state grant to help rebuild the downtown area following a devastating arson fire last year. The town also has been awarded \$350,000 under the state Safe Streets program, and another \$222,300 grant to build two public parks.

Roxbury: The Federal Aviation Administration has reversed its initial rejection of 13 of 22 wind turbines proposed for Record Hill in mountainous western Maine near Rumford. The recent reversal was based on the government originally getting incorrect height measurements. The FAA said none of the turbines pose hazards to air traffic.

Saco: The police department welcomed its first canine in a decade in mid-March and expects the 1-year-

old Malinois to eventually help local officers during drug searches. "Ranger" will get some on-the-job training over the next few months by Officer Nicholas Stankevitz, who was selected as the dog's handler.

Sanford: Voters in eight towns have endorsed a plan to contract with Sanford for emergency dispatch services rather than pay a 42 percent increase for state dispatching. In addition to the eight surrounding towns, Sanford also dispatches for the York County Sheriff's Office.

St. Agatha: Spring flooding caused raw sewage to mix with stormwater and drain into Long Lake. The town needs \$700,000 to replace an old sewer pipe, among other improvements, according to engineers hired by the town to help find solutions to the problem.

Van Buren: The Maine Department of Environmental Protection has indefinitely closed the burn area at the town's transfer station after allegations of illegal burning. Town officials are working with DEP staff to consider whether the burning operation should be shut down permanently.

Waterboro: Selectmen's proposed 2009-10 budget, which goes to town meeting in mid-June, could include cuts in municipal staff schedules, reduced

hours of service and volunteer coverage of fire and rescue calls. The town is looking for about \$700,000 in savings as revenues drop and costs rise.

Waterville: The city has received a \$500,000 Downtown Revitalization Grant from the state. Among other efforts, the grant money will help finance a gateway plaza to the city's trails system, provide handicap accessibility to the Two Cent Bridge and build walkways. Officials hope to attract new businesses and jobs by improving its downtown and waterfront.

Wells: Selectmen voted 3-2 in March to accept a 3-year union contract for municipal staff. The new bargain calls for a 3.5 percent pay raise each of the three years, but increases employees' share of insurance costs from 5 percent to 15 percent over the life of the contract. The agreement covers 22 unionized workers.

Westbrook: Citing the strained economy and fear of layoffs, all five labor unions representing almost 150 city employees have voted to give up a 3-percent pay raise in the coming fiscal year. Employees will get extra time off next year and a delay in paying higher insurance costs as part of the agreement, which is projected to save the city about \$200,000. [ml](#)

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Municipal Bulletin Board

NOMINEES SOUGHT

Municipal officials interested in serving on Maine Municipal Association's Executive Committee should complete a Statement of Interest Form, which can be found on the MMA website (see address below), and forward it to the MMA Nominating Committee for consideration. Nominations are being accepted until 4:30 p.m. on Friday, June 5, 2009.

MMA President Galen Larrabee has appointed the following people to the 2009 MMA Nominating Committee: Anne Swift-Kayatta, (Chair), Councilor, Town of Cape Elizabeth; Errol "Abe" Additon, Selectman, Town of Leeds; Margaret Daigle, Manager, City of Old Town; George "Bud" Finch, Manager, City of Eastport; Roger Katz, Mayor, City of Augusta.

The MMA Nominating Committee is charged with putting forth a "Proposed Slate of Nominees for the MMA Executive Committee" for election by the municipal members of MMA. The Executive Committee is the Association's corporate board, consisting of 12 elected and appointed municipal officials representing the interest of member municipalities throughout the state. The Executive Committee has overall governance and fiduciary responsibility for the Association, its annual operating budget, and the development of policy and priority initiatives.

The Nominating Committee is scheduled to meet on May 14, and June 10. At the second meeting, the Nominating Committee will review nominations and interview candidates for the Vice President position.

For further information please visit the MMA Website at www.memun.org. Information is available relating to the MMA Nominating Committee process, timetable, and access to the Statement of Interest Forms for the MMA Executive Committee and Vice President positions. If you have any questions, please do not hesitate to contact Theresa Chavarie at 1-800-452-8786 ext. 2211 or by e-mail at tchavarie@memun.org.

ELECTED OFFICIALS WORKSHOP

The month of June kicks off MMA's 2009 series of the Elected Officials

Workshop (EOW). The workshop will be offered on June 16 at Spectacular Events in Bangor and on June 17 at the Holiday Inn Express in Saco.

This workshop will include information regarding municipal liability, the Right-to-Know law, home rule and ordinance authority, and other basic issues for selectmen and councilors. The EOW is especially helpful to newly elected officials.

Each workshop runs 4:30 p.m. – 8:30 p.m. Registration is \$40, with a half price discount for newly elected officials.

For more information, contact MMA's Educational Services office, 1-800-452-8786 or go to the MMA website, www.memun.org

PB-BA WORKSHOP

MMA will offer its Planning Board/ Board of Appeals workshop in Ellsworth

on June 24. This will be the only summer presentation of the PB-BA workshop and will be held at the Holiday Inn in Ellsworth.

For more information, contact MMA Educational Services office, 1-800-452-8786. You can register online at www.memun.org

BASIC EXCISE

A Basic Excise Tax Workshop will be held on June 11 at the Hollywood Slots Hotel & Raceway in Bangor. This workshop is sponsored by Maine Municipal Tax Collectors' & Treasurers' Association.

The instructor is Gilberte Mayo, town treasurer in Lincoln. Registration is \$45 for MMTCTA members and \$55 for non-members.

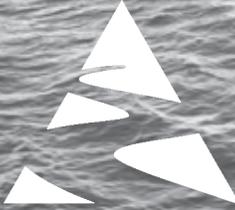
For more information, contact the MMA Educational Services office at 1-800-452-8786. www.memun.org



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DISPOSITION OF RECORDS

All local officials, especially those with recordkeeping responsibilities, should know this: *There are rules for the disposition of local government records.*

These rules are adopted by the Maine State Archives Advisory Board and can be found at <http://www.maine.gov/sos/arc/localrec/Chapter10.html> or in Appendix 2 of MMA's *Municipal Clerk's Manual*. The rules specify, by agency and category, which records must be retained, for how long and in what medium, and which may be destroyed, when and how. A violation of the rules, including unauthorized or premature destruction of records, is a Class E crime. (It's also a crime to sell or transfer government records to an unauthorized party, see 5 M.R.S.A. § 95-A.)

Municipalities no longer need to submit to the Archives Advisory Board an annual report of records destroyed. It's a good idea, though, to maintain such a list in order to document their destruction in compliance with the rules' schedule.

Requests to destroy records not specifically identified in the rules may be submitted to the Board, which may either grant or deny the request or revise the rules themselves.

Applications may also be made to the Board for approval of alternative repositories for records, such as historical societies or libraries. A number of such institutions have already been approved by the Board.

For much more about the disposition of records, including advice, resources and contact information, go to the Maine State Archives' Local Government Record Managers' homepage at <http://www.maine.gov/sos/arc/local-rec/localhom.html>. (By R.P.F.)

LOCAL PREFERENCE IN COMPETITIVE BIDDING

(Reprinted from the March 2000 *Maine Townsman* "Legal Notes.")

Question: When we purchase goods or services, we want the best price of course, but we also want to support local businesses. Can we legally solicit competitive bids and at the same time give local businesses preference?

Answer: Perhaps, but it may work at

cross-purposes with your goal of getting the best price. It may also, depending on the circumstances, be illegal.

There is no reported Maine case law on this issue, but local preferences have been upheld in some other jurisdictions where they did not substantially restrict competition or increase costs. Many of these cases, however, were decided in the 1980s, and more recent interpretations of the commerce clause of the U.S. Constitution suggest that the courts will now strictly scrutinize local actions favoring "parochial" interests or smacking of local economic protectionism. The trend is evidently away from local preferences, and municipalities should therefore be very cautious and conservative in granting them, if at all. If you insist, here's some advice:

Do not exclude out-of-town businesses

from the bidding process. Doing so makes it seem as though the only goal is protectionism, and that is an anathema to both the competitive process and the commerce clause. Such an exclusion is virtually certain to be struck down.

Give local preference a low value – no more than a few percentage points off a bid's face amount. Anything more may stifle competition, thus increasing the risk that the preference will be held illegal. Besides, price, quality and the reliability of service should be the most important considerations in awarding a bid.

Define "local business" in a way that actually furthers the purpose of local preference. Is a branch bank or a franchise-owned business really "local"? How about a consultant whose only local presence is his residence? A bona fide local preference should perhaps be limited to locally-

Municipal Calendar

ON OR BEFORE JUNE 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).

JUNE 30 — Pinball machine licenses expire on this date (8 MRSA §443).

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owned businesses with a *principal* place of business in the community.

Make sure all bidders are made aware of the local preference in advance of bidding. It is fundamentally unfair for bidders not to be apprised of all the rules for awarding bids before they estimate and submit their own. It may also be counterproductive, since out-of-town bidders may strive to make their bids more competitive if they know a local preference will be given.

For more on local preference and competitive bidding generally, including sample bid and construction documents, see our "Information Packet" on contracts and competitive bidding, available free of charge on MMA's website at www.memun.org. (By R.P.F.)

REGULATING WATERCRAFT

With the return of boating season come the inevitable complaints about the operation of watercraft on Maine's inland waters, so let's briefly review the limited role of municipalities in this area.

First, *municipalities are expressly prohibited from regulating watercraft, including jet skis* (see 12 M.R.S.A. § 13201). However, the municipal officers (selectmen or councilors) or any 25 citizens may petition the Commissioner of Inland Fisheries and Wildlife to regulate, by rule-making authority, the horsepower of watercraft on specified inland waters (see 12 M.R.S.A. § 13051(5)). Also, anyone may propose watercraft restrictions, by statute, through the normal legislative process (by contacting a legislator). The authority to regulate watercraft, however, remains exclusively with the State. (The State law prohibiting jet skis on certain water bodies was upheld last year against a claim of unconstitutional discrimination, see "State Ban on Jet Skis OK'd," *Maine Townsman*, "Legal Notes," June 2008.)

Municipalities *can* play a role in the *enforcement* of State watercraft laws, though. The municipal officers of a municipality that borders or contains inland waters may appoint a harbor master to enforce State watercraft laws on waters within that municipality's jurisdiction (see 12 M.R.S.A. § 13072). Note, however, that in order to have the power to make arrests or carry a firearm, harbor masters must complete certain pre-service and in-service training requirements at the Maine Criminal Justice Academy; otherwise, they are exempt from basic law enforcement training requirements (see 25 M.R.S.A. § 2804-I). Also, any local law enforcement officer has the authority to enforce State watercraft laws on waters within that officer's jurisdiction (see 12 M.R.S.A. § 10403).

Before deciding to appoint a harbor master for inland waters, it may be advisable for the municipal officers to confer with a State game warden to determine whether there are State laws that address the problems being complained of and which a harbor master could enforce. If not, it would be pointless to appoint one. Instead, it may be that certain problems require additional legislation or State rule-making in order to resolve them (see above).

Incidentally, the State's preemption of municipal authority to regulate also applies to all-terrain vehicles (ATVs) and snowmobiles as well as hunting, fishing and trapping. (By R.P.F.)

TAX-ACQUIRED PROPERTY: ABANDONED PERSONALTY

Question: What do we do with abandoned personal property ("personalty") we found on real estate we acquired for nonpayment of taxes?

Answer: According to 30-A M.R.S.A. § 3106, tangible personal property located in or on real estate acquired by a municipality for unpaid taxes or other assess-

ments may be disposed of as follows:

First, the municipal officers must give written notice to the owner or owners, if known, instructing them to remove the property within 21 days. Notice must be mailed by certified mail, return receipt requested. Notice is sufficient if the signed receipt is returned or the certified mail is returned as refused. If this notice is unsuccessful, or if, with reasonable diligence, the identity or address of the owner or owners cannot be determined, notice is sufficient if published twice consecutively in a daily or weekly newspaper having general circulation in the area.

Whether mailed or published, notice need not include an inventory of the property. It need only state that tangible personal property that may belong to the addressee, owner or former owner is located in or on real estate owned or controlled by the municipality, and that on contact with the municipality arrangements can be made for its removal.

If the property is not removed within 21 days after notice, or if the owner has claimed the property within 21 days but has not taken possession of it within 10 days after claiming it, the municipality may sell the property in any commercially reasonable manner or, if the property has no market value, otherwise dispose of it. Any proceeds of sale may be applied to unpaid taxes or other assessments and expenses of storage, notice and sale. Any balance and the records of sale must be reported and delivered to the State Treasurer.

A municipality has no responsibility (or liability for failure) to safeguard or otherwise preserve or protect abandoned personal property pending removal by its owner or other disposal.

For more on tax-acquired property, see our "Information Packet" on the subject, available at www.memun.org. (By R.P.F.) 

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