

December 2010

maine townsman

The Magazine of the Maine Municipal Association



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State Government
Takes On New Look

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A recent League of Towns meeting on Mount Desert Island was noteworthy because of both the history of municipal collaboration on the island and the openness with which selectmen and managers discussed doing more. Maine Townsman Editor Eric Conrad writes about the event and the positive media coverage it drew.

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Geoff Herman, Director of Maine Municipal Association's State & Federal Relations Department, offers his seasoned insight into the likely sea change at the Statehouse following last month's elections. Herman also outlines the municipal priorities recently voted on by the MMA's Legislative Policy Committee, including relief from unfunded mandates and other major topics.

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The Townsman this month includes a four-page, pull-out listing of all the newly elected state senators and representatives. Those names are paired with members of MMA's Legislative Policy Committee, key municipal officials for you to keep in mind when legislative concerns and issues arise.

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Recommendations for simplifying Maine's collector road system have been finalized. Although consensus was reached on many fronts, disagreement remains over how to fund future minor collector capital improvements.

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We want to hear from you about municipal training needs and preferences. What issues concern you most? Where and when do you like to see training sessions held? Do you prefer Web-based training or in-person instruction? Now is a great time to tell us – and here's a survey that helps you do so.

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COVER PHOTO: Freelance photographer Jeff Pouland captured this image of the Blaine House and the Statehouse in late November.



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A Message From MMA



by Eric Conrad, Editor

This Just In: Municipalities Collaborate

The headline at a news website read, “Towns Already Cooperating.”

As if we didn’t already know that.

One of the biggest misconceptions out there – one we’re trying hard to overcome – is that municipal leaders protect their turfs first and collaborate only when they must.

It’s not true, hasn’t been for decades (if ever) and a meeting on Mount Desert Island last month was just the latest example of municipal leaders putting their citizens first and leaving their “turfs” and egos at the door.

During the evening of Nov. 17, some 25 elected officials and town managers from the League of Towns on Mount Desert Island held their first “Collaboration Meeting.” It was a joint session involving six communities; the Mount Desert Islander newspaper editor who covered the event called it “the mother of all selectmen’s meetings.”

What surprised even some selectmen in attendance was a three-page memo used to start the meeting, showing all the collaborative steps that municipalities on the island already had taken. From a consolidated high school to mutual aid in public safety to self-funded insurance programs offered through Maine Municipal, it was clear that many decisions were made over the years in the name of governmental efficiency.

More can always be done.

For nearly three hours, selectmen and four of their managers brainstormed about consolidating dispatch and other public-safety departments. They talked about coordinating solid-waste disposal and recycling operations, and having consistent regulations for cell towers – an iconic issue in one of the prettiest corners of the world.

Here is a partial list of areas that the selectmen agreed to explore:

• **Public safety:** While some consolidation already has occurred, selectmen felt more possibilities remain, including having departments communicate beforehand when equipment is purchased.

• **Roads and transportation:** There was agreement that state roads on the island are in rough shape and state funding will be limited for at least a few years to come. One idea was for the island communities to work together to prioritize state maintenance projects, and present that to Department of Transportation officials in a unified way.

• **Human resources:** Hiring decisions around the island are pretty similar in terms of what jobs exist, what candidate qualifications are most desired and what challenges there are to attract and retain top employees. Would a centralized HR department be more effective than hiring separately?

• **Solid waste:** There are several different approaches to handling solid waste and recycling among the League of Towns’ communities. One selectman suggested a study be done to show exactly how a garbage bag gets from a citizens’ kitchen to the incinerator, looking for efficiencies all along the way.

Those weren’t all the topics explored. Assessing, planning, purchasing, island-wide goal-setting and more school consolidation all were debated without rancor or defensiveness.

One selectman noted that convincing citizens of each town that collaborating and possibly consolidating poses a challenge in moving forward. Several heads nodded in gentle agreement.

Home-grown, municipal collaboration is just one of the positive messages that we cannot repeat enough. Another is municipal efficiency. A recent report from Envision Maine, a governmental think tank organized by Alan Caron, found that town and city services Maine aren’t just efficient – they’re extremely efficient, costing Maine taxpayers 33 percent less than what they do in other rural states in the U.S.

About collaboration, the Envision Maine report said “the key is to figure out how to help towns do” more of it. While that’s hard to dispute, collaboration is happening anyway. The League of Towns meeting on Mount Desert Island provided further proof.

By the end of the meeting, it was agreed that the League’s first “Collaboration Meeting” would not be the last. Selectmen from six different island towns shook hands, said their goodbyes and headed home.

ABOUT THE MEETING

MMA Director of Communication & Educational Services Eric Conrad was asked to moderate the collaboration meeting and did so. The meeting lasted a little less than three hours and was held at the Somesville Fire Station. [\[mt\]](#)

COLLABORATION CORNER

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

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2011 SPRING BOND ISSUE SCHEDULE

Capital financing through the Bond Bank's General Bond Resolution Program allows borrowers to take advantage of the Bond Bank's high investment grade rating, low interest rates and reduced issuance and post issuance costs. Traditionally twice a year, in the spring and fall, the Bond Bank will consolidate eligible applicants and engage in a bond sale. From application to receipt of funds the bond issuance process usually lasts three to four months. Below is the schedule for the Bond Bank's Spring Issue.

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

Wednesday, February 2nd

Application Deadline.

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

Wednesday, March 16th

Application approval (Board Meeting).

Tuesday, April 5th

Preliminary opinions and loan agreements due from bond counsel of each borrower.

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

Friday, April 8th

Last date for signing school contracts and rates in place for water districts.

Monday, April 25th & Tuesday, April 26th

Maine Municipal Bond Bank Pricing.

Wednesday, April 27th

Maine Municipal Bond Bank Sale Meeting (Board Meeting).

Tuesday, May 17th

Final documents due from bond counsel.

Wednesday, May 25th

Pre-Closing.

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

Thursday, May 26th

Closing - Bond Proceeds Available (1:00 PM)

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



A Game-Changing Election

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

On Nov. 2 the voters of Maine picked a new team to run state government. There may be times when it is difficult to discern the true intention of the electorate, but not in this case. The primary motive driving this personnel change was the belief that the new team would create enhanced employment opportunities and otherwise improve Maine's economic climate.

A decidedly Democratic Maine Senate went decidedly Republican. An overwhelmingly Democratic Maine House went closely Republican. And Republican Paul LePage, the Mayor of Waterville for the last seven years and a councilor in that City for most of the past decade, was chosen from a field of five as the state's next Governor, with 38 percent of the vote.

As might be expected, different interest groups in Augusta are reacting differently to this political sea-change. Business interests are overjoyed but state government workers are wary. Environmental groups, social service advocates and school teachers are so jumpy as to make a cup of coffee nervous.

As is their nature, municipal leaders seem to be taking a wait-and-see attitude to this new direction in Augusta. Actions will speak much louder than all the pundits' predictions. As a general rule, municipal folks are non-partisan with respect to their dealings on the local level and non-partisan in the way they address matters of public policy. As far as most selectmen or city councilors are concerned, a good idea is a good idea no matter who the author. Same goes for the not-so-good ideas.

If municipal officials as a group had but one wish (or three), it would

be that the new Administration and incoming lawmakers will make decisions that: (1) respect the important role of local government in the intergovernmental system; (2) acknowledge the inherent integrity of community-based decision making; and (3) strive to honor the various agreements and commitments embedded in state law that taken together define the state and local government compact. Failing to honor a commitment damages any trust-based relationship. In the absence of trust, it becomes difficult to implement long-term solutions to major challenges. At the intersection of state and local government, those challenges include transportation funding, equitable school financing, predictable and meaningful property tax relief and the achievement of a more evenly-balanced burden among the state's three primary taxes. The arduous effort to develop the "Highway Simplification" proposal, and the obstacles encountered (see accompanying article by Kate Dufour), present a good example of how trust is a necessary ingredient in order to move structural change forward.

MMA's Legislative Agenda. Although the procedural details may differ from biennium to biennium, the basic steps associated with developing MMA's legislative agenda remain the same.

To begin, there is a brainstorming effort whereby all the elected and appointed municipal leaders in the state are asked to identify municipally-related legislative initiatives they believe should be advanced to the Legislature. This occurred in July and August of this year, and the brainstorming survey generated more than 230 different legislative proposals that

municipal officers throughout Maine thought worthy of consideration.

MMA's 70-member Legislative Policy Committee (see listing of LPC membership on pages 15-18) picked up the process at that point, and in two separate steps winnowed-down the brainstorming list, synthesized commonly-shared ideas, and created the framework of a detailed legislative agenda. This stage was completed at MMA's annual Convention in October.

For the final stage, MMA's advocacy staff drafted the priority legislation identified by the Legislative Policy Committee, and one final meeting was convened on Dec. 8 to review, make necessary modifications, and ultimately approve the legislative package.

MMA's legislative agenda for the 2011-2012 biennium is described in detail below. In recognition of these difficult economic times, the overarching themes of the legislative agenda developed by the Policy Committee are restraint, accountability, and mandate relief.

Tax Policy and Intergovernmental Revenue. The Association's legislative agenda can be divided into three categories. The first involves five initiatives regarding matters of tax policy and intergovernmental revenue.

Revenue Sharing. The first bill in this category is an accountability measure that amends the statute governing municipal revenue sharing to make the state's Local Government Fund an "irrevocable trust". The Local Government Fund holds the revenue that is ultimately distributed to the municipalities for the express purpose of providing property tax relief. Nearly 40 years ago this program was created under the express "legislative

finding” that “the principal problem of financing municipal services is the burden on the property tax”, and that “it is necessary to provide funds from the broad-based taxes of State Government (in order) to stabilize the municipal property tax burden and to aid in financing all municipal services” (30-A MRSA §5681). Despite that fundamental recognition, municipal revenue sharing has been deeply raided by the Legislature. Over the past two years alone, \$60 million has been taken out of this property tax relief program in order to balance the state budget.

Homestead Exemption. MMA’s Homestead Exemption legislation has elements of restraint, accountability and providing options rather than mandates. The purpose of this bill is to make the Homestead Exemption law more straightforward by setting the face value of the exemption at \$5,000 (rather than \$10,000), with the state fully reimbursing the \$5,000 exemption rather than reimbursing only half of the \$10,000 exemption. Although dropping down to \$5,000 may appear to devalue the exemption, that is not the case in communities with a largely residential make-up because an unreimbursed homestead

exemption has the direct effect of increasing the general property tax rate, which doesn’t help anybody. For those communities where an unreimbursed homestead exemption makes sense, the bill also establishes a local option opportunity whereby any town or city could establish a higher-value homestead exemption, not to exceed \$15,000, recognizing that the local-option component will not be eligible for state reimbursement.

Tax Exemptions. For decades,

the municipalities have been trying to address an inequity in the property tax code where it provides an unquestioned 100 percent property tax exemption to all “charitable” corporations and “literary and scientific” institutions. The political lock on these overarching tax breaks is so powerful; all attempts to modify the exemptions in any significant way have been unsuccessful. On the theory that there is no straight-faced reason this blanket property tax exemption should neces-



Mark Doyon

Manchester’s Town Manager, a stalwart member of MMA’s 70-member Legislative Policy Committee for the last seven years, succumbed to cancer on Oct. 29. Mark was 50 years old. Mark’s work for local government goes back nearly two decades. Previous to his service in Manchester, he served as the Treasurer for the cities of Augusta and Hallowell.

Mark brought a strong sense of commitment to his work on the Legislative Policy Committee. There are many reasons why Mark’s deliberations and recommendations carried great weight when he addressed his municipal colleagues in debate. That long list would certainly include excellent preparation skills, a powerful dose of common sense, a dedication to mutual respect and fair play and an acute awareness of how governmental decisions affect regular people. The loss of Mark Doyon will be felt throughout the Capital Area where he lived and served, as well as the municipal community as a whole.

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sarily apply to the automobiles owned by these corporations and institutions, this bill would infuse some accountability into this special exemption. Specifically, the excise tax exemption provided to the literary and scientific institutions (i.e., the private colleges and prep schools) would be repealed. The exemption for the charitable corporations would be limited to those vehicles that are used predominantly for the purpose of transporting or delivering tangible goods to persons who are eligible for charitable services. The revenue impact associated with limiting these exemptions isn't huge, but there is a principle at stake. The motor vehicles owned by these tax exempt corporations contribute to the need for road and bridge repair just as much as anyone else's.

Tax Reform (in baby steps). The "Streamlined Sales and Use Tax Agreement" was initiated by the National Governors' Association and the National Association of State Legislatures over 10 years ago. Forty-four states currently participate in the Agreement to some degree, and 23 states are either conforming or heading into conformance with the Agreement. Con-

forming to the Agreement involves making the necessary adjustments to the state's tax code so that it does not conflict in terms of definitions and application to the sales tax codes of other conforming states. Conforming to the Agreement does not require any state to apply a sales tax in any way it does not wish to; it only requires uniformity in approach to those retail activities the state chooses to tax. The overarching goal of conformity with the Agreement is to eventually allow

– through nothing less than an act of Congress – the conforming states to administer a sales tax that applies not only to the bricks-and-mortar stores within its physical jurisdiction, but also the catalogue and Internet stores as well.

The municipalities have been trying to convince the Legislature for over 20 years to comprehensively reform Maine's outdated and crumbling tax code that relies ever more relentlessly on the property tax for revenue



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stability. At the moment, that goal appears politically out of reach. Trying to position Maine toward conformity with the Streamlined Sales Tax Agreement is a measured first step toward modernization.

Tree Growth/Farmland Conversion. Under current law, a person may transfer property enrolled in the Tree Growth tax program into the Farm and Open Space tax program without penalty, and the forested acreage included in that transferred parcel is treated for all taxation purposes as though it was still in the Tree Growth tax program. The affected municipality, however, loses the Tree Growth reimbursement it was receiving from the state that was associated with the forested acreage, and the landowner is under no obligation to provide a forest management plan with respect to the forested land included within the transferred parcel. This bill provides that the municipality will still receive Tree Growth reimbursement for that forested property even after such a conversion. The bill also requires the landowner to continue to comply with

the forest management plan requirements associated with the forested land being transferred.

A Package of Bills Addressing State Mandates. Another major component of the legislative agenda developed by the Legislative Policy Committee is a package of nine separate legislative initiatives that seek to repeal, modify, redesign or scale back a number of archaic, unnecessary or over-determined state mandates that create obstacles to the efficient administration of local government. As noted below, the package includes a couple of bills that address areas of law that are not state "mandates" in the technical or legal sense of that term, but nonetheless have the effect of creating unnecessary obstacles at the municipal level. The package includes:

State "Inspection" of Normal Boilers. This bill would repeal an archaic requirement for the municipalities and schools to have their boilers inspected by the State. No other businesses or places of public accommodation are required to have their normal-sized boilers inspected by the State.

Uniform Building Code Fix-up Legislation. A number of clarifications and fix-ups should be enacted in order to smooth-out implementation of the state's uniform building code. One primary concern to municipalities is that there won't be a sufficient number of "Third Party Inspectors" available to meet the private-sector inspection capacity necessary to keep this process from becoming a very significant municipal mandate. Among other changes, this bill eases that pressure by allowing municipal code enforcement officers to provide third party inspection services in communities that they are not serving.

General Assistance Accountability. Municipal officials do not believe that General Assistance (GA) resources should be provided to individuals who recently forfeited by their inappropriate behavior the same resources that were being provided through another social service program. That is already the case under Maine law for GA recipients already in the program, but it is not the case for the first time applicants. This bill would make the conse-

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quence of forfeiting public assistance resources the same for both “repeat” and “first time” GA applicants.

Less Expensive Newspaper Notice. The amount of money municipalities have to pay for mandated newspaper notice to the several daily newspapers is much higher than necessary to ensure quality public notice. That’s because the towns and cities are not allowed to meet state mandated notice requirements by putting the legal notices in less expensive “shopper notes” publications, even though the shopper notes are distributed to every single post office address (rather than just a few) and even though the shopper notes are entirely free to the citizens who receive them. This bill has been before the Legislature for at least 10 years without action. A version of this bill that applied to the newspaper notice mandates affecting state government was enacted by the Legislature in 2009, but successfully vetoed by Governor Baldacci.

Municipal Snow Dump Licensing Requirements. The rules governing who must get a license from the Department of Environmental Protection (DEP) to move accumulated snow to a “snow dump” provides some exemptions according to where the snow dump is located. However, many municipalities have no choice but to pay a licensing fee to the state to obtain permission to move snow from one place to another in order to facilitate the normal flow of traffic. This bill would expand those exemptions to include snow dump operations controlled by a municipality for the primary purpose of removing accumulated snow from public right of ways for the safety and convenience of the traveling public.

Authorized Use of Facsimile Signatures. Current law allows municipal treasurers to use facsimile signatures on certain forms that are filed in the county registries, but there is no express authority to use facsimile signatures on other forms that must be filed. Because some county registrars are refusing to file any forms with facsimile signatures unless the law expressly authorizes facsimile signatures, this bill creates the express authorization.

Expand the Authority to Pass the InforME-managed Rapid-Renewal Convenience Fees on to On-line Users. This is an issue that does not directly fall into the “mandate” category; it is more of

an equity issue for municipal officials. A couple of years ago, state law was relaxed to allow municipalities to pass the credit card fees that are normally absorbed by the retailer along to the customer who wants to make a payment to the municipality by credit card. On a parallel track, the Information Resource of Maine system (InforME), which provides an Internet “gateway” for citizens to interact with governmental systems, allows motor vehicle owners to renew their motor vehicle registrations on-line provided their town or city has signed-up to allow for the InforME service. Under the InforME-based rapid renewal system, the municipality bears the cost of the convenience fee when customers renew their motor vehicle registrations with their credit cards, rather than the credit card user. The municipalities believe the “convenience fee” should be picked up by the person en-

joying the convenience, not the other taxpayers.

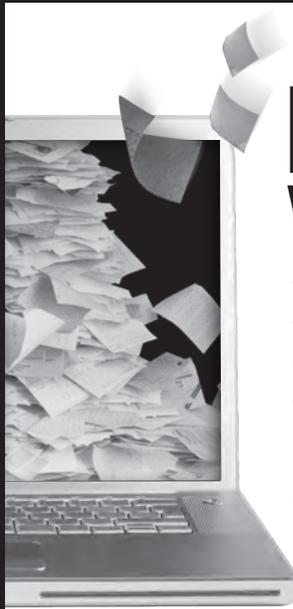
Solid Waste rules as “major substantive.” Several years ago, a well-meaning resolve was enacted by the Legislature directing the Department of Environmental Protection to promulgate rules governing odor control and methane gas management at solid waste disposal facilities. According to that legislative directive, those rules were to be “routine technical” rules, which means that no subsequent legislative oversight would be necessary. As the draft rules began to be developed by the DEP, it became clear to municipal landfill managers that almost any municipal or commercial landfill, including some closed landfills, would become almost automatically non-compliant with the rules, and the steps necessary to achieve compliance were uncertain at best and unavoidably expensive. So that the municipal

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fiscal impacts will be more publically discussed before final adoption, this bill would re-establish these rules as “major substantive,” which means they must be finally approved by the Legislature rather than just the Board of Environmental Protection.

Street lights. The final bill in the “anti-mandate” category addresses an issue that is also not technically a “state mandate,” but is nonetheless a matter of considerable municipal frustration. Although the electric, telephone, Internet and cable television utilities are granted a blanket authority to use the municipal right of way to provide their various services, and although whichever company that actually owns the utility pole must rent the appropriate pole space to all the other utilities, the municipalities have no right to rent any space on those utility poles to affix municipal street lights. Instead, the provision of street light services is a monopoly enterprise controlled by the electric utilities in a manner that provides very few options and very little flexibility. This simple bill would provide municipalities with: (1) a right to rent the appropriate space on utility poles; (2) an opportu-

nity to have greater say in the style of street light and the nature of lighting provided; (3) a direct influence with respect to the efficiency of the lighting provided; and (4) much greater flexibility when deciding to change where and when the street lighting is provided.

A catch-all category. Two bills incorporated into MMA’s legislative agenda by the Legislative Policy Committee don’t fall neatly into either the tax-policy category or the anti-mandate category.

Right to Know Law vs. the Rules of Discovery. The Policy Committee is also advancing a simple bill which adds an exception to the definition of “public record” within Maine’s Right to Know law to make it clear that parties engaged in litigation are bound by the Maine Rules of Court governing discovery and cannot use Maine’s Freedom of Access Law to end-run those rules.

Limits on firearms in places of legislative assembly. The title of the final bill in this overview of MMA’s legislative agenda for the 2011-2012 biennium will be entitled something like *An Act to Provide Municipalities the*

Same Rights as the State With Respect to Restricting Firearms in their Capitol Areas. In substance, this bill does nothing more than give the legislative body in each municipality the home-rule right to adopt an ordinance restricting the carrying of firearms in that town or city’s essential municipal offices and places of legislative assembly, just as the State has reserved those restrictions for itself in its Capitol Area.

Conclusion. The 70 municipal officials who have been elected by their peers to serve on MMA’s Legislative Policy Committee put considerable time and effort into the development of this package of 16 bills. This is not a legislative package that places additional financial pressures on the state. It focuses, instead, on mandate relief, making the current laws mean what they say, and providing solutions to problems “on the ground”. MMA’s Legislative Policy Committee members hope the ideas for legislation they are bringing forward resonate with town and city leaders throughout the state, and the municipal community will ask their legislators to help sponsor these initiatives and see their way through to enactment. 



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Portland (part) and Westbrook (part).

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(to be appointed)
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Debbie Atwood
Councilor, Brunswick

SENATE:

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 North Yarmouth and Yarmouth.

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 Councilor, Cumberland

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HOUSE:

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 Meredith Strang Burgess
 (Cumberland)
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 Councilor, Standish

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Senate District 17:

Greene, Leeds, Lisbon,
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 Turner and Wales.

LPC MEMBERS:

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 Selectman, Leeds

Steve Eldridge
 Manager, Lisbon

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HOUSE:

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 Eleanor Espling (New Gloucester)

Senate District 18:

Franklin, Northwestern
 Kennebec and Southwestern
 Somerset Counties.

LPC MEMBERS:

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 Selectman, Wilton

SENATE:

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HOUSE:

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 Patrick Flood (Winthrop)
 Dennis Keschl (Belgrade)
 John Picchiotti (Fairfield)
 Paul Gilbert (Jay)
 Larry Dunphy (Embden)
 Lance Harvell (Farmington)
 Russell Black (Wilton)
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 Matthew Peterson (Rumford)
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Senate District 19:

Sagadahoc County and Dresden
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LPC MEMBERS:

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Pamela Hile
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Senate District 20:

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HOUSE:
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Melvin Newendyke (Litchfield)
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Senate District 22:
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LPC MEMBERS:
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HOUSE:
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Andrew O'Brien (Lincolntonville)
Joan Welsh (Rockport)
Edward Mazurek (Rockland)
Charles Kruger (Thomaston)
Wesley E. Richardson (Warren)

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Council Chair, Winterport

SENATE:
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HOUSE:
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Peter Rioux (Winterport)
Erin Herbig (Belfast)
Andrew O'Brien (Lincolntonville)
Ryan Harmon (Palmero)

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Sidney and Vassalboro.

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Councilor, Oakland

Michael Byron
Councilor, Augusta

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HOUSE:
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Councilor, Waterville

Rosemary Winslow
Councilor, Waterville

SENATE:
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HOUSE:
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Susan Morissette (Winslow)
David Cotta (China)
Henry Beck (Waterville)
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Senate District 26:
Somerset County (most).

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HOUSE:
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Dean Cray (Palmyra)
John Picchiotti (Fairfield)
Jeff McCabe (Skowhegan)
Philip Curtis (Madison)
Paul Gilbert (Jay)
Larry Dunphy (Embden)

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Somerset and Central
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Manager, Dover-Foxcroft

Eugene Conlogue
Manager, Millinocket

SENATE:
Douglas Thomas

HOUSE:
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Herbert Clark (Millinocket)
Everett McLeod, Sr. (Lee)
Jeffery Allen Gifford (Lincoln)
Frederick Wintle (Garland)
Paul Davis, Sr. (Sangerville)
Peter Johnson (Greenville)
Dean Cray (Palmyra)
Larry Dunphy (Embden)

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Isle au Haut (Knox Cty.).

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Selectman, Blue Hill

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Mayor, Ellsworth

SENATE:
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HOUSE:
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Elsbeth Flemings (Bar Harbor)
Walter Kumiega, III (Deer Isle)
Ralph Chapman (Brooksville)
Louis Joseph Luchini (Ellsworth)

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Manager, Baileyville

Norman Nelson, Sr.
Selectman, Machias

SENATE:
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HOUSE:
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LPC MEMBERS:
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Councilor, Orono

Bill Reed
Manager, Veazie

SENATE:
Elizabeth Schneider

HOUSE:

Everett McLeod, Sr. (Lee)
Jeffery Allen Gifford (Lincoln)
Robert Duchesne (Hudson)
James Dill (Old Town)
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Senate District 31:

Southern Penobscot and
Northern Hancock Counties.

LPC MEMBERS:

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Asst. Manager, Brewer

Byron Vinton, III
Councillor, Bucksport

SENATE:

Richard Rosen

HOUSE:

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Robert Duchesne (Hudson)
David Johnson (Eddington)
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Bangor and Hermon.

LPC MEMBERS

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Asst. City Solicitor, Bangor

Clinton Deschene
Manager, Hermon

SENATE:

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HOUSE:

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Senate District 33:

Western Penobscot County.

LPC MEMBERS:

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Selectman, Stetson

Michael Crooker
Manager, Glenburn

SENATE:

Debra Plowman

HOUSE:

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David Richardson (Carmel)
Frederick Wintle (Garland)
Kenneth Fredette (Newport)
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Senate District 34:

Central and Southern Aroostook
County.

LPC MEMBERS:

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Manager, Presque Isle

Martin Puckett
Manager, Chapman

SENATE:

Roger Sherman

HOUSE:

John Martin (Eagle Lake)
Michael Willette (Presque Isle)
Tyler Clark (Easton)
Alexander Reginald Willette
(Mapleton)
Joyce Ann Fitzpatrick (Houlton)
Ricky Long (Sherman)

Senate District 35:

Northern Aroostook County.

LPC MEMBERS:

Steven Buck
Manager, Caribou

Paul Soucy
Selectman, Eagle Lake

SENATE:

Troy Jackson

HOUSE:

John Martin (Eagle Lake)
Charles Kenneth Theriault
(Madawaska)
Bernard Ayotte (Caswell)
Peter Edgecomb (Caribou)
Alexander Willette (Mapleton)

LPC Chair:

(1/10 to 12/10)
Mark Green
Manager, Sanford

(1/11 to 12/11)
Sophia Wilson
Manager, Brownville



These are scenes from a Legislative Policy Committee meeting last summer, where members set legislative priorities and goals for the upcoming session in Augusta.



Highway Simplification Study Recommendations

By Kate Dufour, Legislative Advocate, MMA

On Tuesday, Nov. 9 the Highway Simplification Study's Policy Working Group (PWG) held its last scheduled meeting. After convening monthly over the last year, the 15-member PWG finalized its 11 key recommendations for simplifying municipal and state maintenance, capital improvement and funding responsibilities over Maine's roadway system.

The Policy Group's recommendations include proposals for:

- swapping year-round responsibilities over the major and minor collector road system between the municipalities and the state;
- improving the minor collector road system to a 10-year standard;
- creating two dispute resolution and grievance airing boards;
- restructuring the existing urban compact program; and
- changing longstanding local road assistance and municipal motor vehicle excise tax use policies.

These recommendations will be memorialized in a report authored by the Maine Department of Transportation (MaineDOT) and provided to the members of the newly-elected Maine Legislature for their consideration by January 15, 2011. A core disagreement between the municipal and state representatives on the Policy Working Group over the future obligations for capital improvements to the minor collector roads will be included in the final report.

OVERCOMING TRUST CONCERNS

The ability of the PWG members to coalesce around nearly all of Highway Simplification Study recommendations is commendable. Trust, or the lack of trust, became a constant

obstacle throughout the Highway Simplification Study process. The municipal community, as a whole, was and remains concerned that regardless of the unanimity among the state, municipal and private industry professionals that participated in the study, various recommendations in the comprehensive proposal will be "cherry picked". By implementing just some of the PWG's recommendations, the benefits of the proposal quickly become skewed in the state's favor.

That being said, the Department is to be commended for its outreach to the municipalities and for being supportive of a process that resulted in the appointment of 11 municipal officials to the 15-member PWG. The municipal officials who served on the PWG are also to be commended for their ability to regularly put aside trust issues and work on finding solutions to identified problems.

REPORT RECOMMENDATIONS AND HIGHLIGHTS

As a result of the work accomplished by the PWG and its subcommittees and subgroups, it is expected that the Department's final report will include the following recommendations:

Split Year-round Collector Road Maintenance Responsibility. Year-round maintenance responsibilities over the entire collector road system (major and minor) would be split between the state and municipalities. The state would take over winter and summer maintenance responsibilities over the non-compact major collector road system and the municipalities would take over year-round maintenance responsibilities over the entire

minor collector road system. For a visual impact of this recommendation, please see the "Major and Minor Collectors in Maine" map produced by MaineDOT and printed on page 24.

Improve Minor Collector Road System to a 10-Year Standard. Prior to swapping major and minor collector road maintenance responsibilities, the state would be financially responsible for improving all minor collector roads to a useful life of at least 10-years. Using a standard adopted by the PWG, the state would work with municipalities to determine the scope of work necessary to ensure that no minor collector road brought up to the standard would need additional capital investments for a 10-year period.

Create a Review Board Process. A three-step resolution process would be available to address minor collector 10-year standard improvement disputes. First, all disputes would be addressed at the local level between the designated municipal representative and MaineDOT's transportation operations manager. If the dispute could not be resolved locally, the designated municipal official and MaineDOT's region superintendent would try to resolve the conflict. If the dispute could not be resolved at that level, then the Review Board would step in to resolve the conflict. The Review Board would consist of five members, two MaineDOT representatives and one alternate appointed by the Maine Department of Transportation, two municipal representatives and one alternate appointed by the Maine Municipal Association and one "neutral party" mutually appointed by the state and municipal representatives on the Review Board.

Amend Formulas and Increase State Aid to Municipalities. A road's classification (i.e., local, minor collector or state major collector, etc.) would determine the level of state aid. Recommended reimbursement rates range from \$300 per lane mile for seasonal local roads to \$4,000 for major and arterial roads in compact areas. Based on the best information available, it is estimated that proposed changes to local road assistance funding could increase from \$22.7 million to \$36.4 million, a \$14 million statewide increase.

Funding Future Minor Collector Road Capital Costs. The most significant area of disagreement among the members of the PWG is with respect to how to treat future minor collector road capital improvements. As originally crafted by the PWG, municipalities would be financially responsible for all future capital improvements.

In response to the comments received at an Oct. 7 Sounding Board meeting and an Oct. 13 Legislative Policy Committee meeting, the municipal officials on the PWG advanced and continue to work on alternative minor collector capital investment plans. One of the alternatives being promoted by the municipal members of the PWG is a shared state/municipal responsibility over future capital improvements.

Another alternative advanced would hold municipalities accountable for funding future minor collector road capital improvements. However, in addition to the \$36.4 million in local road assistance, the state would be required to set aside 10 percent of its share of Highway Fund revenues for a Minor Collector Improvement Program (MCIP). Under MCIP, municipalities would compete for state funding for future minor collector road improvement projects.

Although the PWG is open to more discussion on this issue, the Department continues to proceed with drafting the final report in order to meet its Jan. 15, 2011 report back deadline. It is expected, however, that the Department's final report will include a discussion of this disagreement.

Restructured Compact Program. The PWG's proposal includes a plan to restructure existing urban compact program. However, at the time this

article was being drafted, there were two proposals being considered by the PWG.

Under the existing urban compact program, municipalities with populations in excess of 7,499 are responsible for providing winter and non-capital summer maintenance on the segments of state aid roads (i.e., minor and major collector roads) and state roads (i.e., arterial roads) that run through the community's compact or developed area. Forty-

three communities are classified as "urban compact" under the existing definition.

As originally proposed by the PWG, compact communities would be defined as communities at any population level that have a sustained development density for a cumulative total of 2.5 miles or more on arterial and major collector roads. According to the Department, a total of 75 communities meet this density-based definition.

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In response to the feedback received by municipal officials attending the October Sounding Board meeting, MaineDOT proposed further amending the PWG's proposal by allowing municipalities that meet the development density standard but have populations under 4,000 to opt out of the program. Under the amended proposal, 63 communities would be required to participate in the compact program.

One of the municipal representatives on the PWG advocated for the implementation of a two-tiered compact program. Tier 1 communities would include the 43 current compact communities. The compact area would be defined as the areas in the community with 2.5-plus miles of densely developed state roads. These communities would continue to provide the services currently required and be provided reimbursement at a rate of \$4,000 per lane mile.

Participation in the Tier 2 program would be voluntary and open to all other municipalities with defined compact areas. These communities would have limited responsibilities on state roads in the compact area. Maintenance responsibilities would include: winter snow and ice control; sweeping; pothole repair; traffic signage (excluding maintenance of traffic signals); ditching; driveway culvert, minor span and catch basin cleaning and repair; guardrail repair; erosion control and vegetation management; hazardous tree pruning or removal; and sidewalk maintenance. Municipalities opting into the Tier 2 program would be reimbursed at a rate of \$3,000 per lane mile for arterials and major collector roads in the defined compact area.

Efforts are under way to draft a proposal that addresses all of the PWG members' concerns. It is hoped that a unanimously supported recommendation will be drafted in time for inclusion in the Department's final report. If not, it is expected that the final report will include a discussion of both approaches.

Repeal Limits on Use of State Aid. Generally, under the existing local road assistance program (URIP), municipalities must use the state aid for capital improvements only. However, those limits would be repealed and municipalities would be authorized to

Highway Simplification Study By the Numbers

- 22,713** Federal, state and local road miles in Maine.
- 2,350** Miles of minor collector roads impacted by "Fix & Swap" proposal.
- 1,500** Miles of major collector roads impacted by "Fix & Swap" proposal.
- 300** Millions of dollars (est.) needed to improve minor collector roads to the "10-year" standard
- 14** Million dollar increase in annual local road assistance under the "Fix & Swap" proposal.

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use state aid for any transportation-related purpose, including snowplowing, equipment purchases, capital investments, etc.

Repeal of URIP Hold Harmless Provision. Under existing law, municipalities are guaranteed to receive local road assistance funding that is no less than the amount of aid received in 1999. As a result, some communities are reimbursed at rates that exceed the standard \$600 per lane mile for local roads. The hold harmless provision would be incrementally phased out over a five-year period. Although the impacted communities would see a reduction in state aid, those communities would nonetheless receive the same per lane mile reimbursement rates (i.e., \$600/lane mile for local roads, etc.) as every other Maine community.

Create an Appeals Committee. A five-member Appeals Committee would be created to enable municipalities to grieve state-level road functional classifications and compact border designation decisions. Membership on the Committee would include representation from the Federal Highway Administration, Maine Department of Transportation, Maine Municipal Association, Attorney General's Office and the Maine Chapter of the American Society of Civil Engineers.

Limit Existing Reclassification Practices. MaineDOT staff would be directed to finalize, as best as possible, a detailed list of the road reclassifications currently being explored and implement a four-year moratorium on the expansion of the reclassification list, unless the reclassification is mutually agreed to by both the municipality and MaineDOT.

Clarify Motor Vehicle Excise Tax Law. With the stipulation that this recommendation only be enacted as part of a comprehensive Highway Simplification Study, municipalities would be required to use motor vehicle excise tax revenue for transportation-related purposes only (i.e., maintenance or capital costs of highways, minor spans, transit support, traffic enforcement, etc.).

NEXT STEPS AND MORE INFORMATION

It is important to note that proposed changes outlined above are the recommendations of the working

group and do not have the force of law if and until they are enacted by the Maine Legislature.

Until the members of the 125th Legislature's Transportation Committee are appointed, receive the report and decide on whether or not to act on the PWG's recommendations, nothing will change. Year-round responsibilities over the minor collector road system will not be shifted to municipalities, nor will major collector winter road responsibilities be shifted to the state. None of the recommended changes to the URIP funding policies outlined above will be implemented.

If the Transportation Committee decides to move forward with the package, or elements of the package, the public hearing process will be engaged. At that point, municipal officials will have the opportunity to share their opinions with the Legislature on how best to proceed.

For more information on the study, please see the Department of Transportation's website. A link to the state's data is provided on MMA's website at www.memun.org. Also, please feel free to contact MMA's Kate Dufour at 1-800-452-8786 or kdufour@memun.org with your questions and comments. 



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Thank You - Merci - Gracias - Danke

Thank you to all the municipal, state and private industry officials who participated in the Highway Simplification Study process.

The Maine Municipal Association is especially grateful for all of the time and energy municipal officials put into the process. Over the last 12 months, the 11 municipal members of the PWG drove over 19,000 miles and spent 50 hours in meetings to ensure that municipal issues and concerns were heard and addressed. The willingness of these volunteers to lend their expertise and limited resources to the study is appreciated.

Thanks are also owed to all of the municipal officials who attended Sounding Board meetings. The feedback provided at these meetings substantially influenced the final work product.

Members of the Policy Working Group

Elwood Beal, Lisbon Public Works Director
Michelle Beal, Ellsworth City Manager
David Bernhard, MaineDOT
Bob Belz, Auburn Public Works Director
David Cole, Gorham Town Manager
Clint Deschene, Hermon Town Manager (Co-Chair)
Greg Dore, Skowhegan Road Commissioner
Richard Freethy, Brooklin Selectman (Resigned 4/6/2010.)
Gerry James, Presque Isle Public Works Director (Appointed 3/26/2010 to fill vacancy.)
Jim Hanley, Pike Industries
John Johnson, Jay Public Works Director
Rob Kenerson, BACTS
Galen Larrabee, Knox Selectman
Ryan Pelletier, St. Agatha Town Manager (Resigned 2/26/2010.)
Glen Ridley, Litchfield Selectman (Appointed 4/8/2010 to fill vacancy.)
John Sylvester, Alfred Selectman
Bruce Van Note, MaineDOT (Co-Chair)
Peter Coughlan, MaineDOT staff to the PWG and Subcommittees.

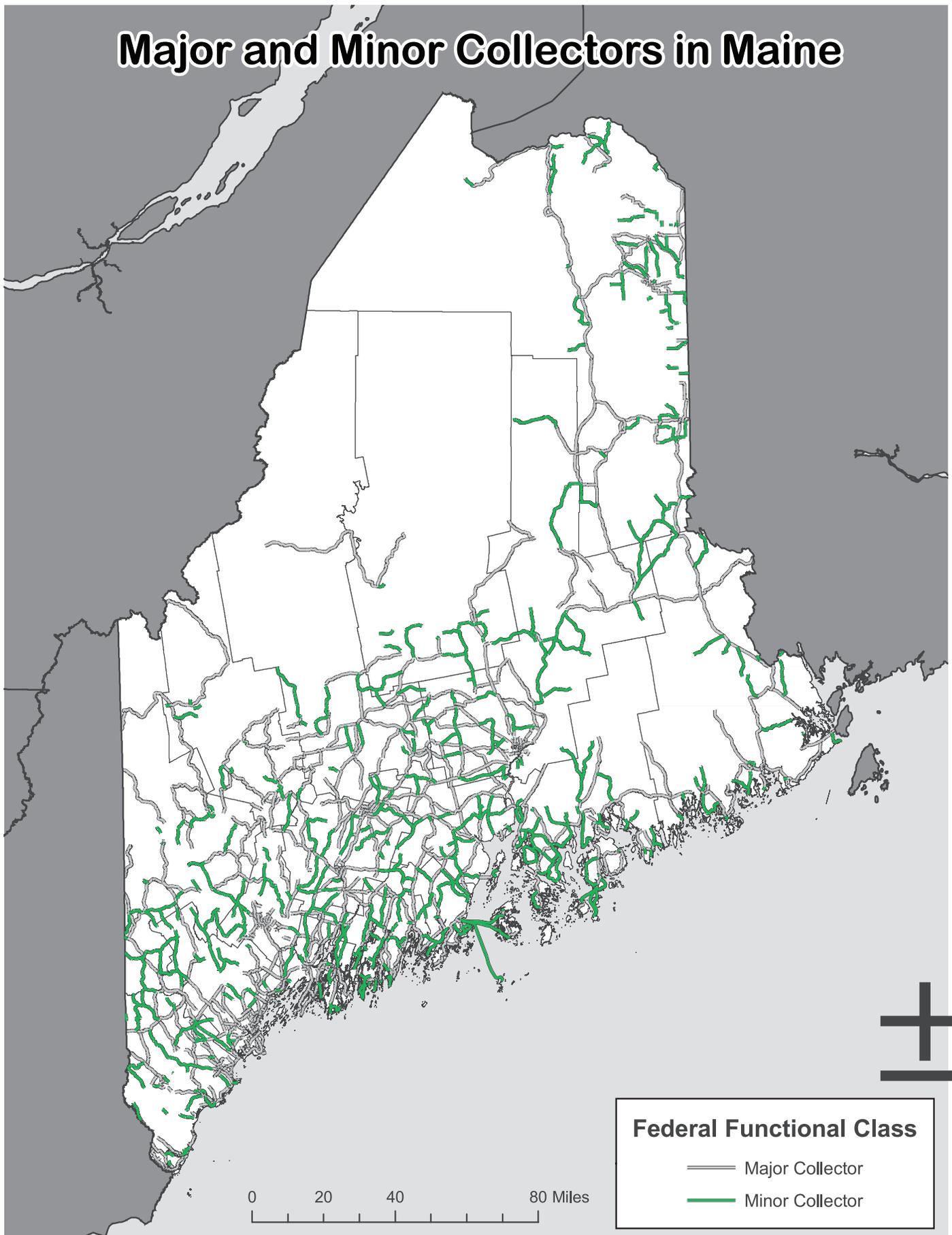
Members of the Standards and Cost Subcommittee

David Bernhard, MaineDOT (Co-chair)
Richard Crawford, MaineDOT
Greg Dore, Skowhegan Road Commissioner
Rhonda Fletcher, MaineDOT
Jim Hanley, Pike Industries
Denny Keschl, Belgrade Town Manager
Galen Larrabee, Knox Selectman
Dale Mitchell, HNTB and ACECMaine
Roger Raymond, Bucksport Town Manager
Tony Smith, Mount Desert Public Works Director (Co-Chair)
Erik Street, Yarmouth Public Works Director
Bob Watson, MaineDOT

Members of the Urban Issues Subcommittee

Michelle Beal, Ellsworth City Manager
Greg Blackwell, Rockland Public Works Director
Mike Bobinsky, Portland Public Works Director
Dale Doughty, MaineDOT (Co-Chair)
Jerry Dostie, Augusta Public Works
John Duncan, PACTS (Co-Chair)
Rob Kenerson, BACTS (Co-Chair)
John Melrose, Maine Tomorrow
Mike Roy, Waterville City Manager
Chip Swan, Hampden Public Works Director

Major and Minor Collectors in Maine



MMA TRAINING SURVEY

We would like to better understand your continuing education needs. Please take a few minutes to complete this on-line training needs survey. Thank you for your valuable input. If you have any concerns or questions about this survey, please contact Margaret Noel at 1-800-452-8786 ext 2304. Please send survey via mail to: Maine Municipal Association, ATTN: Margaret Noel, 60 Community Dr., Augusta, ME 04330. Fax survey to: 207-626-5947 or scan and email to: mnoel@memun.org.

1. PERSONAL INFORMATION:

Name (optional) _____

Municipality (required) _____

Primary Job Responsibility (Please select ONE):

- | | | |
|--|--|---|
| <input type="checkbox"/> Administration (Manager/Clerks) | <input type="checkbox"/> Finance (Tax Collector/Treasurers/Finance Dir) | <input type="checkbox"/> Technology (IT) |
| <input type="checkbox"/> Human Resources | <input type="checkbox"/> Public Works (Parks & Recreation/Utility/Water & Sewer) | <input type="checkbox"/> Public Safety (Fire/Rescue/Police) |
| <input type="checkbox"/> Planning/Code Enforcement | <input type="checkbox"/> Elected Official (Council/Selectperson) | <input type="checkbox"/> Board Members (Planning/Appeals/Budget, etc) |

of years in your position _____ # of years in municipal government _____

2. WHAT IS THE POPULATION RANGE OF YOUR MUNICIPALITY? (Required) Please make a selection:

- 0-1500 1501-3500 3501-5000 5001-10000 10001+

3. WHICH OF THE FOLLOWING WOULD INFLUENCE YOU TO REGISTER FOR A TRAINING SEMINAR WORKSHOP?

(Please check ALL that apply):

- | | | | |
|---|---|---|---|
| <input type="checkbox"/> Location | <input type="checkbox"/> Certification Requirements | <input type="checkbox"/> Presenter | <input type="checkbox"/> Cost |
| <input type="checkbox"/> Travel distance | <input type="checkbox"/> Continuing Education Credits | <input type="checkbox"/> Length of Program | <input type="checkbox"/> Professional Development |
| <input type="checkbox"/> Relevance to Current Job | <input type="checkbox"/> Networking | <input type="checkbox"/> Other (If other, please list): _____ | |

4. WHAT IS THE MOST IMPORTANT REASON YOU WOULD ATTEND A TRAINING SEMINAR/WORKSHOP? (Please select ONE)

- | | | | |
|---|---|---|--|
| <input type="checkbox"/> Location | <input type="checkbox"/> Travel distance | <input type="checkbox"/> Presenter | <input type="checkbox"/> Length of Program |
| <input type="checkbox"/> Certification Requirements | <input type="checkbox"/> Continuing Education Credits | <input type="checkbox"/> Relevance to Current Job | <input type="checkbox"/> Cost |
| <input type="checkbox"/> Professional Development | <input type="checkbox"/> Networking | <input type="checkbox"/> Other (If other, please list): _____ | |

5. WHICH METHOD OF TRAINING DO YOU FIND MOST EFFECTIVE? (Please select ONE)

- Live Classroom Video Webinar (live instructor/video conferencing) On Demand/At Your Own Pace (pre-recorded video or online training)
 Other (If other, please list): _____

6. PLEASE SELECT THE MOST CONVENIENT TIME FOR YOU TO ATTEND A TRAINING SESSION: Morning Afternoon Evening

7. WOULD YOU REGISTER FOR A TRAINING SEMINAR/WORKSHOP SCHEDULED ON A SATURDAY? Yes No Unsure

8. HOW IMPORTANT ARE THE FOLLOWING TRAINING TOPIC AREAS:

	Very	Somewhat	Not Sure	Not Now	Not Important
Finance/Budgeting	<input type="checkbox"/>				
Governance	<input type="checkbox"/>				
Health & Safety	<input type="checkbox"/>				
Human Resources/Personnel	<input type="checkbox"/>				
Leadership/Management	<input type="checkbox"/>				
Technology/Communications	<input type="checkbox"/>				
Current Events/Legislation	<input type="checkbox"/>				
Customer Service	<input type="checkbox"/>				
Strategic Planning	<input type="checkbox"/>				
Other (please list and score) _____	<input type="checkbox"/>				

9. IN WHAT AREAS WOULD YOU LIKE TO SEE ADDED OR NEW TRAINING PROGRAMS? (Please select ALL that apply)

- Technology Finance Human Resources/Personnel Leadership/Management Current Events/Legislation Customer Service
 Strategic Planning Other (If other, please list): _____

10. What one training topic would most benefit elected officials in your community?

11. What one training topic would you most benefit from in your municipal position/office?

12. Additional Comments/Suggestions: _____

(please attach separate sheet if necessary)

S. Wayne Ames, an Orland selectman for 40 years, died on Nov. 25 at the age of 68. Ames worked for the Maine Department of Transportation and was promoted to district superintendent in the Ellsworth division during his career. He was active in the community for decades in various capacities and was predeceased by two wives.

Ellsworth voters made Maine history in November when they elected **Michael Boucher** as city councilor. Boucher and his twin brother, Matthew, 23, who was elected last year, are believed to be the first twins to serve on a Maine municipal governing board at the same time.

Jackalene Bradley has been hired as interim Easton town manager, effective in November. She replaces **John Hangen**, who retired.

Eric Dyer has been hired as Chebeague Island town administrator, effective on Jan. 2. Dyer, who has worked for the town of Cranberry Isles as facilities supervisor, succeeds **Scott Seaver**, who retired earlier this year.



Eric Dyer

Wells Harbor Master **Roland "Chick" Falconer**, 80, retired in September. Falconer worked 24 of his 60 work years for the town and said he decided to step down because he wanted some time for himself.

Former Eastport City Manager **George "Bud" Finch** has been named manager of the western Maine town of Harrison. He replaces Michael Thorne.

Minot Fire Chief **Steve French** resigned after more than 25 years with the town, beginning as a volunteer firefighter in 1977. French, who will remain chief until February, said he intends to continue as a volunteer for the department.

Misty Gorski, 26, was hired in late September as the Waldoboro planning and development director, replacing Patrick Wright. Gorski graduated from the University of Maine with a degree in environmental studies.

Brewer Police Officer **Jeff Gotreau**

is credited with saving a man from jumping off the Penobscot Bridge this fall after he received calls that the man was perched on the bridge with his feet undressed. Just as the man, a 50-year-old transient, leaned forward, Gotreau leaped, grabbed his shoulders and hauled him to safety.

Greenville selectmen have named **Jack Hart** as interim town manager and code enforcement officer, effective in November. He replaces John Simko.

Belfast has hired **Thomas Kittredge**, 33, as its first economic development director after he served three years as executive director of the Piscataquis County Economic Development. Kittredge is a Brewer native and graduate of Yale and Johns Hopkins universities. He bested 24 other candidates from eight states.

Gorham Town Councilor **Burleigh Loveitt** did not seek re-election this month, ending a public service career that dates to 1975 and his first election to the council. Loveitt did not always serve consecutive terms; he served as chairman of the board several times. A veterinarian, Loveitt, 63, said he thought it was time someone new served in his place.

Rockland Community Development Director **Rodney Lynch** will retire in 2011 after more than 13 years with the coastal city. Lynch is credited with helping the city win \$4.5 million in grants

and raising another \$1.2 million in private investment. Lynch, a Navy veteran, hopes to continue working with city staff on development projects in some capacity. He is a former town manager for Bethel and Norridgewock, among other posts, over a 35-year professional career.

Topsham Public Works Director **Rob Pontau** resigned effective Oct. 31. Pontau has been named assistant general manager for the Brunswick Sewer District. He has worked for Topsham since June 2008.

Joyce Pratt has been named administrative assistant to the Leeds selectman, succeeding **Jane Wheeler**, who retired this year after 21 years of service. Pratt has worked for the town for seven years.

John Rouleau Jr. has been hired as the new Old Town public works director, replacing **David Wright**, who retired September. Rouleau most recently worked for Pizzagalli Construction Co. as a project superintendent and as project manager for Stillwater-based Sargent Corp.

Mexico Ballot Clerk **Connie Tutlis**, also known for her many volunteer efforts for the town, has been named Mexico Citizen of the Year, while Police Officer **Dan Carrier** received the Town Manager Award during an annual appreciation night for municipal staff and volunteers. [mml](#)




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

Following are some of the municipal referenda or charter changes voted on by Mainers on Nov. 2:

Biddeford: Voters easily passed a proposal to allow slot machines at a commercial harness racing track, known commonly as a “racino.” The only other municipality that hosts a racino is the City of Bangor. The Biddeford project will cost an estimated \$125 million and will be located on 88 acres of city-owned land.

Statewide: Voters approved a proposal to build a casino resort in the western Maine town of **Oxford**. The Oxford casino, subject to a recount challenge (at the time of the Townsman’s deadline), is expected to cost \$165 million and create 1,700 jobs.

Dixfield: Voters rejected a proposal to virtually ban wind energy projects. A Massachusetts firm has proposed erecting up to 13 turbines on a ridge in town and plans to get moving on the project now. The proposed ban was the result of a citizen petition. Meanwhile, voters in **Rumford**, which abuts Dixfield in western Maine, also defeated a virtual ban on wind development. A project also is being planned for the mill town.

Mechanic Falls: The end of an era passed on Election Day, when voters easily approved a charter change to replace the annual town meeting with town-wide referendum voting. The vote was 816-398.

Peaks Island: Residents elected three write-in candidates for the island’s advisory board, leaving the seven-member council with four vacant seats. There were no official candidates on the ballot. One of the winning write-in candidates received four votes and the other two received three votes each. The remaining vacancies occurred in August when three councilors resigned, followed by the council chairman. The island, part of the City of **Portland**, created a council three years ago that serves in an advisory capacity to the Portland council.

Portland: The mayor of Maine’s largest city will now be elected rather

than appointed – for the first time in nearly 90 years – following passage of a city charter change by a vote of 12,957 to 11,821. The change will take effect next November. The mayor will receive an annual salary of \$67,000; the city manager-council form of government will remain unchanged.

Following are among the municipal officials elected during Nov. 2 balloting. Results of unopposed races are not listed.

Augusta: Mayor Roger Katz defeated incumbent two-term state Rep. Patsy Crockett for a seat in the Maine Senate. Katz, a lawyer, has resigned as mayor after four years, thereby ending his municipal service career for now.

Bangor: City Council incumbent Susan Hawes won re-election to a third term with 5,335 votes, while incumbent Hal Wheeler was defeated by newcomer Charles Longo by a vote of 4,150-4,601. Longo, 21, is reportedly the youngest-ever Bangor councilor. Newcomer Nelson Durgin won the

third open seat with 4,433 votes.

Belfast: Incumbent City Councilors Roger Lee and Marina DeLune won re-election, Nancy Hamilton held off a challenger to win the third open seat. Each incumbent faced a challenger.

Brewer: School board member Kevin O’Connell and Mayor Arthur “Archie” Verow won two of five open seats on the city council. O’Connell received a high vote of 1,739. Verow, former city clerk for 40 years, collected 1,687 votes to win re-election to the board. Incumbent Manley DeBeck was among the three other candidates. He received nearly 1,000 votes. Former Mayor Gail Kelly also was defeated.

On Nov. 16 the City Council voted to have Joseph Ferris serve as Mayor and Jerry Goss to serve as Deputy Mayor from 16 Nov. 2010 to 16 Nov. 2011. Also Kevin J.M. O’Connell beat incumbent Manley DeBeck Jr. and Arthur Verow retained his seat in the

NEW ON THE WEB

Here are some highlights of what’s been added at www.memun.org since the last edition of the *Maine Townsman*.

- **2010 Local Government Finance Survey Worksheet.** Be part of the next survey by completing the 2010 Local Government Finance survey which is available online as an Excel spreadsheet. Download the survey and e-mail the file to Kate Dufour at kdufour@memun.org by January 31, 2011.
- **Tax-exempt entities.** The Tax Exempt and Government Entities Division of the Internal Revenue Service is offering a free webinar about Section 218 of the federal tax code, its legislative history and why it is important to government employers and employees. Find out how to register and attend.
- **Personnel Practices.** Recent Maine Municipal Association training sessions on Personnel Practices have sold out. Not to worry. Many of the forms required through the Fair Labor Standards Act are now available through our website, and MMA will schedule more courses in 2011.
- **Fiscal Survey.** MMA’s annual fiscal survey, which allows municipalities to compare themselves financially to peers around the state, has just been posted. This 102-page document provides the most detailed financial data on municipalities available anywhere.
- **Our Next Governor.** MMA’s question-and-answer session with Gov.-elect Paul LePage from last July has been re-posted and is more relevant than ever. In his meeting with MMA’s Executive Committee, Gov.-elect LePage answered questions about unfunded mandates, transportation financing, revenue sharing and more.

Nov. 2, 2010 municipal election.

Brunswick: Town Councilor Margo Knight kept her seat after defeating a challenger by a vote of 449 to 303.

Buckfield: John Lowell was elected with 515 votes to fill the unexpired term of Floyd Richardson, who recently resigned. Lowell will serve for six months. He handily defeated two challengers.

Calais: City Councilor Joseph Cassidy ran unopposed to replace his father, Vinton, as mayor. William Howard III collected the most votes in a three-way contest for two, three-year terms on the council with 778 votes, while incumbent Christopher Bernardini won the second seat with 702 votes.

Caribou: David Martin and Kenneth Murchinson Jr. defeated two challengers to win re-election to three-year terms on the council. Also, 13 candidates vied for six seats on the Caribou Charter Commission. The winners were: Roy Alden, Sandra Huck, James Savage, Bryan Scott Thompson, Scott Walker and Ronald Willey.

Dexter: Incumbent Town Councilor Andre Robichaud and newcomers Alan Wintle and Peter Haskell won the most votes in an eight-way race for three council seats. Among those who did not win was incumbent Judith Craig. Wintle was the top vote-getter at 804, followed by Haskell with 636 and Robichaud with 626. Craig out-

paced the rest of the field by at least a 2-1 margin with 617 votes, but came up a few votes short to retain her seat.

Eastport: Michael Cummings garnered 254 votes against two other candidates to replace outgoing Councilor Earl Small.

Freeport: James Hendricks defeated a rival to win the council seat being vacated by Chairman Bill Muldoon by a vote of 1,969-1,182.

Gardiner: High school senior Scott Williams, 18, upset incumbent City Councilors George Trask, Kendall Holmes and Robert Johnston for an at-large seat on the council. He received 1,580 votes

Hallowell: Peter Schumacher won a third term on the council, defeating a challenger by a 713-513 vote.

Hampden: Kristen Hornbrook easily defeated two challengers, including former Town Councilor Andrew Colford, to capture the open seat on the council. Hornbrook won 1,424 votes.

Lincoln: Shaun Drinkwater collected 1,009 votes compared to 879 for incumbent Town Councilor Michael Ireland in a four-way race for three council seats. Ireland, as the second-highest vote-getter, won the second seat, while incumbent Thora House was defeated by Curt Ring by five votes, 865-860, for the third, three-year opening.

Lisbon: Incumbent Fern Laroche defeated two challengers to win with 909 votes.

Millinocket: Newcomers Richard Angotti and Bryant Davis won the two open seats on the town council. Angotti received 1,439 votes and Davis won 1,373 votes.

Portland: Voters returned Ed Sulosvic to the city council after a failed bid for re-election in 2008. Incumbents Jill Duson and John Anton defeated a third candidate to easily win re-election.

Scarborough: Incumbent Councilors Judy Roy and Mike Wood defeated a challenger to win re-election to their second, three-year terms. They received 5,220 and 5,411 votes respectively. Meanwhile, Richard Sullivan won a three-person race to fill the one-year vacancy of Shawn Babine.

South Portland: Incumbent City Councilor Thomas Blake received 6,140 votes to defeat a challenger for another term, while school board member, Alan Livingston, also defeated a challenger to win a council seat with 3,858 votes.

Topsham: Incumbent Selectman Sandra Consolini was defeated for a second term by Marie Brilliant and Andrew Mason for two seats on the board. Brilliant received 2,580 votes; Mason garnered 2,338; and Consolini collected 1,993. Selectman Steve Edmondson did not seek re-election. [mf](#)

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MMA TECHNOLOGY CONFERENCE

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

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

WHAT SHOULD/SHOULDN'T BE IN THE ANNUAL REPORT

When it comes to a municipality's annual report, some things *must* be included, other things may *not* be included, and still other things are optional. Here's a breakdown of what's required, what's prohibited, and what's discretionary in the annual report:

Required: A record of all financial transactions of the municipality during the municipal year (see 30-A M.R.S.A. § 2801(1)). The report may, but need not, include an itemized list of receipts and disbursements.

Required: A detailed statement of the assets and liabilities of the municipality, including a list of all delinquent taxpayers and the amount due from each as of the close of the last fiscal year (see 30-A M.R.S.A. § 2801(2)).

Required: Any engineering and survey reports relating to the municipal boundaries and all related proceedings and actions of the municipal officers (see 30-A M.R.S.A. § 2801(2)).

Required: Any other information the municipal officers consider to be of historical significance (see 30-A M.R.S.A. § 2801(2)).

Required: A statement that the complete audit ("postaudit") report for the last municipal year is on file at the municipal office and the following excerpts from the report: auditor's name and address; auditor's comments and suggestions for improving the financial administration of the municipality; a comparative balance sheet; and a statement of departmental operations (see 30-A M.R.S.A. § 2801(3)).

Prohibited: The names of persons who have been issued concealed firearms permits (see 30-A M.R.S.A. § 2801(3-A)). The identities of concealed firearms permit holders are otherwise a public record, however (see 25 M.R.S.A. § 2006).

Prohibited: The identities of persons who have applied for or received general assistance (see 22 M.R.S.A. § 4306).

Prohibited: The identities of persons who have applied for or received tax abatements for poverty or infirmity (see 36 M.R.S.A. § 841(2)).

Prohibited: Identifying information regarding illegitimate births, adoption and cause of death (see 22 M.R.S.A. § 2706). The numbers, names and dates of births, deaths and marriages may be included in the annual report, however.

All other information, such as town meeting warrants, departmental reports, taxpayer notices, etc., is optional and may but is not legally required to be included in the annual report.

For more on annual reports, including when they must be available and which agencies to send a copy to, see Chapter 4 of our *Town Meetings & Elections Manual*, available free to MMA members at www.memun.org. (By R.P.F.)

FUNDING FOR CHARITIES & SOCIAL SERVICE AGENCIES

Question: Every year we get requests for funding from various charities and social service agencies in our area. Are we legally obliged to forward these to our voters?

Answer: No, not unless a warrant article proposing an appropriation is submitted by a legally binding petition (signed by a number of voters equal to at least 10% of the number of votes cast in the town at the last gubernatorial election, but in no case less than 10, see 30-A M.R.S.A. § 2522). In some towns, though, the selectmen include some or all of these requests on the

warrant even without a petition, as is their prerogative. In other towns, the selectmen require agencies to file a detailed explanation before consenting to put a funding request on the warrant. In still other towns, no charitable funding is allowed on the warrant without a legally binding petition. Policies and practices vary widely, depending on custom and circumstances.

The point is, absent a legal petition, the selectmen have broad discretion over what is included on a town meeting warrant. They are essentially free to include or exclude funding requests from charities and social service agencies as they see fit.

For some great advice on vetting charitable funding requests and how to do so more rationally, see "Social Services: Handling Requests Fairly, Efficiently," *Maine Townsman*, November 1992. (By R.P.F.)

NEW STATE BUILDING CODE NOW IN EFFECT STATEWIDE

The new state building code, known as the Maine Uniform Building & Energy Code or "MUBEC," took effect on December 1, 2010. All construction in Maine must now comply with MUBEC. Local building codes that are inconsistent with MUBEC are now void except for fire codes. Municipalities need not adopt MUBEC locally because it already applies statewide. But municipal responsibility

 MMA Municipal Calendar

DECEMBER 31 — New Year's Day 2011 (Observed) – A legal holiday. (4 M.R.S.A. §1051)

ON OR BEFORE JANUARY 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 04333-0011 [22 MRSA §4311].

JANUARY 17 — Martin Luther King, Jr. Day - a legal holiday (4 MRSA §1051).

BY JANUARY 20 — Treasurer of State

to send notice to chief municipal officer of maximum interest rate which can be charged on delinquent taxes (36 M.R.S.A. §505).

JANUARY 31 — Deadline to submit quarterly withholding taxes to State Tax Assessor(36 MRSA § 5253).

DURING JANUARY — In towns with a March annual meeting, selectmen should begin preparing the town meeting warrant and town report. Obtain reports from all departments: schools, roads, etc. Arrange to have annual audit made before town meeting.

for enforcement varies depending on population and whether a local building code was in effect when MUBEC took effect.

For municipalities over 2,000 in population and with a local building code in effect on December 1, 2010, enforcement must begin immediately.

For municipalities over 2,000 in population but with no local building code in effect on December 1, 2010, enforcement must begin by July 1, 2012.

For municipalities under 2,000 in population, enforcement, including whether and when to begin enforcement, is totally optional with the municipality.

Enforcement consists, at a minimum, of issuing or withholding certificates of occupancy, depending on whether construction complies with MUBEC. Municipalities may employ their own inspectors for this purpose, or they may require the property owner or contractor to engage, at their own expense, a 3rd-party inspector. Both municipal and 3rd-party inspectors must be trained and certified by the Maine State Planning Office (SPO).

Unfortunately, most of MUBEC is not available to either the public or municipalities for free. (MUBEC's component codes and standards were developed by private entities, which sell these copyrighted materials at substantial prices.) The SPO, however, is supposed to provide one free copy of MUBEC to each municipality over 2,000 in population. Most of the building code components of MUBEC are also available for viewing (but not for downloading or printing) at <http://publiccodes.citation.com/icod/>.

Implementing MUBEC will be a challenge for municipalities, contractors and property owners alike. For more detailed information about MUBEC, see our dedicated webpage at <http://www.memun.org/public/MMA/svc/SFR/BuildingCode/default.htm>.

Specific questions about MUBEC, including training and enforcement questions, should be directed to the Maine Department of Public Safety's

Bureau of Building Codes & Standards, the agency charged with implementing MUBEC, at <http://maine.gov/dps/bbcs/>. (By R.P.F.)

ENGAGING AN AUDITOR

Earlier this year we reminded readers that an annual municipal audit is legally required, not merely advisable (see "Annual Audit Required," *Maine Townsman*, "Legal Notes," March 2010). Recently, though, we were reminded by the State Auditor that it is the municipal officers (selectmen or councilors), not the treasurer or some other official, who must directly engage the auditor.

In a letter quoted in a local newspaper, the State Auditor warned a southern Maine town that it could be in violation of State law because the selectmen had failed to directly engage the auditor on an annual basis. Instead, the town manager (who was also the treasurer) had engaged the auditor for the past 10 years based on the approval of a prior board, without the direct annual approval of the

selectmen. The State Auditor said having the municipal officers rather than the manager engage the auditor "ensures a separation of duties, as well as independence."

We agree. It's important that the one who audits the books be chosen by officials other than those whose financial activities are being examined. We don't believe, however, that this means the municipal officers must re-interview or rebid the audit annually. If they are satisfied with the auditor they've been using in the past, the municipal officers may continue to employ that auditor, but they must make this decision annually and notify the State Auditor within 30 days thereafter, as required by 30-A M.R.S.A. § 5823.

Incidentally, since a municipality's annual report must include certain excerpts from the annual audit, and since the report must be made available to the voters at least three days before the annual meeting (see 30-A M.R.S.A. § 2801), the municipal officers should engage an auditor well before that date. (By R.P.F.) 

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