

April, 2009

maine townsman

The Magazine of the Maine Municipal Association



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More Funding for Water & Sewer Projects

By Douglas Rooks

Federal stimulus money continues to flow into Maine — \$1.1 billion at last count. And a substantial fraction of that funding is being allocated to wastewater treatment and community drinking water projects, local infrastructure needs that the state sees as high priorities.

Many municipal water systems have 100-year-old pipe that is now failing, and many of the sewage treatment plants built in the 1970s and '80s with Clean Water Act funding are now in need of substantial upgrading or replacement. Yet water and sewer systems often rank well down on the list of local spending priorities.

In a 2007 *Townsmen* article surveying municipal water and sewer needs, the manager of a multi-town water system in southern Maine that is aggressive in keeping up with maintenance and replacement said that the job is much tougher for municipal departments that don't have their own budgets. "I'd hate to be competing with schools or roads when it came time to do the budget," said Norm Labbe of the Kennebunk-Kennebunkport-Wells Water District. "Water mains are kind of out-of-sight, out-of-mind."

So the influx of federal money through the American Recovery and Reinvestment Act, or ARRA, is doubly welcome for many municipal plant managers. It not only puts Mainers back to work, its main purpose, but it allows at least a down payment on a backlog of projects that has become both lengthy and expensive.

In the Department of Environmental Protection's annual survey of

wastewater treatment needs, released in January, more than 100 projects are listed that amount to \$347 million for the next five years, and another \$533 million for the five years after that — some \$880 million in all.

DRINKING WATER PROJECTS

While there is no comparable list of drinking water projects, which come under the purview of the Department of Health and Human Services, needs there are also quite substantial.

Roger Crouse, who manages the Drinking Water State Revolving Fund for HHS, said that the program normally funds about \$14 million a year in projects. Some \$19.5 million in stimulus funding plus an anticipated state bond issue this fall will allow nearly \$40 million in drinking water projects to go forward, nearly three times the usual amount.

Steve Levy, who assists smaller communities as director of the Maine Rural Water Association, says the combined impact of water and sewer projects could be even greater. "We may be doing as much over the next 12 months as we usually do in four or five years," he said.

So while the ARRA funding may not be a once-in-a-lifetime opportunity, it's probably a once-in-several-decades chance, and towns and cities have quickly stepped up with plans and applications.

Lists of funded water and sewer projects have now been released, and work will soon be going on in communities all over the state.

One of the largest projects is a combined water treatment plant for the cities of Lewiston and Auburn that will cost \$7 million and is almost

entirely covered by state and federal grants and loans, according to Crouse. Building on an existing structure described by participants as highly cooperative, the Twin Cities may be eligible for a series of grants, no-interest, and low-interest loans.

In the case of water projects, everything comes under one heading. Because its program, authorized by Congress in 1996, includes principal forgiveness — essentially a grant — and no-interest loans, it dovetails closely with ARRA requirements. Crouse said that the Lewiston-Auburn project is an example of one that was not only shovel-ready, but represents an efficient response to the upgraded requirement of the Safe Drinking Water Act, originally passed in 1986, and that now requires advanced treatment for larger communities.

In addition to Lewiston-Auburn, municipalities projected to receive more than \$1 million in funding include Camden-Rockport, \$3.6 million; Livermore Falls, \$1.6 million; Orono-Veazie, \$3.6 million; Bangor, \$1.8 million; Passamaquoddy Water District, \$1.5 million; and Belfast, \$1.3 million. The Portland Water District will receive an array of funding for several separate projects that total \$4.5 million.

There are more than 60 projects in all, with a substantial backup list if any of the current candidates cannot meet deadlines or other requirements.

Crouse said that the Camden-Rockport project is an example of how long-contemplated work can be accelerated to meet the requirements of the federal program. It employs an innovative design-build model that will enable work to go forward this spring

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

even as the final details are being pinned down.

WASTEWATER TREATMENT

On the sewage treatment side, the ARRA list includes 23 projects that will collectively use \$29.1 million, according to Steve McLaughlin, director of the Clean Water State Revolving Fund for DEP.

McLaughlin explains that DEP's program, which dates to the original Clean Water Act of 1972, has different provisions than the drinking water program, so another round of project funding can be expected once the state bond issue is authorized. The DEP program doesn't include principal forgiveness or zero-interest loans, so it tends to rebuild a bigger revolving fund balance from repayments on previous loans. This year, at least \$52 million will be available.

While collectively, there's a lot more money this year for wastewater treatment than most, there's still a substantial backlog. From the stimulus, "We're awarding \$30 million for projects, but there's at least \$300 million that needs to be done," McLaughlin said.

Some of the funding for sewer projects is going to larger communities that are required to meet the

Combined Sewage Overflow (CSO) standards now included in the Clean Water Act. The name refers to the stormwater runoff that used to bypass treatment plants during high water, but is now captured in holding tanks and treated during low-water periods.

Bangor will be getting a total of \$2.84 million for storm water management projects, while Biddeford will qualify for \$2.6 million in sewer separation CSO projects. Cumberland will receive \$2.1 million, Ellsworth \$2 million, Limestone \$3 million, Machias \$1.2 million, Oakland \$1.7 million, Winterport \$1.8 million, and Portland \$3 million. Machias, Winterport, and Limestone will be upgrading their treatment plants, while Ellsworth and Oakland are funding force mains.

The alternate list is even longer. Portland, for instance, applied for another \$11.9 million in projects. McLaughlin said that it's unlikely that many, if any, of the alternate projects will be funded by ARRA, but they will be eligible for the round of state-supported loans later in the year.

Both the HHS and DEP lists have strict deadlines attached. Funds are supposed to be committed within four months, and construction should start between April 30 and November 30 of this year.

RURAL DEVELOPMENT ASSISTANCE

The timeline at the Rural Development Agency in Bangor, a program of the federal Department of Agriculture, is a little less demanding, and the managers of the various programs – and the municipalities involved – are working out what the best deals might be for each community.

"I'm really excited about this program, and so are most of our towns," said Ron Lambert, the Bangor office manager for RDA.

RDA isn't bound by the four-month "shovel ready" terms for the other agencies, which require environmental permits and engineering to be in place. While funds need to be obligated within six months, actual construction may take place next year, and the agency is processing requests as they come in, he said.

The way the RDA program works is that \$2.4 billion is assigned nationally, and, potentially, all qualifying Maine projects could be funded in the first round. It's not yet clear how much money will be committed, but Lambert said \$20 million is a reasonable estimate, of which \$5 million could be outright grants.

RDA loans are limited to communities of 10,000 population or less, so

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it targets the small rural systems that often have the most difficulty sticking to maintenance and replacement programs. Steve McLaughlin commented that while most larger municipalities with full-time treatment plant staffs have generally kept up to date, that's not always true for smaller systems. "We trying to encourage better asset management plans," he said. "The investment we made earlier should be maintained.

After the initial allocations are made, the remaining RDA money will be pooled and could be available to states like Maine that have more projects on a waiting list, Lambert said. This is a feature of the regular RDA program that has often benefited Maine.

Lambert said that regular meetings have taken place with representatives of RDA, DEP, HHS and the Department of Economic and Community Development, which administers the Community Development Block Grant program. This coordination allows towns to shop for the best deal, often combining funding from RDA and the state programs. "We're very fortunate

to have this kind of cooperation in Maine," he said.

Lambert encouraged towns that have not yet applied to consider doing so. Another RDA program provides low-interest loans for other municipal projects, such as fire stations, town halls and public safety facilities, and can even assist non-profits such as hospitals. These loans, at a fixed rate of 4% or 4.5%, are for unusually long terms, up to 30 years for municipalities and 40 years for non-profits, so payments are affordable. There's usually about \$4 million available annually, but ARRA should provide another \$7.5 million.

A ROBUST EFFORT

Another factor that has created a relatively robust Clean Water Act program in Maine is that state funding is provided through bond issues for the required match to federal dollars. In other states, loan repayments are taken for the match, which accordingly reduces the amounts that can be loaned out in subsequent years.

Still, it's questionable whether even

the addition of lots of stimulus dollars will change the aging infrastructure equation in the long term.

In a Summer 2008 issue of Maine Policy Review, Andrew Fisk, director of DEP's Bureau of Land and Water Quality, noted that the value of federal funding for the revolving loan funds dropped 39 percent during the Bush administration. "The recent reductions in absolute dollars between 2003 and 2007 have meant that the money available to Maine to build its loan fund to a permanently sustainable basis has declined from \$10.6 million to \$5.3 million, annually," he wrote.

Congressional budget committees were then projecting that the program might end by 2013, which Fisk said would leave the state short of the money necessary to keep the loan fund going permanently.

While this federal budget decision is subject to review in a new administration, it suggests some of the continuing challenges facing towns and cities that must ultimately carry out clean water and drinking water directives.

There is some evidence that feder-

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al priorities could be changing. In the first Obama administration budget, for instance, there's a substantial increase in the request for Safe Drinking Water Act grants, Crouse said. If appropriated at the requested level, it could increase the current level of federal assistance by as much as 50 percent, which could in turn fund "a substantial increase" in the state loan program. The state and federal program managers have differing estimations of how far the stimulus funding, and a relatively robust state bond package, might take water and sewer infrastructure in the years ahead.

Steve McLaughlin at DEP said that "the new money is nice to have, but it's only a start" on what will eventually need to be done.

At HHS, Roger Crouse agreed. "It's not really about getting caught up, but about not falling further behind."

Steve Levy at the Rural Water Association strikes a positive note in saying, "This is a lot of money compared to the funding we've been seeing." He said that "it bites off a chunk" of eventual funding needs, and it does so in a way much more advantageous

to local taxpayers and ratepayers, who would otherwise be bearing the costs themselves.

POTENTIAL BOTTLENECKS

As is often the case when gearing up for a big new effort, not everything may go according to plan. "There will be some bottlenecks," Levy said – though exactly where may occur is hard to predict. Simply because the timeline for construction is so deliberately compressed mean a possible shortage of labor, materials, or both.

Crouse wonders about the "Buy America" amendment added to ARRA by Congress at the last minute. Finding American-made water and sewer pipe won't be a problem, he said, but finding advanced electronic components used in water treatment systems may be. "Some of these things we just don't make here," he said.

While waivers to the requirements are possible, Crouse wonders how long that will take – particularly since the overall purpose of ARRA is to get people back to work quickly. He said that the Office of Management and Budget is working to provide some clarity to

what he terms "a poorly written document," but such guidance had not arrived by early April despite several promises that it was coming.

Another feature of the bill that will have some impact is the Davis-Bacon Act, or "prevailing wage" standards that must be followed. Crouse said that it won't have a big impact on contract prices, but it does provide some reporting challenges for municipalities and contractors.

Finally, there's the question of whether there will actually be enough contractors, and enough staff, to carry out all the work planned for this year.

Levy said that most construction firms have downsized their workforces over the past 18 months, and most will welcome the opportunity to re-hire. But whether there's enough trained labor to do the job is uncertain. "We don't know that yet," he said. "But when the bids go out, we'll begin to find out."

Overall, he said, "This is a big pot of money, and it represents a real opportunity for rural communities to fix their infrastructure on favorable terms." 



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Cemetery Maintenance

By Lee Burnett

A well-kept cemetery is a community asset. All at once, it's a family gathering spot, a trove of local history, green space, and a site for passive recreation.

And yet cemetery maintenance ranks pretty near the bottom of most municipal priority lists. Service on a cemetery committee is the epitome of laboring in obscurity. This unsung responsibility is one that cemetery buffs have labored long to get municipalities to take more seriously.

"You gotta take pride," said Steve Burrill, the dean of cemetery maintenance in Maine. Burrill is a third-generation superintendent of private Mount Hope Cemetery in Bangor and a long-time officer in the Maine Cemetery Association, an association for both municipal and private cemeteries. "These are places of community history and should be maintained and taken care of. Don't put it on the back burner. But a lot do because of finances. They view cemeteries as necessary evils or they put them into the parks and rec [department]. It goes on and on and on."

Cemeteries in Maine are old. About 8,000 of the estimated 9,000 cemeteries in Maine are older than 1880, according to Roland Jordan, a cemetery buff from Auburn, who serves as treasurer of the Maine Old Cemetery Association. No one knows the number of municipal cemeteries because the definition varies, he says. It may include cemeteries owned by the town and still open for burials. It may include inactive cemeteries that the town maintains. It may also include

orphaned cemeteries that have become municipal responsibilities by default because associations disappeared or families cannot be found.

VANDALISM, GRUBS, DOGS, EQUIPMENT

Mowing some lawns... how difficult can cemetery maintenance be anyway, you ask. Actually, it's more involved than many people assume, mainly because people's feelings about cemeteries run deep and there are various constituencies involved. For practical help, there are two associations dedicated to the care of cemeteries. The Maine Cemetery Association (<http://www.maine-cemetery-association.org>) is a professional organization and trade group with about 66 members. The Maine Old Cemetery Association (<http://www.rootsweb.ancestry.com/~memoca/moca.htm>) is more of a research and self-help group dedicated to the "preservation of Maine's neglected cemeteries." Its membership includes cemetery buffs, genealogists, and owners of family burial plots and has about 850 members. The organization is currently recording every inscription in every cemetery and has so produced volumes for York County and Kennebec County. Both are clearinghouses of practical advice, such as where to find the proper epoxy for repairing broken stones, and how to clean accumulated lichen off stones (gentle hand washing is preferred over a power washer).

Vandalism continues to be an expensive, intermittent problem. Many cemeteries combat the problem by encouraging visitors – whether school children doing history projects or recreation-minded citizens looking for

fresh air, said Burrill. "If you get more use, vandalism tends to be less," he said. "Stay on top of it. A lot of people think it's not a big deal if kids go in and topple 20 stones. But when it costs \$800 to \$1,000 to repair a stone, it is a big deal."

A grown bane of many cemeteries is grubs – chiefly the larvae of European chafer and Japanese beetle. These pinky-sized critters feed on the roots of turf, turning lawns into brown dead zones and attracting predators like crows and skunks, which make matters worse by digging holes to get to the grubs.

"It's awful... All you can do is reseed and hope" said Joe Dumais, superintendent of Evergreen Cemetery in Portland. One new section of the cemetery has been ravaged by grubs so continuously that "we've never been able to establish grass." Dumais said he believes climate change is contributing to a migration of the grubs northward. "It's gotten worse. Before, it was just the Japanese beetle, now with the shorter winter and warmer climate, the European chafer has come in. People in Massachusetts began telling us three or four years ago to get ready. It's awful."

Dumais said biological controls like milky spore can't survive in Maine's climate and nematodes are prohibitively expensive in large-scale applications. "No matter what anyone tells you, there is no biological control," said Dumais. There's a growing likelihood that the grub problem is going to make Dumas unpopular with someone. He's under pressure from cemetery plot owners to keep the lawn looking nice, but he's under pressure from environmentally conscious folks not to use pesticides.

Lee Burnett is a freelance writer from Sanford.

"It's a tough dilemma, we've made no decision yet," he said.

Dogs pose another dilemma. Dog walkers love cemeteries, but policing dog poop disposal takes constant effort on the part of cemetery managers. Dogs are banned from many cemeteries. Evergreen Cemetery allows dogs, but enforces rules on their owners. "Dogs must stay on the walk, be on a leash at all times, and their owners must clean up after them. It's a real challenge, but we're here all the time and can manage it. We can make it work," said Dumais.

Cemeteries tends to be hard on mowing equipment – all that backing and turning and riding on uneven slopes. Surprisingly, there is no lawnmower specifically designed for cemeteries, says Chris Stilkey, a Freeport landscaper who specializes in cemetery care. His company manages 16 cemeteries in the suburbs north of Portland – a dozen of which are town-owned. His company handles monument installations, lot sales, maintenance and superintendent services.

Stilkey buys standard mowers but before putting them into use, he modifies the mower decks making them easier to raise and lower and installs deflection pieces so the mower doesn't damage a stone bumping against it. "Our warranties are voided the day we buy the equipment," Stilkey says.

Just as cemeteries are hard on equipment, equipment can be hard on cemeteries. Stones are easily scratched by careless landscapers operating unmodified equipment, says Stilkey, who has seen his share of damage. Stilkey says he holds his employees personally responsible for any scratched stone. Stilkey is full of stories of landscapers who through nothing more than carelessness "banged up or knocked over more stones than we've fixed."

FINANCES

The biggest challenge in cemetery maintenance is financing. The best-run cemeteries have endowments that steadily grow through "perpetual care" assessments on the sale of plots. But unless those endowments were adequately capitalized and carefully managed, they often fail to generate sufficient revenue.

The Rule of Thumb for determining the adequacy of an endowment is whether it can support the future care

of the entire cemetery. "If you stopped selling lots today, do you have enough to take care of everything now and forever? That's the whole key," said Burrill at Mount Hope Cemetery in Bangor, a 35-acre cemetery with 100 acres remaining for expansion. Mount Hope recently increased from 30 to 50 percent – the percentage of plot sale revenue that goes into its perpetual care endowment.

Most towns struggle with inadequate endowments or no endowments and rely on taxpayers to make up the difference. It's not uncommon for a community to have a single active cemetery where lot sales generate new income and several old cemeteries closed to burial – and therefore generating no new revenue to support maintenance.

North Yarmouth, for example, has three town-owned cemeteries, only one of which is fully covered by a per-

petual care endowment. As Debbie Allen Grover, the North Yarmouth office manager, points out: the town's maintenance responsibilities include all cemetery plots, not just the adequately financed ones. "You can't just mow the lawn in half the cemetery that's in perpetual care," explains Grover. Sales of burial plots is the foundation of healthy finances, says MCA's Burrill: "If you can't sell lots and generate revenue, what have you got? You've got nothing."

Compounding the situation for municipalities is pressure to take responsibility for abandoned private cemeteries. The pattern of neglect usually begins with a family moving away or an association disbanding or disappearing. (Sometimes, but not always before disbanding, an association turns over authority and endowments to the community.) If maintenance is neglected, sooner or later, there's a

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hue and cry about the sorry condition of the cemetery and someone ought to do something about it. This can become a no-win situation for a town. The town may not be able to afford to accept this new responsibility, but also cannot easily refuse because towns are required by law to take care of veterans graves, which are found in nearly every cemetery. Since towns are already taking care of veteran's graves they can often be persuaded to assumed responsibility for more, explains Joe Donavic, who serves on the cemetery commission in the Town of Durham, north of Portland.

"By law, if there's a veterans grave we have to keep that grave maintained, have a flag you don't just do the one [veteran's grave], you do them all," he said.

Durham has informally inherited the maintenance of 13 private cemeteries, concentrating its efforts on the most visible cemeteries on the major routes in town, he said. The town is also researching the legalities of whether the town can sell a lot in a formerly private cemetery. This is prompted by a citizen's request to purchase a burial plot. In this case, Durham officials are recommending that the family making the request double efforts to locate the original cemetery association before asking the town to sell a lot, a request that might require a town meeting decision, Donavic said.

Reopening an old cemetery for burial might seem like a considerate thing to do, but extreme care must be taken in identifying the unused parts of a cemetery. Maps aren't always available or accurate. "That's my worst nightmare: we sell a lot to someone and they start digging and find remains. What a nightmare that would be," said Donavic. He said it's not easy to determine the unused parts of a cemetery even with a probe. Sonar devices are available, but they are "very expensive," he said.

An extreme example of cemetery abandonment occurred in Phippsburg, a town of 2,100 residents on the Kennebec River south of Bath. The town is home to three town-owned cemeteries and 100 private ones, many of which have been neglected so long that they're grown up in brush and trees. Bringing an abandoned cemetery back to decent shape is labor intensive - cutting brush and repairing

stones. (Repairing stones often means first finding them by means of probes and digging them up because a fallen stone is quickly obliterated by leaves and eventually layers of humus.)

"Trees are the worst enemy of old cemeteries," said Jessie Sutfin, a cemetery buff in Phippsburg. "The leaves come down and when stones fall down, they cover them up. Sometimes you have to poke down in earth four to six inches underground to find them.

"An effort to reclaim these historic sites and was launched by elementary school teacher Merry Chapin, who got her students involved in learning about town history while doing some restoration work. The rejuvenation campaign was taken over by several families and expanded. Their effort have even been supplemented by labor from furloughed jail prisoners. The town has rejected calls for it to assume more direct responsibility. "

The town is wonderfully thrilled to see it done, but they've got no money for it," said Sutfin, one of the prime organizers. To date, volunteers have reclaimed about 40 cemeteries by removing brush and repairing broken or fallen down stones. "It's a lot of fun, if that kind of thing interests you," said Sutfin. But she worries that the effort is slowing down. Sutfin said she has no advice on how to encourage volunteerism. Older folks seem to be the most interested and many of them do not have the energy and strength for cutting brush, she said.

In spite of the tight finances, some very small towns manage their cemeteries very well.

The town of Detroit - a community of 800 souls west of Bangor - gets raves from Cheryl Patten, president of the Maine Old Cemetery Association, who has visited Detroit's cemeteries while conducting field work for the inscription project. "Absolutely, beautiful, marvelous," she said. "Every cemetery is well kept. They have a number of old stones and they seem to making an effort to make repairs."

Detroit appropriates about \$6,500 in tax dollars each year to support its three town-owned cemeteries, according to Selectman Joe Cianchette. Town Meeting voters just recently agreed to set aside an additional four acres of town land for a new cemetery when the others get filled up.

Selectman Cianchette says he's

pleased that people notice the fine condition of the town's cemeteries. He attributes it to the care taken by contractor David Hart, the unstinting support of Town Meeting voters ("we pay pretty good") and townspeople's abiding respect for their own history. "There are a lot of old people here, including me," said Cianchette. "We're historically minded too... There's never a question [raising funds], no problem, they'll raise the money, We've never had a problem."

QUALITY OF PLACE

Cemeteries are not just burdens to be borne. They are also appreciating assets.

They embody "quality of place," that authentic character that is a magnet for residential and commercial growth in a mobile economy. Larger cemeteries are capitalizing on this trend and advertising themselves as attractions. Laurel Hill Cemetery in Saco plants 14,000 daffodil bulbs each year and in early May becomes a must-see place for locals and tourists alike. Smaller cemeteries are also getting into the act. Walnut Hill Cemetery in Yarmouth, the largest of three town-owned cemeteries is open to walkers 24/7. It's safe and you don't have to deal with traffic," said Debbie Grover. "It probably helps to deter vandalism."

The leader in the public use of cemeteries is Evergreen Cemetery in Portland, the largest cemetery north of Boston and an active place year round. The cemetery draws picnickers, dog walkers, cross-country skiers, birders, and history buffs. The cemetery paths are publicized by Portland Trails, which publishes maps and maintains a network of 30 miles of urban trails. During warbler migration in early May, the Maine Audubon Society leads guided walks in the cemetery. The cemetery is now taking recreation to new level with development of trails throughout its 100 acres of woodlands. The city has already hired a forester who has been amazed at the number of large old trees in the woods.

"Cemeteries used to be much more places for picnics and social events. We're going back to them as active places," said superintendent Dumas. "We encourage it, we don't let people have big parties, but to enjoy a beautiful place, get away for a walk, it's a great place." 



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March Town Meeting Roundup

By Liz Chapman Mockler

The 2009 annual town meeting season got underway in March as thousands of voters across Maine debated and mostly approved the municipal budget requests proposed by selectmen and local budget committees.

Despite concerns about the bad economy, particularly steep declines in revenue in some communities, voters remained frugal yet practical as they searched for places to cut already bare-bone budgets.

From newspaper reports around the state, it appears that most municipal budgets approved in March did not exceed LD 1 limits. Now four years old, LD 1 places limits on how much property taxes may increase annually in a community, unless the legislative body of that community gives its permission through a special voting process to go over the limit. In fact, in many municipalities, proposed budgets were lower than 2008 spending, and sometimes significantly below the LD 1 limit.

Although some of Maine's largest municipalities, such as Portland and Augusta, are cutting jobs through layoffs or attrition, for many of the smaller communities, with few municipal employees, a more common approach involved the freezing of wages and other types of personnel cost-savings such as reducing overtime and greater employee cost-sharing of health insurance benefits.

Many towns offered budgets that maintained the tax rate for municipal services, even though some county and school tax bills are still weeks from being finished. Voters in only a handful of towns were asked to override the LD 1 limit and even fewer refused to

do so.

In China, voters debated a proposed LD 1 override for nearly an hour before approving spending \$82,000 beyond the limit, mostly because of emergency dispatch costs and reduced state funding.

Other town residents were too antsy about the national and state economies – and their impact locally – to approve any major new purchases or projects.

Belgrade voters, for example, denied a request for \$75,000 to study and develop a plan for a new town office/library facility. The proposed amount was dropped to \$60,000, but voters still weren't biting. The tally was 116-145.

Voters in Hiram rejected a proposal to buy the local elementary school for \$220,000 and another to spend \$50,000 to study creating a town public works department. In Whitefield, residents voted against a new \$750,000 town office building and agreed to shut off all streetlights to save about \$3,800.

DECLINING REVENUE

One thing all of the town meetings had in common was discussion of how to get along with less municipal revenue sharing and transportation aid from the state. Meanwhile, when school numbers are firmed up later in the spring, some communities, particularly those that rejected school consolidation plans, will see lower amounts of General Purpose Aid (GPA).

And there's more bad news. Excise tax revenue is falling as fast as the crippled car industry while some town surplus accounts have been nearly drained and can no longer be a fall back in keeping local property tax rates steady.

In Andover, voters were told that even a four percent spending drop

would not lower taxes because the town has no surplus to contribute this year and both the county and school tax bills are expected to come in higher than last year.

Andover municipal workers won't receive pay raises this year and will be asked to pay a higher amount toward the cost of health insurance under the budget passed last month.

Experts don't foresee a rebound in the economy for at least another year and a second wave of home foreclosures looms over every town.

MAJOR SPENDING

Despite the general voter unease, residents in several communities approved large projects or other major funding requests to enhance their town government services.

Farmingdale residents authorized selectmen to acquire property along Maine Avenue for a new multi-purpose facility that would house the fire station and likely a new town office.

In Unity, voters agreed to take \$125,000 from surplus to finance the town's first professional revaluation, while Sidney taxpayers debated buying a new \$350,000 pumper truck and ultimately agreed it was necessary.

Greene residents supported taking \$100,000 from capital reserves to finance all aspects of building a boat launch on Allen Pond, expecting that the state will also help with funding.

And then there were a few towns like Jefferson, where voters approved various projects but then rejected raising taxes to fund them.

TRANSPORTATION

A major and often-controversial issue at town meeting is whether to pave roads and, if so, which ones. This town meeting season, voters were finicky, even with small requests, but a number of major road projects were approved.

Houlton voters agreed to borrow \$1 million for roads and sidewalks and Brooks voters will pony up \$500,000 for road paving in 2009. Newcastle voters, meanwhile, held a long steamy debate over whether to borrow \$1 million over five years to rebuild three town roads. They eventually agreed to the work and to raising \$250,000 a year for debt service for the project. Solon voters agreed to borrow \$485,000 over 36 months toward a total project of \$733,000 to pave two roads.

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

Other town voters rejected transportation requests, including Andover residents, who withheld support for borrowing \$250,000 to repair several town roads; and Sweden, where voters reduced winter road maintenance by \$25,000.

ORDINANCES

A number of towns amended their shoreland zoning ordinances, while other voters rejected other kinds of ordinances. Canaan voters, for example, defeated a proposed commercial-development review ordinance offered by the town's planning board. The vote was nearly 2-to-1 against the plan, which would have affected projects 18,000 square feet or larger. Bremen voters turned down two proposed changes to the land use ordinance, including reducing the waterline setback limit to 100 feet.

Detroit updated its shoreland zoning ordinance, while also revising its restrictions on junkyards.

Towns that voted against restrictions on wind farms included Hebron, where residents rejected a proposal to set guidelines for property owners who wanted to construct windmills. Voters

in Sedgwick rejected a moratorium on telecommunications towers, wind turbines or antennas in excess of 50 feet in height. In Minot, residents also rejected new restrictions on wind turbine development – arguably one of the most contested issues in local government over the past year.

But voters in Thorndike approved a 6-month moratorium to give the town time to drafts rules for wind turbine development.

Searsport residents passed an ordinance to keep convicted sex offenders

at least 500 feet from public parks and playgrounds. By state law, neighbors are notified when a sex offender has moved to an area of town.

The second wave of annual town meetings strikes in May and June for those communities that operate on a July-June fiscal year. For these town meetings, more information will be available to better align local budgets with state and school spending plans and thereby give municipal officials a better handle on the level of property tax collections required. [mre](#)



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Saving America's Infrastructure

By Roger L. Kemp, PhD

The term "infrastructure" refers to the basic facilities and installations necessary for society to operate. These include transportation and communication systems (e.g., highways, airports, bridges, telephone lines, cellular telephone towers, post offices, etc.); educational and health facilities; water, gas, and electrical systems (e.g., dams, power-lines, power plants, aqueducts, etc.); and miscellaneous facilities such as prisons, asylums, national park structures, and other improvements to real property owned by government.

In the United States, the infrastructure components are divided into the private and public sectors. Public facilities are owned by the municipal, county, state, and federal governments. There are also many special district authorities, such as the Port Authority of New York and the Los Angeles Department of Water and Power.

The American Society of Civil Engineers (ASCE) – the only professional membership organization in the nation that has graded our nation's public infrastructure – recognizes 15 major categories of government infrastructure. These infrastructure categories include: Aviation, Bridges, Dams, Drinking Water, Energy, Hazardous Waste, Navigable Waterways, Parks and Recreation, Rail, Roads,

Schools, Security, Solid Waste, Transit, and Wastewater.

MANAGING AMERICA'S INFRASTRUCTURE AND FISCAL CRISES

All levels of government are facing a new era of capital financing and infrastructure management. Revenues that once were available for capital construction, restoration, and maintenance, have either diminished or evaporated entirely in recent years. Portions of the public infrastructure that were once adequate are now experiencing signs of distress, even decay, with no end in sight to the ongoing deterioration of our nation's infrastructure.

Local and state, as well as the federal, governments are subject to unprecedented fiscal demands for public services in an environment of limited taxation and dwindling financial resources. State government deficits are increasing. At the same time, the federal deficit is at an all-time high – exacerbated by the fact that our nation is concurrently financing an undeclared war in the Middle East and suffering from a weakened economy. These negative fiscal circumstances, experts believe, are likely to continue for many years to come.

Congested highways, overflowing sewers, and corroding bridges, are constant reminders of the looming crisis that jeopardizes our nation's prosperity and the quality of life for our citizens. With new grades published in 2005, the condition of our nation's infrastructure has shown little to no improvement since receiving a collective grade of C- in 1988 – and with some areas sliding toward failing grades.

The American Society of Civil Engineers' 2005 Report Card for America's Infrastructure assesses the same categories as it did in the previous survey. The grade comparisons of America's infrastructure between the ASCE's original survey in 1988 and its most recent survey in 2005 are highlighted below.

- Aviation – Received a grade of B- in 1988, and a grade of D+ in 2005.
- Bridges – Received a grade of C+ in 1988, and a grade of C in 2005.
- Dams – While not graded in 1988, they received a grade of D in 2005.
- Drinking Water – Received a grade of B- in 1988, and a grade of D- in 2005.
- Energy – While not graded in 1988, this category received a grade of D in 2005.
- Hazardous Waste – This category receive a grade of D in 1988 and in 2005.
- Navigable Waters – While not graded in 1988, they received a grade of D- in 2005.
- Parks & Recreation – While not graded in 1988, they received a grade of C- in 2005.
- Rail – While not graded in 1988, this category received a grade of C- in 2005.
- Roads – Received a grade of C+ in 1988, and a grade of D in 2005.
- Schools – While not graded in 1988, this category received a grade of D in 2005.
- Security – This category did not exist in 1988, and insufficient data is available to properly evaluate this category (i.e., this is a new category since 9/11/01).
- Solid Waste – Received a grade of C- in 1988, and a grade of C+ in 2005. This is the only infrastructure category

Roger Kemp is a career city manager, having served in California, New Jersey, and Connecticut. He is Past-President of the Connecticut Town & City Management Association, and the Monterey Bay (CA) and Connecticut Chapters of the American Society for Public Administration. Dr. Kemp has authored, edited, and been a contributing author to nearly 50 books focusing on cities, including their infrastructure. Roger can be reached via email at rlkbsr@snet.net.

to increase during its grade since the original “graded” evaluation some 17 years ago.

- Transit —Received a grade of C- in 1988 and a grade of D+ in 2005.
- Wastewater – Received a grade of C in 1988, and a grade of D- in 2005.

In short, U.S. roads, bridges, sewers, and dams are crumbling and need a \$1.6 trillion overhaul, but prospects for improvement are grim. This is the amount of money necessary over the next five years to restore and rebuild major components of our nation’s public infrastructure. The nation’s drinking water system alone needs a public investment of \$11 billion annually to replace facilities and to comply with regulations to meet our future drinking water needs. Federal grant funding in 2005 was only 10% of this amount. As a result, aging wastewater systems are discharging billions of gallons of untreated sewage into surface waters each year, according to the ASCE’s report.

And the signs of our deteriorating infrastructure go on! Poor roads cost motorists \$54 billion a year in repairs and operating costs, while American’s spent 3.5 billion hours a year stuck in traffic jams. The country’s power transmission system also needs to be modernized, the report said. While demand continues to rise, transmission capacity failed to keep pace and actually fell by 2% in 2001. As of 2003, 27% of the nation’s bridges were structurally deficient or obsolete, a slight improvement from the 28.5% in 2000. It is alarming to note, but since 1998 the number of unsafe dams in the country rose by 33% to more than 3,500.

A dozen national professional associations have officially endorsed the ASCE’s 2005 Report Card for America’s Infrastructure. Some of these organiza-

tions include the:

- American Public Works Association (APWA),
- National Stone, Sand and Gravel Association (NSSGA),
- U. S. Conference of Mayors (USCM),
- National Heavy and Highway Alliance (NHHA),
- American Road and Transportation Builders Association (ARTBA),
- Association of State Dam Safety Officials (ASDSO),
- National Association of Clean Water Agencies (NACWA), and
- American Shore and Beach Preservation Association (ASBPA).

Please refer to ASCE’s website www.asce.org for a complete listing.

NATIONAL LEADERSHIP NEEDED

The views expressed by many experts who research and write on infrastructure issues point to a general agreement on the magnitude and complexity of this problem. However, little agreement exists on a consensus on how to achieve a comprehensive nationwide solution to restoring and maintaining America’s public infrastructure. One point, though, seems obviously clear: *The necessary leadership and policy direction required to properly address this national issue must come from the highest level of government.* It is only within a national policy framework

that states, counties, and cities can work together to improve the current condition of our public works facilities. Local and state governments alone, because of their many diverse policies, multiple budget demands, and varied fiscal constraints, cannot be relied upon to achieve the comprehensive solution required to solve this national problem.

The prevailing philosophy of our national government has been to let the lower levels of government (states, counties, and cities) solve their own problems, regardless of the nature of their complexity or the magnitude of funds needed. If a solution is to be forthcoming, the political posture of our national government needs to become more positive and proactive. Assertive leadership from the federal government must make the difficult policy decisions, as well as approve the funding required, to solve our country’s infrastructure problem. Fundamental changes are needed to redirect national priorities about how public capital investments are made. Officials at all levels of government must recognize that they can no longer build public facilities without adequately maintaining them in future years.

THE FUTURE

As the severity of this issue escalates and citizens become more aware of the increased costs of postponing

NOTE: To develop the 2005 Report Card for America’s Infrastructure, ASCE assembled a panel of 24 of the nation’s leading civil engineers, who analyzed hundreds of studies, reports, and other sources, and surveyed more than 2,000 engineers throughout the nation to determine the condition of America’s infrastructure. Base grades were then reviewed by ASCE’s Advisory Council. For more details about this process, refer to ASCE’s website www.asce.org.

THE MAINE DOWNTOWN CENTER ANNOUNCES:

<p style="text-align: center;">DOWNTOWN INSTITUTE</p> <p><i>Fund Raising and Friend Raising - Session #3,</i> May 1st, 9:00-noon at the Augusta City Center, 16 Cony Street.</p> <p>The featured presenter is development specialist Sally DelGreco.</p> <p>Refreshments are served.</p> <p>Space is available. The cost is \$35; \$25 for Main Street Maine communities.</p> <p>The registration deadline is April 29th.</p> <p>For more information and registration form: www.mdf.org/downtown/DowntownInstitute.html or call Lisa at 626-3119</p>	<p style="text-align: center;">9TH ANNUAL CONFERENCE</p> <p>Join us Friday, June 5th for the Maine Downtown Conference in historic Rockland!</p> <p style="text-align: center;"><i>Downtown: Live It! Love It!</i></p> <p>is this year’s theme featuring national and statewide experts in Organization, Design, Promotion and Economic Restructuring.</p> <p>The keynote presenter is national retail marketing guru Rick Segel.</p> <p>Registration opens soon. Sponsorships are available!</p> <p>Contact Roxanne Eflin, Conference Coordinator: reflin@mdf.org or call 512-4906</p>
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a decision on public infrastructure, taxpayers may become more politically involved in solving this issue in the future. Local taxpayers cannot be expected, however, to foot the entire bill for a solution, since the majority of our country's capital assets have been constructed over the past several decades – some over a century ago – and frequently with the assistance of grant funds from our federal government. Cities, counties, and states have relative degrees of wealth based on their taxing capacity, bonding levels and ratings, and budgetary reserves. Because of this, many lower levels of government do not have the financial capability, even with increased taxation, to adequately address those issues related to restoring and maintaining America's infrastructure.

This bullet is "too big to bite" by lower levels of government alone.

It is safe to say that most citizens throughout the country already feel overtaxed by all levels of government. Even though citizens may be willing to assist financially, a major redirection of federal government funds will be required for a truly comprehensive and coordinated nationwide response to

our country's outstanding infrastructure problems and issues.

Even with some additional taxes and user fees, funding will be limited from the lower levels of government. For this reason, argue those who deal with infrastructure issues, national priorities must be established for the replacement and restoration of capital facilities for all levels of government, starting with those projects that are necessary to ensure the public's security, health, and safety. Funds from existing federal grant programs must be targeted for infrastructure projects nationwide - such as from less-important operational programs with limited or only special interest constituencies.

Our nation is not "on the road to ruin," as some experts explain, but merely going through the transition period required to properly sort-out and arrive at a politically acceptable long-term solution to this critical and complex policy issue that plagues all levels of government – federal, state, county, and city alike.

If our country's infrastructure is allowed to deteriorate even further in the future, possibly to the point of decay, the cost of resolving this issue will

escalate significantly in future years for all taxpayers. If this happens, economic development programs will also continue to suffer, and the revenues they could generate will not be available to assist in restoring our public infrastructure.

For these reasons, President Obama should make the restoration of America's public infrastructure a national funding priority. [\[m\]](#)

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Managing A Small Community

By Richard Neal

There have been many factors during the past 20 years that have changed the way of managing the small communities throughout rural Maine. Increased demand for services has created larger budgets and increased the amount of support staff. In addition, there are more State and Federal regulations. For towns that are still being managed by a part-time board of selectmen, the demands and pressures are overwhelming. Whether your town is being managed by a board of selectmen, a town manager or an administrative assistant, implementing the following functions can be important for the effective management of your community:

- ① Knowing your job. Learn your responsibilities and be committed to fulfilling those responsibilities.
- ② Be willing to provide the time to attend training sessions to become a better and more effective manager.
- ③ Be willing to ask for and accept help, when offered.
- ④ Be willing to make the hard decisions for the betterment of the town. Remember, you may not be able to please everyone with your decision.
- ⑤ Be willing to delegate tasks to others.
- ⑥ Make sure you follow through when action items are brought to your attention. Do not procrastinate.
- ⑦ Be a Leader and not a Follower. Do not wait for others to remind or tell you that certain things need to be done.

Richard Neal is a former selectmen for the Town of Acton. Neal served nine years as a selectman, first being elected in 1989.

⑧ Be tolerant and respectful of others. You may not agree with someone else's opinion or recommendation, however, be willing to listen.

⑨ Be honest and straightforward. Do not say one thing and do another.

⑩ If you say you are going to do something, then make sure you follow through and do it. Say what you mean, mean what you say, and do what you say you're going to do.

⑪ Make sure you provide the public with the opportunity to ask questions or provide comments at your weekly selectmen's meetings.

⑫ Be willing to admit that you were wrong, if you were. We are all human and subject to making mistakes.

⑬ At the beginning of the fiscal year, establish a "strategic plan". List the problems facing your community and prepare a plan with actions and a schedule for implementing those actions.

⑭ At the beginning of the new fiscal year, prepare a "calendar of events" for all the key events in the coming year. Review it on a weekly basis and add any new events as you become aware of them. This can be a great organizational tool to ensure that things get completed on time.

⑮ Provide proper oversight of your departments and committees by scheduling periodic meetings with department heads and committee chairpersons.

⑯ Maintain a "To Do" list. Do not let problems linger.

⑰ Ensure that all of your employ-

ees have up-to-date job descriptions and make sure they are reviewed annually.

⑱ Make certain you have a comprehensive "Personnel Policy".

⑲ Ensure that a copy of all ordinances, policies and procedures are readily available to the public. They need to be reviewed annually to make sure they are current.

⑳ Hold all employees and appointees accountable for their actions and for fulfillment of their responsibilities.

㉑ Provide recognition for "exemplary" work or service".

㉒ If your community has a website, make sure it is current and has accurate information.

㉓ Become knowledgeable of the basics of municipal accounting. You must be able to read and understand the various financial reports such as Expense Reports, Revenue Reports, General Ledger Trial Balance and Audit Reports.

㉔ Become fully knowledgeable of the "budget process". This starts with a budget schedule, followed by budget preparation, budget execution and monitoring of the budget to make sure "overdrafts" are kept to an absolute minimum.

㉕ Make certain the financial managers – finance director, tax collector, treasurer - provide you with monthly financial reports.

㉖ Make sure your community has a "Financial Policy and Procedures Manual". 

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People

Wilton Selectman **Norman Gould** will end his 40-year public service career in June after announcing he will not seek re-election for the first time since 1967. Gould has served as selectman in all but two of the past 42 years.

Jonathan Mahon, an Ellsworth city councilor and former school board member, has been named regional communications director for Hancock County. Mahon succeeds Linda Dunno, who resigned late last year to return to her native state of Ohio.

Jean Royle has been promoted to Palermo animal control officer, while **Shane Murphy** was named the new deputy.

Andrew Turcotte has been tapped as the new deputy fire chief and director of emergency medical services for the town of Kennebunk. Turcotte worked previously for the Old Orchard Beach Fire and Rescue Department. He is a registered nurse, EMT and former LifeFlight paramedic.

Amon Vaughan, an 18-year-old volunteer firefighter in Appleton, died March 17 in a car accident. Fire Chief David Stone said Vaughan would leave "a very big hole" both in the department and around town. Vaughan was driving to work and apparently fell asleep and crashed his pickup on Route 17, according to reports.

Partial results from contested March town meeting elections:

Voters in Strong elected **Clyde Barker** and **Rebecca Croteau** while unseating incumbent Selectman **Rupert Pratt**. Barker won 109 votes, while Croteau ran a close second with 104 and Pratt ended the day with 62.

Thorndike incumbent Selectman **James Bennett** held off challenger Travis Johnson for the position of first selectman. **Steve Fitton** was elected second selectman, and incumbent **Gerald Berry** ran unopposed for the third seat on the board.

Milo voters re-elected **Gerald Brown** and seated **Robert Ade** in a five-way race for two positions on the board of selectmen. Ade collected the most votes with 96, followed by Brown with 88.

Brooks voters elected **Arthur Butler**

to replace Selectman **Raymond Shute**, who did not seek re-election. Butler won with 43 votes, holding off a challenge by former Selectman **Ben Lufkin**, who garnered 15 votes and Kathy McAvey, who collected five votes.

Amy Chapman was elected to replace **Loretta Mikols**, formerly chairwoman of the Greenwood Board of Selectman who did not seek re-election. She collected 45 votes to defeat Bryan Dunham and Shawn Houston.

Former Warren Selectman **John Crabtree** was elected with 95 write-in votes, holding off four challengers, including Marianne Pellicani, who collected 92 votes.

Fran Head defeated Gilead incumbent Selectman **Mark Wigley** by a vote of 46-29, while incumbent Tax Collector **Beverley Corriveau** won re-election, 66-16, against challenger Cynthia Hadlen. Both are three-year terms.

Linda Gallant defeated Geraldine Richards for a three-year term on the Byron Board of Selectmen. Gallant will replace her husband, Michael, who did not seek re-election.

Washington incumbent Selectman **Donald Grinnell** was re-elected with 145 votes, while challenger Larry Esancy picked up 62 votes.

Newcastle incumbent Selectmen **Patricia Hudson** and **Ellen McFarland** held off four challengers to win re-election to three-year terms. McFarland collected the most votes with 177, followed by Hudson with 158. The

closest opponent garnered 106 votes.

Incumbent **Dorothy Johnson** was re-elected with 116 votes for another three-year term on the Baileyville Town Council, while **Jason Fowler** defeated incumbent Councilor **Tim Call** by a vote of 93-53.

Whitefield incumbent Selectman **Susan McKeen** defeated challenger David Hardman Jr. by a vote of 134-79 to win re-election to another three-year term.

West Gardiner write-in candidate **Heidi Peckham** was easily elected excise tax collector and administrative assistant to selectmen with 267 votes, replacing **Nancy O'Laughlin**, who retired this year. Peckham defeated three challengers for the job.

Kenneth Lincoln defeated one of the longest-serving selectmen in the history of Lincoln County when he out-pollied South Bristol incumbent **Donald Stanley** by a vote of 137-94.

Rod Rovzar was elected to a one-year term as Stoneham selectman, replacing **John Collins**, who resigned.

Robert Richardson was re-elected Limerick's road commissioner for a 27th consecutive year on March 13. Richardson has served as road commissioner since 1982.

Lamoine voters re-elected **Jo Cooper** to the Board of Selectman for a 3-year term, and selected **Gary McFarland**, replacing incumbent **Brett Jones** on the Selectboard. **Michael Jordan** defeated incumbent **Colene Sharkey** in the race for Board of Assessors. Balloting was on April 7, 2009. 

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News *From Around the State and City Hall*

Augusta: The state capital will receive \$100,000 in federal stimulus funding to improve its energy efficiency. Although the city was the only municipality to get a direct grant, officials said other cities and towns will get about 60 percent of the \$9.6 million expected by the state for energy efficiency. The money will be distributed through block grants administered by Efficiency Maine.

Belfast: The city has won \$1 million in federal stimulus funding toward a proposed \$1.4 million in upgrades to the city's wastewater treatment system. The city also will receive a 20-year loan, at no interest, of \$342,687 for the work.

Biddeford: The city's proposed budget is down \$223,000 from the current year's spending in an attempt to keep the property tax rate flat for municipal services. Like most Maine communities preparing budgets this spring, leaders are facing both a drop in revenue and an increase in costs in the coming year. In Biddeford, officials expect \$750,000 less in non-property tax revenue.

Camden: The four coastal towns that comprise the Mid-Coast Solid Waste Corp. are now paying 50 percent more to dispose of trash, except demolition debris, in the first fee increase since 2002. Town officials from the four towns of Camden, Hope, Lincolnville and Rockport have approved the increase, which took effect on April 1.

Dexter: The regional airport is among only three in the state that will share \$5.5 million in federal stimulus funding for construction of aircraft safety buildings. The Dexter Regional Airport will get the lions' share at \$3.8 million, followed by the Hancock County-Bar Harbor Airport in Trenton with \$1.2 million, and the Augusta State Airport, set to receive \$500,000.

Eliot: Selectmen must find \$400,000 in budget cuts, or 10 percent of municipal spending, to balance its fiscal 2010 budget. Officials are dealing with steep revenue declines, including an anticipated reduction in excise taxes. Department heads were asked to revamp their budgets downward and selectmen said they hope to maintain the current work force.

Fort Kent: By a single vote in secret

balloting last month, residents rejected a proposed six-month moratorium on construction of wind power farms. The vote was 45-45 and failed for lack of majority. In February, the town council refused to back a moratorium on industrial wind.

Frenchboro: The tiny Hancock County town of 46 residents will be featured on a future Oprah show after crews filmed the town in March and Oprah interviewed residents who had gathered at the schoolhouse for an Internet meeting with the talk show star. The segment will be included in a show featuring people who live unusual lifestyles.

Fryeburg: The Maine Supreme Judicial Court ruled unanimously last month to overturn a lower court ruling and the decision of the town planning board to deny a permit application by Poland Spring Bottling Co. to operate a pump station on the east side of town. In October of 2005, the local planning board initially approved the company's permit application, but then after a local appeals board decision overturning that approval followed by a Superior Court decision remanding the appeals board decision back to the planning board, the planning board changed its mind and reversed its original position. This decision by Maine's highest court appears to have finally settled the issue in favor of the company.

Jay: Town Manager Ruth Marden has offered to give up a clothing allowance and her scheduled three percent raise in fiscal 2010 to help the town

balance its next budget. The total savings for the year are pegged at about \$2,400 and follows a similar move by the Augusta city manager last month, who also cited economic hard times as a reason to bear his share of the proposed budget cuts.

Ogunquit: The town's Conservation Commission has drafted an ordinance to regulate the use of pesticides as a way to protect the town's water supply as well as wildlife and plants. Whether the ordinance makes it to the November ballot will depend in part on how much support it garners during an April public hearing.

Old Orchard Beach: Preliminary budget projections presented to councilors in mid-March hold the line on the property tax rate, in part by eliminating cost-of-living raises for town staff, delaying all major equipment purchases; and cutting the seasonal police force by 25 percent, or 10 officers.

Paris: Selectmen last month unanimously rejected forwarding an ordinance to voters calling for the small western Maine town to become the first in the state to codify English as its official language.

Summer: All but one of 40 residents who attended an early-April forum supported a proposed three-turbine wind farm on Mollycckett Mountain. In a straw vote, residents voted for the town's wind power study committee to continue its work. The proposed farm would be located on town-owned land and cost an estimated \$8 million to build. **me**

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Municipal Bulletin Board

CONGRESSIONAL-CITY CONFERENCE

Maine Senator Susan Collins was one of the featured speakers at the Opening General Session of the National League of Cities (NLC) Congressional-City Conference held in Washington, D.C., March 15-18. Senator Collins spoke about her role in the development of the American Recovery & Reinvestment Act legislation.

Sixteen officials from eight Maine communities in attendance at the conference participated in meetings arranged by MMA with each member of the Maine Congressional Delegation. In January, MMA had sent members of the Delegation the 2009 MMA Federal Issues Paper which focused on the efforts of Congress on rebuilding the nation's damaged economy.

With the enactment of the American Recovery & Reinvestment Act, participants in the meetings assured members of the Delegation that municipal officials are committed to being good stewards to use these funds to address important infrastructure and public service needs in their communities; however, they stressed the importance of receiving timely and "user friendly" information, given the ambitious time-

table and complexity of this federal legislation. The members of the delegation were responsive to these concerns and pledged to work with MMA to help municipal officials better understand and navigate through this legislation.

Municipal officials are encouraged to visit the American Recovery & Reinvestment Act section of MMA's website (www.memun.org) for more information and links to various state and federal resources. Michael Starn, MMA Director of Communications & Educational Services, is serving as MMA's primary contact regarding the American Recovery & Reinvestment Act. He may be contacted at 1-800-452-8786; or mstarn@memun.org.

DOWNTOWN CONFERENCE

The 9th Annual Maine Downtown Conference is June 5 in historic downtown Rockland. *Downtown: Live It! Love It!* is the theme featuring national and statewide experts in organization, design, promotion and economic restructuring. Keynote presentation will be made by national retail marketing guru Rick Segel. Registration opens soon and sponsorships are available! Email Roxanne Eflin, Maine Downtown Center Conference Coordinator, at reflin@mdf.org.

CITIZEN EDUCATION

Five communities were selected in January to be "pilot communities" in the MMA Citizen Education Program during 2009. They are Liberty, Milford, Saco, Ellsworth and St. Albans. MMA staff has visited each of these communities over the past three months to make a presentation on the pilot community phase of the Citizen Education Program.

Work on the MMA Citizen Education Program began in early 2008. A Working Group of the MMA Executive Committee was formed to guide the development of the program. Throughout the spring and summer of 2008, the Working Group along with MMA staff and consultants from the Swardlick Marketing Group started to lay the foundation for the program. A goal and brand/logo for the program were established, and the decision to launch the first phase of the program using "pilot communities" was also made.

MMA's objective for the "pilot community" phase of the program is to develop practical and transferable "communication tools" for citizen education. These communication tools will be used to further the goal of the program which is "to enhance citizens' understanding of, participation in, and appreciation for, local government". From the ideas and experiences gained from the "pilot" testing of the program, MMA intends to launch a statewide program that will give all communities interested in improving citizen education a platform to inform and involve more citizens in Maine local government.

For more information about the Citizen Education Program, contact Michael Starn or Janice Tevanian at MMA, 1-800-452-8786.

LICENSING WORKSHOP

A Licensing Workshop, sponsored by the Maine Town & City Clerks Association (MTCCA), will be held May 18 at the Augusta Civic Center.

Registration is \$50 for MTCCA members and \$60 for non-members.

For more information contact the MMA Affiliate Services office at 1-800-452-8786. 



Pictured above are (left to right) MMA Executive Director Chris Lockwood, MMA President Galen Larrabee (Selectman, Town of Knox), Senator Collins, Lewiston Mayor Laurent Gilbert, Sr., who introduced Senator Collins to the 2000 municipal officials attending the opening session of NLC's Congressional-City Conference, and MMA Vice President John Sylvester (Selectman, Town of Alfred).

Legal

COMMUNITY GARDENS

For a variety of reasons, there's renewed interest everywhere in backyard gardens (even the White House now has one). But not every lot offers a suitable site for a vegetable patch, and some people (apartment and condo dwellers, for example) may not have access to their own plot of land, which is why community gardens are also catching on.

A community garden is typically a collection of small individual plots maintained by the gardeners themselves under the management of a local volunteer organization. This model can yield many benefits besides fresh, locally grown produce. Studies show that community gardens stimulate social interaction, promote exercise and recreation, and improve neighborhood quality of life, among other things. Is there a role for interested municipalities? Possibly.

One obvious possibility is by providing a site. A city in southern Maine is about to lease a parcel of tax-acquired land to a neighborhood association for \$1 per year for as long as the city has no use for it. There are probably numerous other municipally owned parcels around the state with similar potential. We recommend a written lease, at nominal consideration and renewable on a year-to-year basis, with a responsible local non-profit such as a land trust or garden club. A defense and indemnification clause is probably advisable, but an insurance requirement may not be since the risk of municipal liability is negligible (see "No Liability for Outdoor Recreational Facilities," *Maine Townsman*, "Legal Notes," July 2006).

Another possibility is by providing operational management. The same city above also oversees four other community garden sites through its public works department. A nearby town does the same through a town-affiliated community services organization. Municipal parks and recreation programs may also be natural candidates for this role.

Although Maine may be mostly rural, not everyone has the opportunity to have their own garden. For those

who don't, a community garden may be a terrific alternative. For some expert advice on this topic, including how to start a community garden, go to the American Community Gardening Association's website at www.communitygarden.org. (By R.P.F.)

TAX-ACQUIRED PROPERTY: NO WARRANTIES REQUIRED

Question: We read in last month's issue that we're not required to evict occupants from tax-acquired property (see "Tax-Acquired Property: No Eviction Necessary," *Maine Townsman*, "Legal Notes," March 2009). Do we have any obligations regarding the title to or condition of tax-acquired property if we decide to sell it?

Answer: None whatsoever. There is no duty to clear the title. A tax lien foreclosure is presumed to convey title to the municipality, but it is not "marketable" title (title free from any reasonable doubt). Thus, a municipality would be foolish to give a warranty deed because, by doing so, it would be guaranteeing that the title is free of defects and that it will defend the title against all other lawful claims and demands. Instead, tax-acquired property should be conveyed by municipal quitclaim deed without covenants (also known as a "release" deed), which warrants nothing and conveys or releases only whatever interest, if any, the municipality may have had.

The only time a municipality might want to clear title is if it wished to sell the property for fair market value.

(Buyers generally will not pay fair market value for anything less than a warranty deed.) But since clearing title requires a title attorney and often entails considerable time and expense, and since municipalities usually do not sell tax-acquired property in order to make a substantial profit, this would be a rare exception. (Title *should* be cleared, however, if the property is to be retained by the municipality and improved or built upon.)

There is also no duty to ensure that the property to be sold is safe or habitable. Nor is there any duty to inspect or investigate for hazardous materials or conditions such as lead paint, asbestos, underground storage tanks or the like. If the municipality *knows* about such hazards, however, it should disclose them in order to discourage claims of fraud or misrepresentation.

To ensure that buyers are not misled and that the municipality is protected against such claims, we recommend that invitations to bid include a prominent disclaimer to the effect that the property will be sold "as is, with no warranties or representations, express or implied, including but not limited to warranties of title, habitability or fitness for any purpose."

For more on tax-acquired property, see our "Information Packet" on the subject. For a sample municipal quitclaim deed without covenants, see the appendix to our *Guide to Municipal Liens*. Both are available on our website at www.memun.org. (By R.P.F.)

Municipal Calendar

MAY — Municipal officers shall meet as the "licensing board" to license innkeepers and tavernkeepers during the month of May (30-A MRSA §3812)

MAY 1 — Licenses for bowling alleys, pool rooms, shooting galleries, etc., issued during the previous 12 months expire (8 MRSA §2).

ON OR BEFORE MAY 15 — Monthly/Quarterly expenditure statement and

claim for General Assistance reimbursement to be sent to Department of Human Services, General Assistance Unit, 11 State House Station, Augusta, ME 04333 (22 MRSA §4311).

MAY 25 — (Last Monday in May) Memorial Day observed. A legal holiday (4 MRSA §1051); a school holiday (20-A MRSA §4802). Municipal officers shall direct the decoration of veterans' graves. (30-A MRSA §2901).

WHY A MUNICIPAL CHARTER?

Question: Someone said we should have a municipal charter – why would we need one?

Answer: You wouldn't unless you want to do certain things differently than as provided by general law. Most municipalities in Maine are small towns (more than half have a population of less than 1,500), and most of them are perfectly content to operate under the selectmen/town meeting form of government provided for in Title 30-A. But certain things can be accomplished only by charter. Here are some prime examples:

Legislative/budgetary authority. Under general law, municipal legislative and budgetary authority is vested in the voters assembled in town meeting. To transfer either or both of these powers to another body (typically a council), a charter would be required. This is undoubtedly a major reason for Maine's 80 or so municipal charters (out of 492 municipalities). Incidentally, there are numerous charters where powers are divided between council and town meeting, often with legislative power delegated to the former but budgetary power reserved to the latter.

Conduct of elections. Title 30-A (the municipal laws) and Title 21-A (the election laws) govern the conduct of municipal elections, including voter initiatives (petitions), nominations, the method for calling elections, the method of voting, recounts and so on. In order to alter any of these statutory requirements and procedures (for instance, to restrict voter initiatives, or to mandate all-referendum voting), a charter is required.

Qualifications for office. According to 30-A M.R.S.A. § 2526(3), a municipal

official must be a resident of Maine, at least 18 years of age, and a U.S. citizen (municipal *officers*, i.e., selectmen or councilors, must also be registered voters). Additional qualifications, such as a residency or registered voter requirement for officials other than selectman or councilor, may be imposed only by charter.

Vacancies in office. How vacancies in municipal office occur, and how they are filled, are governed by 30-A M.R.S.A. § 2602. But the statute does not create a vacancy for prolonged or repeated absences, for example, or for conviction of a crime. Nor does it provide any process for the recall of elected officials. Changing the provisions of § 2602 relating to *school committee* members requires a charter. Any change relating to other offices (including adoption of a recall procedure for them) may be accomplished by either charter or ordinance, however.

There are numerous other examples of things that do not require a charter. For instance, a town manager plan, an administrative system, ethics policies, and a budget process may all be implemented by ordinance in lieu of a charter (although such matters are commonly dealt with in charters).

For more on municipal charters,

including a detailed comparative analysis of charters in Maine and some sage political advice on charters, see our "Information Packet" on the subject, available to members on MMA's website at www.memun.org. (By R.P.F.)

WINTER ROAD CLOSURES – THE TIME TO ACT IS NOW

Spring may seem an odd time to be thinking about closing roads to winter maintenance, but here's a timely reminder: *Winter road closure orders must be approved between May 1st and October 1st.* In other words, to close a road to winter maintenance next winter, a municipality must act well before winter returns.

Winter road closure orders must be approved by the municipal legislative body unless it has delegated this authority to the municipal officers. Closure orders may be operative for up to 10 years if so specified. Orders may be altered on the initiative of the municipal officers or upon the petition of seven voters at any time after one year following the original approval.

For more on closing roads to winter maintenance, see 23 M.R.S.A. § 2953 or Chapter 5 of our *Municipal Roads Manual*, available on our website at www.memun.org. (By R.P.F.) 

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