

Town of Wayne Board of Selectmen

MEMBERS: Gary Kenny, Stephanie Haines, Don Welsh, Jon Lamarche and Trent Emery

Meeting Agenda

Date: Tuesday March 7, 2017

Time: 6:30 PM

Place: Wayne Elementary School – Gymnasium

Call Meeting to Order.

Pledge of Allegiance.

Selectmen Present / Quorum.

Meeting Minutes.

- a. **Consider approving of meeting minutes of the Wayne Board of Selectmen – February 21, 2017.**
Manager Recommendation: Move the Board to approve meeting minutes of the Wayne Board of Selectmen – February 21, 2017.

Warrants.

- a. **Consider approving of Payroll Warrant #41.**
Manager Recommendation: Move the Board to approve Payroll Warrant #41 in the amount of \$6,423.81.
- b. **Consider approving of Accounts Payable Warrant #42.**
Manager Recommendation: Move the Board to approve Accounts Payable Warrant #42 in the amount of \$###,####.

Business Agenda.

- A. **Public Hearing: Discuss residents' concerns regarding the recent statewide referenda to legalize marijuana in Maine. Each community has the ability to regulate local land uses for the potential retail marijuana establishments in town.**

Manager Recommendation: The Board opens the public hearing

Manager Recommendation: The Board closes the public hearing

Manager Recommendation: Take any action as a result of public hearing.

- B. **Discuss Morrison Heights Solar Farm**

Manager Recommendation: Take any action as a result of comments from RJD Appraisal, Revision Energy and Sky Ranch Community Solar Farm.

C. Discuss Androscoggin Lake Mooring Field

Manager Recommendation: Take any action as a result of comments from Anne Huntington, Kevin O'Rourke, AYC Commodore, and Peter Davis.

D. Authorize the Town Manager to sign Agreement between State of Maine, Department of Public Safety and Town of Wayne.

Manager Recommendation: The Board move to authorize the Town Manager to sign Agreement between State of Maine, Department of Public Safety and Town of Wayne.

E. Discuss the preparation and distribution of Agendas and Meeting Minutes to Board Members.

Manager Recommendation: Discussion Only.

Supplements and Abatements.

Town Manager Report.

Board Member Reports.

Public Comments.

Adjourn.

The next regularly scheduled **Board of Selectmen Meeting** is scheduled for **Tuesday March 21, 2017 at 6:30 PM** at the Wayne Elementary School - Gymnasium.

**Town of Wayne, Maine
Select Board Meeting Minutes
Tuesday February 21, 2017
Wayne Elementary School**

Call Meeting to Order/ Selectmen Present

Gary Kenny determined quorum and called meeting to order at 6:30 PM with the following members present: Trent Emery, Stephanie Haines, Gary Kenny, Jonathan Lamarche, and Don Welsh.

Others Present: Aaron Chrostowsky, Town Manager and Cathy Cook, Town Clerk.

Audience: Michael Bouthot, Janet Crane, Richard Crane, Pat Ellis, Hobie Ellis, Peter Emery, and Jim Perkins.

**Pledge of Allegiance
Meeting Minutes**

- a. The Board moved to approve meeting minutes of the Board of Selectmen for January 31, 2017, with amendment. (Haines/Lamarche) (5/0).

Warrants

- a. The Board approved Payroll Warrant #36 in the amount of \$53.83. (Welsh/Haines) (5/0).
- b. The Board approved Payroll Warrant #37 in the amount of \$9904.22. (Welsh/Haines) (5/0).
- c. The Board approved Accounts Payable Warrant #38 (Payroll) in the amount of \$229,690.18. (Welsh/Haines) (5/0).
- d. The Board approved Payroll Warrant #39 (Payroll) in the amount of \$6406.40. (Welsh/Haines) (5/0).
- e. The Board approved Accounts Payable Warrant #40 (Payroll) in the amount of \$9904.22. (Welsh/Haines) (5/0).

Business Agenda

- a. Discussion Route # 133 Main Street Speed. Residents expressed concerned about dangerous curve when exiting and entering Route # 133 from Besse Road. The Board moved to authorize the Town Manager to send letter to DOT requesting study on traffic safety/speed on section of Route #133. (Welsh/Lamarche) (5/0)
- b. Discussion Morrison Heights Solar Farm, and letter from Attorney of owner Roseanne Graef which was sent to Assessor requesting lower tax assessment for solar farm.
- c. The Board approved Road Commissioner's Draft FY' 17-18 Road Projects. (Welsh/ Emery) (5/0)
- d. The Board authorized Town Manager to solicit bids for Street Sweeping contract. (Lamarche/Haines) (5/0)

- e. The Board authorized Town Manager to solicit bids for Roadside Mowing contract. (Haines/Welsh) (5/0)
- f. The Board authorized Town Manager to award Matt Davenport Landfill Haying and Mowing RFP (without using manure for fertilizer). (Lamarche/Haines) (5/0)
- g. The Board authorized Town Manager to sign RSU # 38 Lease to Wayne Town Office. (Haines/Lamarche) (5/0)
- h. Discussion about Fuller Road resident's request for the road become a town road.
- i. The Board authorized the Road Commissioner to temporarily notice and post close town highways to vehicles of excessive weight from February 21 to May 15, 2017. (Welsh/Haines) (5/0)

Abatements/Supplements: None

Town Manager Report:

- 1. Town Manager attended meeting this morning about potential to re-negotiate cable contract.
- 2. Town Manager to advocate about the issue that Maine State Identification card not valid with Federal Homeland Security and by Feb 2018 not adequate ID to board aircraft.
- 3. Issues with snow removal and debris left in roadways.

Board Member Reports:

- 1. Stephanie Haines asked for update on negotiations with KLT.
- 2. Gary Kenny asked about mooring issues and Town manager stated Ann Huntington working on a report.

Public Comments:

Adjourn.

Motion to Adjourn at 8:20 PM. (Haines/Welsh) (5/0)

The next Select Board Meeting is scheduled for Tuesday, March 7, 2017 at 6:30 p.m. at the Wayne Elementary School Gymnasium.

Recorded by:
Aaron Chrostowsky, Town Manager

Select Board Members

Gary Kenny

Stephanie Haines

Don Welsh

Jonathan Lamarche

Trent Emery

Town of Wayne Board of Selectmen

MEMBERS: Gary Kenny, Stephanie Haines, Don Welsh, Jon Lamarche and Trent Emery

Public Hearing

Date: Tuesday March 7, 2017
Time: 6:30 PM
Place: Wayne Elementary School – Gymnasium

Call Meeting to Order.

Selectmen Present / Quorum.

Public Hearing: Discuss residents' concerns regarding the recent statewide referenda to legalize marijuana in Maine. Each community has the ability to regulate local land uses for the potential retail marijuana establishments in town.

- **Manager Recommendation: The Board open the public hearing**
- **Manager Recommendation: The Board close the public hearing**

Discuss merits of each proposal

- Moratorium Ordinance on Retail Marijuana Establishments, Retail Marijuana Retail Stores and Retail Marijuana Social Clubs;
- Ordinance Prohibiting Retail Marijuana Establishments and Retail Marijuana Social Clubs;
- Do Nothing

Adjourn.



Legal Marijuana & Municipalities

Maine Townsman - December, 2016

Last month Maine voters narrowly approved a ballot measure legalizing the personal use, possession and cultivation of marijuana by persons 21 years of age and older and the operation of retail marijuana stores, marijuana cultivation, manufacturing and testing facilities, and marijuana social clubs for on-premises sale and consumption.

Barring other developments (for instance, a recount resulting in reversal of the vote), the new law will take effect either 30 days after the Governor proclaims the results of the vote or, if additional funds are required to implement the new law (as appears likely), 45 days after the next regular session of the Legislature convenes. In any event, the effective date of the new law will almost certainly be no earlier than sometime in January 2017, but it could be considerably later depending on a number of as-yet-unknowns.

As of the effective date – whenever it may be – it will be legal for adults to use, possess and cultivate “recreational” amounts of marijuana. However, retail marijuana stores and social clubs and commercial-scale cultivation, manufacturing and testing facilities will require annual State licenses under the new law. And the Department of Agriculture, Conservation and Forestry has up to nine months to adopt rules for licensing and operation of these establishments. So as a practical matter they will not be able to obtain licenses or operate legally until at least late 2017.

Under the new law, all required State licenses apparently require local approval as well, though it is not yet clear who on the local level decides or on what basis. Municipalities are also authorized, by ordinance, to regulate the number, location and operation of retail marijuana stores, marijuana cultivation, manufacturing and testing facilities, and marijuana social clubs, and to impose a separate local licensing requirement. In the alternative, municipalities may, by ordinance, entirely prohibit any or all of these establishments.

For municipalities that may want to allow but regulate retail marijuana stores, marijuana cultivation, manufacturing and testing facilities, and marijuana social clubs, it will be difficult to calculate how best to do so until after final rulemaking by the department and perhaps corrective or at least clarifying legislation. This will all probably take many months. To prevent unwanted developments in the meantime, we recommend adopting a moratorium ordinance. For a sample, download attachment 1 below.

For general information and advice on moratorium ordinances, see our “Information Packet” on the subject, available free to members at www.memun.org.

For municipalities that want to prohibit retail marijuana stores, marijuana cultivation, manufacturing and testing facilities, and marijuana social clubs entirely, there is no need to wait for rulemaking or more legislation. An ordinance prohibiting these establishments can be enacted any time (but probably the sooner the better) before State licensing begins, probably in late 2017. For a sample, download attachment 2 below.

For more on the legal as well as the practical implications of the new law, be sure and watch for two full-length articles planned for the February 2017 issue of the Maine Townsman.

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Also, MMA is sponsoring a workshop on the new law on Feb. 28, 2017, in Freeport. Presenters will be attorneys from the Portland law firm of Drummond Woodsum. Watch for details and registration information on our website (www.memun.org). (By R.P.F.)

Attachment 1

Attachment 2

Click here to view the proposed recreational marijuana legislation from the Maine Secretary of State's website.

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This information is intended for general information purposes only and is not meant as legal advice. This information should not take the place of a thorough review of pertinent statutes, consultation with legal counsel, or other specific guidance on the subject.



Moratoriums on Marijuana

Maine Townsman - January, 2017

As we noted here last month, Maine's new "recreational" marijuana law will, whenever it takes effect, legalize the personal use, possession and cultivation of marijuana by persons at least 21 years of age and the operation of "retail marijuana establishments," including retail stores, cultivation, manufacturing and testing facilities, and social clubs (see "Legal Marijuana & Municipalities," Maine Townsman, Legal Notes, December 2016).

Many municipalities have responded to the new law by either enacting a moratorium on retail marijuana establishments or at least considering one. We'd like to take this opportunity to clear up some of the apparent misconceptions now circulating about moratoriums on marijuana.

To begin, a moratorium is an ordinance, and as such it must be enacted by the municipal legislative body (town meeting or town or city council). The municipal officers (selectmen or councilors) have no authority to adopt a moratorium – not even an interim one – unless they are also the municipal legislative body.

But a moratorium is not a permanent ordinance. Instead it temporarily defers land use activities until a more permanent ordinance can be prepared and enacted. By law a moratorium is limited to 180 days, subject to additional 180-day extensions if the problem still exists and reasonable progress is being made to resolve it. (Municipal officers do have authority to extend moratoriums.)

Also, a moratorium on retail marijuana establishments does not require a comprehensive plan or a zoning ordinance. It merely prohibits these uses from being permitted or operated for the duration of the moratorium.

Finally, since a moratorium is not a zoning ordinance, neither a planning board public hearing nor any special notices are required, as they are for zoning ordinances under State law. (A public hearing before the municipal officers is required, though, if enactment will be by secret ballot referendum.)

For a sample moratorium on retail marijuana establishments, see: <https://goo.gl/sQQJEZ>

For more on moratoriums generally, see our "Information Packet" on the subject, available free to members at www.memun.org. (By R.P.F.)

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Parts of Marijuana Law Delayed Until Feb. 2018

Maine Townsman - February, 2017

The Legislature has delayed the effective date of certain parts of the new "recreational" marijuana law while also clarifying other parts.

Public Law 2017, Chapter 1 (eff. Jan. 27, 2017) postpones the State licensing of retail marijuana establishments, including retail marijuana stores, marijuana cultivation, manufacturing and testing facilities, and marijuana social clubs, until Feb. 1, 2018. Unless and until licensed by the State, none of these establishments can operate legally.

The personal use and possession parts of the law became legal on Jan. 30, 2017, but the law clarifies that users must be 21 or older. Personal use is also limited to private residences or private property not generally accessible by the public and with the owner's permission. Use is also prohibited by both operators and passengers in vehicles on public ways.

Since the retail parts of the law have been delayed, local officials with doubts about the law have been asking whether local action – in the form of either a moratorium or an ordinance banning retail establishments – is still imperative. We continue to advise that if a municipality wishes to act, the sooner the better because, notwithstanding the delay in State licensing, there are still some potential legal risks if there are no local safeguards in place in the meantime.

For a sample moratorium and a sample ordinance prohibiting retail marijuana establishments, see "Legal Marijuana & Municipalities," Maine Townsman, Legal Notes, December 2016. For more on how to adopt a moratorium, see "Moratoriums on Marijuana," Maine Townsman, Legal Notes, January 2017.

On a related note, the U.S. Bureau of Alcohol, Tobacco, Firearms (ATF) has revised the form required for federal background checks to clarify that marijuana users, even in states where marijuana has been "legalized," cannot legally purchase a gun. This is because marijuana is still a prohibited drug under federal law, and the federal Gun Control Act of 1968 bans gun purchases by any user of illegal drugs. (By R.P.F.)

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LEGAL NOTES

Moratoriums on Marijuana

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For a sample moratorium on retail marijuana establishments, see: <https://goo.gl/sQOjEZ>

For more on moratoriums generally, see our "Information Packet" on the sub-

MUNICIPAL CALENDAR

ON OR BEFORE JANUARY 31 — Written statements, as prescribed by State Tax Assessor, of wages withheld in the previous calendar year is to be furnished each employee (36 MRSA § 5251).

■ Monthly/Quarterly expenditure statement and claim for General Assistance reimbursement to be sent to Department of Human Services, General Assistance Unit, DHS #11, Augusta, ME 04333-0011 [22 MRSA §4311].

FEBRUARY 20 — Presidents' Day, the third Monday in February, is a legal holiday (4 MRSA § 1051); and shall be observed as a school holiday in the absence of any vote of the superintending school committee designating how the day shall be observed (20-A MRSA § 4802).

BEFORE TOWN MEETING — Selectmen must have a warrant posted at least 7 days before town meeting and have a constable or named resident make return (30-A MRSA §2523). If adoption of an ordinance is proposed, make sure of compliance with 30-A MRSA §3002. Send copy of town report to the following: MAINE MUNICIPAL ASSOCIATION, State Tax Assessor, Fogler Library, UMO and State Librarian.

■ Town Meeting voter registration and voting list requirements. The registrar shall accept the registration and enrollment of voters prior to the municipal election according to the time schedule prescribed by 21-A MRSA § 122 unless changed by municipal officers.

■ Copies of annual report are to be deposited in the municipal office or a convenient place of business for distribution to voters at least 3 days prior to the annual meeting (30-A MRSA § 2801)

■ Check 30-A MRSA § 5823 for audits, and § 2801 for town reports.

BY MARCH 1 — Solid Waste Municipal Reporting forms are due back to the State Planning Office, 38 State House Station, Augusta Me 04333 [38 MRSA §2125(1)].

ject, available free to members at www.memun.org. (By R.P.F.)

'Correcting' Petitions

Question: We received a town meeting petition, but the proposed warrant article contains some spelling and punctuation errors as well as some bad grammar. Can we correct these before we print the warrant?

Answer: While it might seem appropriate to do so, municipal officials have absolutely no authority to correct spelling or punctuation mistakes or faulty grammar in a petitioned warrant article even if the circulator requests or consents to it. This is because the signatories to an otherwise lawful and binding petition are entitled to a vote on the article exactly as it appeared on the petition. If the vote will be by traditional "open" town meeting, however, the article can always be amended from the floor to make

corrections (although a petitioned ordinance, like any ordinance, cannot itself be amended from the floor).

In the alternative, if voting will be by open meeting, the municipal officers (selectmen or councilors) can always include a second, corrected article on the warrant and ask that the voters act on it instead of the flawed article. We do not recommend this alternative if the vote will be by secret ballot referendum, however, because of the risk that both questions may be approved.

The municipal officers may also decide to offer no alternative and simply hope that the petitioned article will die of its own obvious spelling, punctuation or grammatical infirmities.

Speaking of petitions, we also remind readers that the legal requirements for local voter petitions have changed. In brief, the circulator must now (1) be a Maine resident and registered voter

LEGAL NOTES

somewhere in this state, (2) personally witness all signatures to the petition, and (3) verify this by circulator's affidavit (a statement signed and sworn before a notary). For full details, see "New Requirements for Local Petitions," *Maine Townsman*, Legal Notes, April 2016. (By R.P.F.)

Revised Road Weight Limit Ordinance Now Available

MMA Legal Services has revised its sample Ordinance Restricting Vehicle Weight on Posted Ways. The previous version referenced outdated Maine Department of Transportation (MDOT) rules. The new version does not incorporate current MDOT rules by reference. Instead, it specifically lists all categories of exempt vehicles. The purpose is to capture all exemptions currently recognized by MDOT rules but also to allow a municipality to customize its ordinance to meet local needs. The revised ordinance also helps ensure that a municipality's posted signs accurately reflect the ordinance's restrictions.

The revised ordinance is linked in MMA's "Information Packet" on road weight limits and is also included in the online edition of MMA's *Municipal Roads Manual*, both of which are available free to members at www.memun.org. (By M.L.S.)

Road Abandonment: No Money Damages

There are two statutory methods for extinguishing a town way and the municipality's obligation to maintain it: (1) discontinuance and (2) abandonment. Discontinuance requires a vote by the municipal legislative body (town meeting or town or city council) and payment of money damages to abutters for diminished property value (see 23 M.R.S.A. § 3026-A).

Abandonment entails a determination by the municipal officers (selectmen or councilors) that the way has not been maintained at municipal expense for at least 30 consecutive years; the legal effect is the same as if the way had been discontinued (see 23 M.R.S.A. § 3028). Unlike a discontinuance, however, the Maine Supreme Court has now made it clear that money damages are not available for a road abandonment.

In *Paul v. Town of Liberty*, 2016 ME

173, abutters claimed, among other things, that the town owed them damages as the result of a determination by the selectmen that their road had been abandoned. But the Law Court rejected this argument, noting that a discontinuance is a legislative act under a statute that expressly calls for payment of damages. Abandonment, by contrast, is merely a determination that a road has been abandoned by operation of law, due to the passage of time and a history of non-maintenance, under a statute that does not authorize damages. This is good news for municipalities, which often rely on the abandonment law to manage road-related responsibilities and expenses.

For more on road discontinuance versus abandonment, see our *Municipal Roads Manual*, available free to members at www.memun.org. (By R.P.F.)

Appeals Board Review: Appellate or De Novo?

About 15 years ago the Maine Supreme Court handed down a pair of rulings that have perplexed appeals boards, appellants and practitioners ever since. (We wrote about them at the time, see "Board of Appeals Jurisdiction," *Maine Townsman*, Legal Notes, January 2001, and "Board of Appeals Jurisdiction Redux," *Maine Townsman*, Legal Notes, February 2001.)

In one case (*Stewart v. Town of Sedgwick*, 2000 ME 157) the Court held that unless the ordinance directed otherwise, an appeals board must conduct a full de novo (new) review, with fresh evidence, new findings of fact, and a decision inde-

pendent of the original one. In the other (*Yates v. Town of Southwest Harbor*, 2001 ME 2) the Court found that the ordinance limited the board to an appellate review, confined to the record below and requiring only a determination of whether the original decision was contrary to law or the evidence. The problem was that the two ordinances in question were virtually identical! So instead of clarity, these two decisions yielded mostly confusion and uncertainty.

As a result we recommended then that ordinances be amended to clarify which type of review (appellate or de novo) is required. But recently we learned that some ordinances still are ambiguous on this score and thus an invitation to costly and protracted litigation. So again we urge local planners and appeals boards to review their ordinances and make certain they clearly specify whether it's appellate or de novo review. Sample language can be found in Appendix 1(a) to MMA's *Board of Appeals Manual*, available free to members at www.memun.org. (By R.P.F.) ■

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Marijuana legalization in Maine: Key issues for municipalities

Towns and cities are urged to confront myriad issues surrounding legalized marijuana now, even as the Legislature modifies our new law.

By Ted Kelleher, Attorney, Drummond Woodsum

On Nov. 8, 2016, Maine voters passed, by the narrowest of margins, Maine Question 1, which enacted the Maine Marijuana Legalization Act (the “Legalization Act”). Broadly speaking, the Legalization Act legalizes the possession and use of marijuana in a non-public place by persons over 21 years of age, and creates a framework for a regulated commercial marijuana industry in Maine, within which marijuana would be cultivated, processed and sold at retail stores to consumers. Additionally, the Legalization Act provides municipalities with a strong element of local control over the commercial aspects of this industry, which will lead to a host of decision points municipalities will face in the coming months and years.

This article will summarize key aspects of the Legalization Act, and discuss the kinds of issues that Maine municipalities will confront in connection with marijuana legalization. One word of caution: There are a variety of efforts to amend the Legalization Act pending in the Maine Legislature, as interest groups and legislators attempt to deal with ambiguities and perceived deficiencies in the Legalization Act as passed by the voters.

For example, as the sponsors of Question 1 now concede, there were technical drafting errors in the act that arguably would have allowed minors to possess and use marijuana without legal sanction. The Legislature is likely to fix these drafting issues early in the



current legislative session. This article will discuss the Legalization Act as passed by the voters, but it’s important to recognize that efforts to amend the act are ongoing at the time this article went to press, and such amendments might lead to different conclusions than the ones drawn here.

The Legalization Act

The Legalization Act legalizes the possession and use of marijuana in a non-public place by persons over 21 years of age. It will also allow people over 21 to grow up to six marijuana plants for personal use. While someone growing marijuana may give it away to other people over 21, they may not sell it. These provisions of the Legalization Act became effective on Jan. 30, 2017.

The Legalization Act sets out a framework for the creation of a commercial marijuana marketplace in Maine. The act designates the Department of Agriculture, Conservation and Forestry as the regulatory body overseeing the industry in Maine. According to industry lobbyists and policymakers, it appears likely that the act will be amended to make the primary regulator of the retail mari-

juana industry the Bureau of Alcoholic Beverages and Lottery Operations (“BABLO”). BABLO has extensive experience regulating an industry with many of the same features of the marijuana industry.

Whoever the regulator is, that agency will be required to promulgate an extensive set of regulations that governs essentially all aspects of the marijuana industry: licensure standards and procedures, packaging, labeling, grow standards, security, testing procedures and requirements and many others. Most of these are major, substantive regulations that will require legislative approval before becoming effective.

The Legalization Act creates five categories of licensure for the Maine marijuana marketplace: cultivators, processor/manufacturers, retail sales, testing labs and social clubs.

Cultivation licenses allow license holders to grow marijuana for sale at wholesale to manufacturers and retailers. Licenses will be granted in “blocks” of 100 square feet of cultivation “canopy.” Canopy is the marijuana industry’s term for the amount of square footage dedicated to growing marijuana plants. Cultivation licenses are the only class of license with any kind of limit on a statewide basis. This is done through a cap on statewide canopy size; the act imposes an 800,000 square foot cap on marijuana canopy statewide. Cultivation licenses will be given out in two “tiers:” a tier of smaller licenses for cultivation sites of less than 3,000 square feet; and, a tier of licenses for larger grows between 3,000 square feet and up to a maximum of 30,000 square feet. A minimum of 40 percent of licenses must be smaller tier licenses.

Attorney Edward “Ted” Kelleher heads the Regulatory Substances Practice at the law firm Drummond Woodsum in Portland, where he has worked for 25 years. He is a graduate of the University of Notre Dame, the University of Massachusetts and Northwestern University Law School, tkelleher@dwmlaw.com

Manufacture licenses allow licensees to purchase marijuana at wholesale and process it into other products, such as edible products infused with marijuana and marijuana oils and extracts. Manufacturers themselves can sell at wholesale to retailers. Retailers may buy products from licensed cultivators and manufacturers and sell them at retail to consumers over 21 years of age.

Testing lab licenses allow license holders to test marijuana for purity and potency, and the act and related regulations will mandate some level of testing of marijuana and marijuana products in Maine.

One of the most controversial aspects of the Legalization Act is the "social club" category of license. These are facilities that would allow on-premises sale and consumption of marijuana products. Only Alaska has authorized the creation of social clubs, and at the time this article went to press, no licenses had been granted in Alaska for those kinds of facilities. It is hard to analyze the problems created by social clubs at this time.

There are a few other provisions of the act that merit short discussion. The

act imposes a tax rate on marijuana sales of 10 percent. This is significantly lower than the tax rate on marijuana sales imposed by other states. There appears to be consensus in the Legislature to raise this tax rate. Additionally, while the act imposes application and license fees for state license applicants, those fees are quite low compared to other states.

Finally, as discussed in the next section, the Legalization Act provides for extensive local control of the marijuana

industry. Unfortunately, it provides little structure or guidance for how municipalities should exercise that control, and contains some confusing and inconsistent time frames.

Local control of the industry

The Legalization Act contains provisions that create a strong element of municipal control in the commercial marijuana system contemplated by the act. In broad terms, these local powers are grouped in three categories.

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ries. First, the act conveys the power to prohibit commercial marijuana activities entirely, or in the alternative to prohibit certain classes of licensees or to limit the number of licensees that can operate in a municipality. Second, it acknowledges municipalities' power to zone with respect to commercial marijuana activities. Finally, it provides the power to impose regulations on marijuana licensees over and above those imposed by the state.

Prohibition or limitation of licensees: Under the Legalization Act, municipalities may choose to be "dry" with respect to commercial marijuana activities. 7 MRSA §2447(4). This power can be applied to all five license classes, or to any number of them. For instance, a town may choose to permit testing and processing facilities, but prohibit cultivation, retail stores and social clubs.

Towns may also limit the number of licensees in any class that may operate within a town. 7 MRSA §2447(4). For example, a town may allow two

cultivators, one retail store, no social clubs and an unlimited number of testing labs and manufacturers. Municipalities which choose to allow but limit the number of licensees will have two questions to resolve: First, how to set the limits on the number licensees in each category; second, how to choose between competing parties seeking licenses in the event that there are more applicants for a license in a town than the town is willing to allow. This is quite likely to happen in many instances, especially with respect to cultivation licenses and retail sales licenses

Unfortunately, the Legalization Act does not provide any guidance or standards to guide towns when making these decisions. As towns and their advisers contemplate these issues over the coming months, some consensus positions on best practices are likely to emerge, but at the moment there is an absence of a clear set of standards

that towns can use when confronting these issues.

Zoning: The Legalization Act affords municipalities broad power to "regulate the location" of licensees by establishing zoning standards relating to marijuana commercial operations. 7 MRSA §2449(1). This provision of the Legalization Act specifically references 30-A M.R.S.A. §§ 4351-4361, which set out the requirements that a municipality must follow when engaging in zoning, such as the requirement of a public hearing and consistency with a municipality's comprehensive plan. That is, a town's adoption of an ordinance regulating the location of retail marijuana establishments must be treated like any other zoning ordinance process.

Considerations at work here will be things like the potential odors produced by cultivation sites and manufacturing businesses, security consid-

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erations (since marijuana businesses are cash intensive), aesthetics considerations, effects on surrounding businesses and so on.

Local Regulation: The Legalization Act allows municipalities to impose regulations on marijuana establishments over and above those imposed by the state. 7 MRSA §2449(4). Whether towns will feel a need to do this will depend to some extent on the rigor and robustness of the regulations issued by the state. Since those regulations are many months in the future, it's difficult to say how extensively towns may want to regulate licensees. However, there are some areas to which towns will want to pay attention.

Marijuana cultivation operations use high-intensity lighting, which often requires an electricity service upgrade. Consequently, towns may want to consider employing specialized fire code and life safety code provisions for cultivation sites. Similarly, marijuana manufacturing companies that employ extraction technologies may utilize solvents, such as butane, that are combustible. Again, specialized life and safety code issues may be relevant for these businesses.

The marijuana industry operates on a largely cash basis, so towns may want to consider security requirements, such as requiring exterior lighting, surveillance cameras and alarm systems for licensees, particularly retail stores.

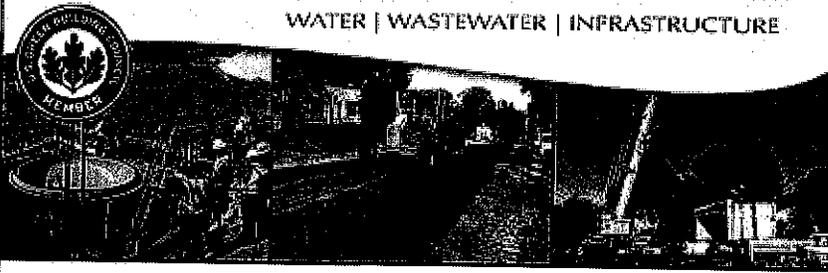
Finally, municipalities will want to ensure that code enforcement officers, fire officials and law enforcement have access to the premises and an appropriate range of business records, to ensure compliance with local regulations.

Conclusion

Maine's Marijuana Legalization Act incorporates extensive elements of local control. Towns will face several critical decision points as they contend with the emergence of the recreational marijuana industry. Unfortunately, the Legalization Act itself provides little in the way of guidance to towns about how to make these decisions. As municipal officials and their advisers ponder these questions, standard practices will begin to emerge, but it's important for towns to begin engaging in the process of confronting these issues now. ■

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While wary, police largely wait and see with legal marijuana

Police chiefs, who generally opposed the new law, say determining impairment will be difficult, both inside and outside of the courtroom.

By Glenn Adams

Maine municipal police chiefs are not rushing to change their marijuana enforcement practices in light of the new law legalizing the use and limited possession of the drug by adults. Some are training a few officers to be drug recognition experts. But most are doing nothing new, preferring to wait and see what revisions may be made to the initiated law.

"There will be no immediate changes," said Chief Stacy Carter of the Rumford Police Department. "We will continue to deal with marijuana issues as state law dictates. Officers will use their discretion as to whether or not charges will be filed. If the citizen is in possession outside the legal limits then enforcement may be taken."

Police, the majority of whom didn't like the idea of legalization in the first place, say the new law is clouded by inconsistencies, lacks specifics and is short on enforcement guidelines.

Maine was one of four states in which voters decided in November to legalize recreational use of marijuana by adults at least 21 years old. The close vote in Maine survived a recount requested by opponents.

Gov. Paul LePage on Dec. 31, 2016 signed a proclamation verifying the results of the referendum, and the law took effect Jan. 30. Using marijuana in public remains illegal.

The new citizen-initiated law allows adults to possess up to 2.5 ounces of marijuana and grow a limited number of cannabis plants. But before retail marijuana shops and social clubs where pot can be smoked open their doors, licensing and regulatory rules must be developed by the state, which

Glenn Adams is a freelance writer from Augusta and relatively new writer for the Maine Townsman, adamsgjir1@gmail.com.

ONLINE SUMMARY

A summary of Maine's law, provided by Ballotpedia, can be found at:

[https://ballotpedia.org/Maine_Marijuana_Legalization_Question_1_\(2016\)](https://ballotpedia.org/Maine_Marijuana_Legalization_Question_1_(2016))

could take up to a year. The new law gives municipalities considerable sway over where pot can be sold, and even lets towns declare the drug off-limits except for in private settings.

Even before the law formally kicked in, legislators were in agreement that the measure raises so many questions that a moratorium is needed to allow time to work out the bugs. A panel of 17 legislators was assembled to review the roughly 50 bills that deal with the new law and try to answer questions it poses. By late January, lawmakers had passed a bill clarifying that marijuana will only be legal for those 21 and older, that retail sales licensing be delayed until February 2018, and that neither drivers nor passengers in a moving motor vehicle (including boats and snowmobiles) can use marijuana. On Jan. 27, Gov. LePage signed a law that will give the Legislature and governor one year to fine-tune details on retail and other details.

The initiated bill left many unanswered questions. During a Maine Public Radio call-in program, Senate President Michael Thibodeau, R-Winterport, said hotel owners have asked how the law addresses guests smoking marijuana in their rooms.

Others have said the new law lacks standards for judging impairment of drivers who appear to be stoned. And guidelines on how to measure

the potency of pot being sold – not to mention the rules for retail sales and taxation – are lacking. With no legal sales, the question becomes: How can people use marijuana legally in the first place?

Major questions loom

The issue has been a big topic of conversation for police chiefs across the state, said Robert Schwartz, executive director of the Maine Chiefs of Police Association.

Schwartz said that he expects no drastic change in the way marijuana laws are enforced for the time being, given all of the smoke surrounding the issue. It does appear clear that police will need to train more drug recognition experts to deal with an expected upturn in impaired driving cases, he said.

A big question is whether President Donald Trump's new administration will impose a stronger enforcement policy in states like Maine, where marijuana use has been approved by voters. Under the previous administration, enforcement was relaxed in those states, "but this administration doesn't appear to be willing to take that stance," said Schwartz.

Municipal police officials said uncertainties in what kinds of changes may be forthcoming leave them with no clear directives on whether to change enforcement.

Portland Chief Michael Sauschuck said through a city spokeswoman that "there are no immediate changes in terms of enforcement." Like others, he was waiting for clarification of the legalization law to see what changes may be needed.

In Bangor, police public information Officer Sgt. Tim Cotton said, "All

I can tell you is that we are taking a wait-and-see position until the regulations and rules are reviewed and put into place.”

Cotton said he was not comfortable addressing “scenario based” situations such as whether a police officer would make an arrest if the officer stopped a car and found the legal limit of 2.5 ounces in the driver’s possession.

“In any instance that a law enforcement officer comes across an individual using marijuana, that officer has discretion in how to deal with it,” said Cotton. “There are laws on the books at this time and those are the statutes that police have to work with. I believe that most of those that are tasked with enforcing the current laws usually temper their action based on the circumstances surrounding the issue or incident.”

Status quo for now

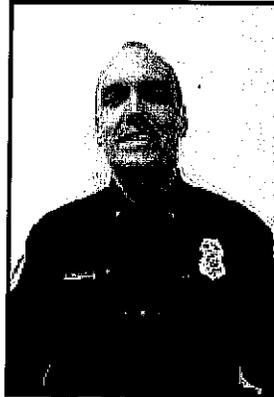
Presque Isle Police Chief Matthew Irwin said he also was not directing his officers to conduct investigations or bring charges any differently until the new law becomes clarified, and that he expects his officers to continue to exercise proper judgment and good

discretion in carrying out their duties.

“The fact that imminent or pending legislation may take effect (particularly with so much uncertainty) should not impede an officer’s ability to act within the scope of current law,” Irwin wrote in an email.

Glenn Moshier, the interim police chief in Ellsworth, is bracing for some of the same sorts of challenges seen in other states that have experience with legalized marijuana or have just legalized it.

Going into November’s referendum, four states – Washington, Oregon, Colorado and Alaska – already had laws allowing recreational marijuana. Maine, Massachusetts, Nevada and California voters approved recreational marijuana referendums this past fall,



Interim Chief Glenn Moshier



Chief Michael J. Sauschuck



Chief Brian O'Malley



Chief Jack Peck



Meet Our Attorneys Andrew Hamilton

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

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

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while Arizona rejected a proposal.

Moshier sees trouble ahead with more stoned drivers, and the lack of police enforcement tools to curb them. Moshier is a certified drug recognition expert (DRE), trained to identify drivers under the influence of drugs. But most police officers are not. In fact, there are only about 80 DREs in Maine, he noted.

While alcohol intoxication can be measured – the legal limit is 0.08 percent blood alcohol content – there's no way to measure intoxication by THC, the active ingredient of marijuana, said Moshier. So if police want a charge to stick, they must call in a DRE.

Judges are reluctant to convict without some kind of measurement to a driver's intoxication, "and those numbers don't exist," Moshier added.

"So the amount of impaired drivers out on the road will increase... and there's no real consistent way to get them off the road," he said. Even before legalization, "very high levels" of people stopped by police had marijuana in their possession, Moshier said.

No leverage

Even though there are no legal recreational marijuana sales in Maine yet, Moshier said marijuana will still be out there. But if an officer asks where a person bought the pot, there's little incentive to answer if a possession offense can't be used as leverage.

Moshier's No. 2 concern after more impaired drivers is pot getting into the hands of kids. Youths now can get marijuana, but under the new law "the issue becomes availability."

"How difficult is it for a kid to snatch mom or dad's Marlboro before heading off to school?" said Moshier. With legalization, he wonders, how often will that scenario play out with a joint?

The new law allows possession of up to 2.5 ounces by an adult. But Moshier believes that in many cases that 2.5 ounces would be sold illegally (remember, the new law is supposed to regulate and tax sales).

"Just because it's legal doesn't mean the black market will stop," said Moshier. "You're creating a whole new underworld for marijuana that doesn't exist now."

Those are just some examples of issues that need to be addressed as

Maine's law is clarified, in Moshier's view. Other big concerns likely to be addressed by the Legislature include: defining private vs. public places; smuggling pot into other non-legalization states; and, availability of edible cannabis products to children.

Lewiston Police Chief Brian O'Malley isn't convinced impaired driving will be a major problem.

"I think we'll have to wait and see," O'Malley said. But he did say the Lewiston Police Department has one drug recognition expert on the force and is sending two more for training.

The biggest change he sees is that officers will not issue summonses for marijuana possession any more, given the 2.5-ounce legal limit.

"It will be one less thing that we have to enforce," said O'Malley. Big stashes spotted by police would be brought to the station to be weighed. But officers won't carry around scales to weigh borderline bags of pot, he said.

As for prospects of more pot in the schools, O'Malley said, "It's hard to tell if that's going to happen. I may answer this differently in six months."

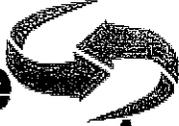
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Life in a college town

The police chief in the college Town Farmington said he doesn't know whether the new law will bring about an influx of marijuana to the University of Maine campus there, or to the high school, for that matter. "I honestly don't know," said Chief Jack Peck.

Peck has tried to be proactive in anticipation of the law. Two of his officers have been trained as DREs, and several others attended a conference in Augusta in which an attorney from Colorado outlined some of the lessons learned by that state since it legalized marijuana.

Asked what an officer will do if a driver who is stopped smells of pot but otherwise is compliant, Peck said, "I think you have to look and see if the driver is impaired." If so, appropriate steps will be taken, he said. That's when the drug recognition experts may be called. Peck noted that Maine does have a law against driving under the influence of drugs.

Peck said he will pay close attention to any changes that may be made in the marijuana law in the months ahead. But in the meantime, "We're going to enforce the laws – whatever laws are on the books at any given time."

Maine's emergency medical technicians won't be impacted by the law other than through existing statute that deals with impairment by EMTs, said Shaun St. Germain, director of state Emergency Medical Services in the Department of Public Safety.

The legalization law's lack of clarity referenced by the chiefs is reflected by town and city governments' actions. Even before the referendum, many Maine towns were calling time-outs to give them an opportunity to explore the matter of having pot shops within their jurisdictions.

Bangor council adopted a six-month moratorium on retail sale and cultivation of recreational marijuana days before the statewide referendum. Portland also passed a six-month delay on marijuana establishments a couple of weeks after the vote. Augusta took similar action in December.

In October, the Town of Gray adopted a six-month moratorium so it can set rules on clubs and retail establishments where cannabis is smoked or sold. Gardiner decided in December to impose a 180-day moratorium to

allow time to publicly air the issue. Cumberland approved a two-month moratorium and Westbrook set a 180-day moratorium. Warren, Richmond and Madison are among towns that imposed moratoriums.

Oakland Town Council passed an ordinance to bar recreational marijuana establishments from starting up, making it one of the first, if not the first, town to do so.

Even where no local restrictions are imposed, still open to question is whether businesses would want to operate where there are no ground rules.

Other states

Going into November's referendum, four states – Washington, Oregon, Colorado and Alaska – already had laws allowing recreational marijuana.

Experiences of those and other states where marijuana's been legalized presage what Maine may encounter as it feels its way through new legal territory. In Massachusetts, one of the four states that legalized it in November, legislators in December approved a bill that effectively delays "pot shops" where the drug can be sold until mid-2018. The new law does not block adults from using or possessing small amounts of marijuana.

A report on Colorado's experience says police there have experienced "numerous challenges" in conducting investigations, establishing probable cause, determining search and seizure procedures, and addressing public safety concerns with home-growing operations under the state's law.

The report by the Washington, D.C.-based non-profit Police Foundation and the Colorado Association of Chiefs of Police came out in 2015, three years after voters decided to allow recreational marijuana for adults.

The report, "Colorado's Legalization of Marijuana and the Impact on Public Safety: A Practical Guide for Law Enforcement," also said predic-

tions by that state's law-enforcement officials of sharply increased criminal activity due to the law had not been borne out. Predictions that the elimination of arrests for marijuana would result in big savings for police and the criminal justice system also did not come true, it says.

While some Colorado law enforcement agencies have at least one full-time officer dedicated to marijuana regulation and enforcement, the analysis said "most agencies do not have this option and are struggling to deal with the additional workload brought by legalized marijuana. Many law enforcement leaders are frustrated by the conflict between enforcing the new law and upholding federal statutes that continue to view marijuana use as illegal."

Overlapping medical marijuana and recreational marijuana laws "left law enforcement in Colorado with the challenge of both interpreting and enforcing the law," says the report. Maine, like Colorado, also has a medical marijuana law.

The Colorado report suggests that police develop policy, training and practices that take into account conflicting federal and state laws relating to marijuana legalization in that state. Another recommendation calls for new standards to determine whether a marijuana growing operation is illegal or legal.

In other states where marijuana's been legalized, changes in policing have occurred. In Washington state, where voters also approved legalization in 2012 and recreational marijuana sales began in July 2014, some police have applied different standards in making arrests.

A state patrol sergeant told National Public Radio that he used to decide whether to make an arrest after detecting a marijuana odor in a vehicle he stopped. But since legalization, he's more likely to let people go if they are over 21 and compliant with the law. ■

The Maine Municipal Association (MMA) is a voluntary membership organization offering an array of professional services to municipalities and other local governmental entities in Maine.

MMA's services include advocacy, education and information, professional legal and personnel advisory services, and group insurance self-funded programs.

For more information visit the MMA website: www.memun.org

LEGAL NOTES

Parts of Marijuana Law Delayed Until Feb. 2018

The Legislature has delayed the effective date of certain parts of the new "recreational" marijuana law while also clarifying other parts.

Public Law 2017, Chapter 1 (eff. Jan. 27, 2017) postpones the State licensing of retail marijuana establishments, including retail marijuana stores, marijuana cultivation, manufacturing and testing facilities, and marijuana social clubs, until Feb. 1, 2018. Unless and until licensed by the State, none of these establishments can operate legally.

The personal use and possession parts of the law became legal on Jan. 30, 2017, but the law clarifies that users must be 21 or older. Personal use is also limited to private residences or private property not generally accessible by the public and with the owner's permission. Use is also prohibited by both operators and passengers in vehicles on public ways.

Since the retail parts of the law have been delayed, local officials with doubts about the law have been asking whether local action – in the form of either a moratorium or an ordinance banning retail establishments – is still imperative. We continue to advise that if a municipality wishes to act, the sooner the better because, notwithstanding the delay in State licensing, there are still some potential legal risks if there are no local safeguards in place in the meantime.

For a sample moratorium and a sample ordinance prohibiting retail marijuana establishments, see "Legal Marijuana & Municipalities," *Maine Townsman*, Legal Notes, December 2016. For more on how to adopt a moratorium, see "Moratoriums on Marijuana," *Maine Townsman*, Legal Notes, January 2017.

On a related note, the U.S. Bureau of Alcohol, Tobacco, Firearms (ATF) has revised the form required for federal background checks to clarify that marijuana users, even in states where marijuana has been "legalized," cannot legally purchase a gun. This is because marijuana is still a prohibited drug under federal law, and the federal Gun Control Act of 1968 bans gun purchases by any user of illegal drugs. (By R.P.F.)

MUNICIPAL CALENDAR

ON OR BEFORE FEBRUARY 15 — Written statements, as prescribed by State Tax Assessor, of wages withheld in the previous calendar year is to be furnished each employee (36 MRSA § 5251).

■ Monthly/Quarterly expenditure statement and claim for General Assistance reimbursement to be sent to Department of Human Services, General Assistance Unit, DHS #11, Augusta, ME 04333-0011 [22 MRSA §4311].

FEBRUARY 20 — Presidents' Day, the third Monday in February, is a legal holiday (4 MRSA § 1051); and shall be observed as a school holiday in the absence of any vote of the superintending school committee designating how the day shall be observed (20-A MRSA § 4802).

BEFORE TOWN MEETING — Selectmen must have a warrant posted at least 7 days before town meeting and have a constable or named resident make return (30-A MRSA §2523). If adoption of an ordinance is proposed, make sure of compliance with 30-A MRSA §3002. Send copy of town report to the following: MAINE MUNICIPAL ASSOCIATION, State Tax Assessor, Fogler Library, UMO and State Librarian.

■ Town Meeting voter registration and voting list requirements. The registrar shall accept the registration and enrollment of voters prior to the municipal election according to the time schedule prescribed by 21-A MRSA § 122 unless changed by municipal officers.

■ Copies of annual report are to be deposited in the municipal office or a convenient place of business for distribution to voters at least 3 days prior to the annual meeting (30-A MRSA § 2801)

■ Check 30-A MRSA § 5823 for audits, and § 2801 for town reports.

BY MARCH 1 — Solid Waste Municipal Reporting forms are due back to the State Planning Office, 38 State House Station, Augusta Me 04333 [38 MRSA §2125(1)].

Challenging a Vote @ Open Town Meeting

Question: How can a vote at a traditional "open" town meeting be legally challenged?

Answer: Short of a lawsuit by a disappointed candidate or voter, the only method for legally contesting or appealing a vote, including a vote by paper ballot, at an open town meeting is the procedure set forth in 30-A M.R.S.A. § 2524(3)(B). This provision states, "When a vote declared by the moderator is immediately questioned by at least 7 voters, the moderator shall make it certain by polling the voters or by a method directed by the municipal legislative body."

There is no procedure for inspecting or recounting votes after an open town meeting has been adjourned. Hence, there is no requirement that paper ballots or tally sheets be preserved. The

right to request a post-election inspection or recount is available only in secret (pre-printed) ballot elections. (Note that municipal recount procedures now, for the most part, follow State recount procedures, see 30-A M.R.S.A. §§ 2531-B, 2532.)

The reason there is no inspection or recount procedure for open town meeting votes after adjournment is that, unlike secret ballot elections, the results of a vote are immediately available to question as provided in § 2524(3)(B), and a challenge can be resolved instantly by polling the voters. If there is no such challenge and the meeting is adjourned, all votes are presumed valid.

Where a vote was to elect officials, the only legal recourse for an unsuccessful candidate is to file suit in Superior Court within 30 days after the meeting (see 30-A M.R.S.A. § 2533). A vote to elect someone cannot simply be voided

LEGAL NOTES

Legal Marijuana & Municipalities

Last month Maine voters narrowly approved a ballot measure legalizing the personal use, possession and cultivation of marijuana by persons 21 years of age and older and the operation of retail marijuana stores, marijuana cultivation, manufacturing and testing facilities, and marijuana social clubs for on-premises sale and consumption.

Barring other developments (for instance, a recount resulting in reversal of the vote), the new law will take effect either 30 days after the Governor proclaims the results of the vote or, if additional funds are required to implement the new law (as appears likely), 45 days after the next regular session of the Legislature convenes. In any event, the effective date of the new law will almost certainly be no earlier than sometime in January 2017, but it could be considerably later depending on a number of as-yet-unknowns.

As of the effective date – whenever it may be – it will be legal for adults to use, possess and cultivate “recreational” amounts of marijuana. However, retail marijuana stores and social clubs and commercial-scale cultivation, manufacturing and testing facilities will require annual State licenses under the new law. And the Department of Agriculture, Conservation and Forestry has up to nine months to adopt rules for licensing and operation of these establishments. So as a practical matter they will not be able to obtain licenses or operate legally until at least late 2017.

Under the new law, all required state licenses apparently require local approval as well, though it is not yet clear who on the local level decides or on what basis. Municipalities are also authorized, by ordinance, to regulate the number, location and operation of retail marijuana stores, marijuana cultivation, manufacturing and testing facilities, and marijuana social clubs, and to impose a separate local licensing requirement. In the alternative, municipalities may, by ordinance, entirely prohibit any or all of these establishments.

For municipalities that may want to allow but regulate retail marijuana stores, marijuana cultivation, manufacturing and testing facilities, and marijuana social clubs, it will be difficult to calculate how

best to do so until after final rulemaking by the department and perhaps corrective or at least clarifying legislation. This will all probably take many months. To prevent unwanted developments in the meantime, we recommend adopting a moratorium ordinance. For a sample, see: <https://goo.gl/ulzgLY>.

For general information and advice on moratorium ordinances, see our “Information Packet” on the subject, available free to members at www.memun.org.

For municipalities that want to prohibit retail marijuana stores, marijuana cultivation, manufacturing and testing facilities, and marijuana social clubs entirely, there is no need to wait for rulemaking or more legislation. An ordinance prohibiting these establishments can be enacted any time (but probably the sooner the better) before State licensing begins, probably in late 2017. For a sample, see: <https://goo.gl/ulzgLY>.

For more on the legal as well as the practical implications of the new law, be sure and watch for two full-length articles planned for the February 2017 issue of the *Maine Townsman*.

Also, MMA is sponsoring a workshop on the new law on Feb. 28, 2017, probably in the Freeport area. Presenters will be attorneys from the Portland law firm of Drummond Woodsum. Watch for details and registration information on our website (www.memun.org). (By R.P.F.)

MUNICIPAL CALENDAR

JANUARY 1 — New Year's Day 2017 – 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 16 — Martin Luther King, Jr. Day - a legal holiday (4 MRSA §1051).

BY JANUARY 20 — Treasurer of State to post notice 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. ■

'Defective' Petitions

As we've noted here before, there are a variety of reasons why a town meeting petition may be rejected (see “Voter Petitions: What's a ‘Reasonable’ Refusal,” *Maine Townsman*, Legal Notes, March 2010). For instance, if it lacks the requisite number of signatures or fails to request a meeting or include a proposed warrant article. Or it is unintelligible. Or it calls for action that is beyond the voters' authority. Or it asks for reconsideration of a recent vote. Or it demands an immediate meeting but the subject matter is not an emergency.

These are all legitimate grounds for refusing a town meeting petition. But there are other technicalities that would not justify rejecting a petition as “defective.” These include:

Petition not addressed to selectmen. Though it is customary for a town meeting petition to be addressed to the selectmen, no law explicitly requires it. Provided the petition clearly asks for a town meeting vote, and presupposing that it bears the required number of signatures, meets all other legal requirements, and is otherwise lawful, it should be honored.

Petition not delivered to selectmen. As long as the petition is physically delivered to an official who is customarily an agent or intermediary for the selectmen, such as the clerk or the selectmen's secretary or assistant, this should be sufficient.

Petition fails to specify “article.” If it is

LEGAL NOTES

reasonably clear what the proposed question is, without guesswork or additional drafting, the failure to characterize it as an "article" should not disqualify the petition. (But if a petition proposes adoption of an ordinance but does not include the wording of the ordinance itself, it is legally insufficient – the selectmen are not required to draft anything.)

Petition includes multiple articles. The law does not limit town meeting petitions to just one article apiece, so this shouldn't disqualify the petition.

Petition includes both legal and illegal articles. This does not justify rejecting the entire petition. Only those articles that are illegal should be refused; the others should go to the voters, again assuming the petition is signed by a sufficient number of voters and complies with all other legal requirements.

Alert readers will recall that there are some significant new legal requirements for voter petitions, including: (1) circulators must be Maine residents and registered voters somewhere in Maine; (2) they must personally witness all signatures to the petition; and (3) they must verify this by circulator's affidavit (a signed, notarized statement). These are not mere "technicalities" that may be overlooked – failure to fully comply with them justifies refusing a petition. For full details, see "New Requirements for Local Petition," *Maine Townsman*, Legal Notes, April 2016. (By R.P.F.)

Financial Emergencies & Unanticipated Expenses

We're often asked whether selectmen have some inherent authority under State law to overdraw an account or to spend from surplus or some other source to address emergencies or pay for unanticipated expenses. The answer generally speaking is no, they don't.

Any authority to exceed budgeted appropriations in case of emergency or unanticipated expense must come from town meeting (the budgetary authority in most municipalities). Unless the voters have already (1) established a contingency fund for emergencies, or (2) authorized the selectmen to spend from surplus or unexpended appropriations, or (3) funded a reserve account, a special town meeting will be required to authorize an overdraft or appropriate additional funds.

Ideally, this should take place *before* additional expenditures are made. (A special town meeting can be called with only a seven-day warrant.) But we recognize this may not always be possible or realistic, so where immediate action is imperative – for example, replacing a broken furnace in January – the selectmen may choose to authorize the expenditure anyway and trust the voters to ratify it afterward. This strategy is dependent on the good faith of both the selectmen and the voters, however, and should be employed only if and as absolutely necessary since the selectmen may be personally liable for the expenditure if the voters later refuse to ratify it.

As we said, there is generally no emergency spending authority under State law, but there are two exceptions. For road maintenance (including snow plowing) and repairs, 23 M.R.S.A. § 2705 authorizes the road commissioner, with the written consent of the selectmen, to spend up to 15% more than was budgeted if that amount is insufficient (see "Winter Road Budgets," *Maine Townsman*,

Legal Notes, March 2014).

Also, for general assistance, because municipalities have a statutory obligation to provide aid to eligible persons whether or not sufficient funds have been appropriated, the authority to overdraw the GA budget, if necessary, is implied (see "Failing to Fund GA," *Maine Townsman*, Legal Notes, June 2011).

For more on overdrafts and budgeting generally, see Chapter 8 of MMA's *Municipal Officers Manual*, available free to members at www.memun.org. (By R.P.F.) ■

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MMA's services include advocacy, education and information, professional legal and personnel advisory services, and group insurance self-funded programs. For more information visit the MMA website: www.memun.org

	Yes	No	Moratorium	Prohibition	Regulate
Fayette	352	346	No	Studying Issue	
Leeds	661	628	No	Social Clubs	Grow
Livermore Falls	744	727		Do Nothing	
Manchester	712	937	No	Social Clubs	Grow
Monmouth	1133	1249	No	No	Yes
Mt. Vernon	517	535		Do Nothing	
Readfield	771	885		Do Nothing	
Wayne	398	407			
Winthrop	1600	1900		Studying Issue	

Memo

March 3, 2017

TO: Board of Selectmen/Assessors

FROM: Matt Caldwell & Rob Duplisea, RJD Appraisal

RE: Summary of Valuation Method for Skyranch Solar Farm

We are sending you this brief summary of the issues we will be discussing regarding the valuation for the Skyranch Solar Farm. We are recommending abating Map 3 Lot 9, Rosanne Graef for the value of the solar farm. The reason for the abatement is to correct the ownership of the farm which should be Skyranch Community Solar Farm.

We will also be discussing the proper assessment for the farm. There has been some question by their energy consultant and contactor as to the fairness of the taxing of solar panels throughout Wayne. We will provide you with the calculation details when we meet Tuesday, March 7th. This information is more easily understood with our explanation.

We are looking forward to meeting with you on the 7th,

Matt Caldwell
Rob Duplisea
RJD Appraisal



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December 7, 2016

Matt Caldwell, Assessor
Town of Wayne
P.O. Box 400
Wayne, ME 04284

Dear Mr. Caldwell,

I am writing at the request of the members of the Sky Ranch Community Solar Farm at 241 Morrison Heights Road in Wayne to provide information about the solar array, which was constructed by our company.

Solar System Description:

The Sky Ranch Community Solar Farm (the "Solar Farm") consists of a 49.6 kilowatt (kW dc) solar array projected to generate approximately 59,500 kilowatt-hours (kWh) annually. The array covers approximately 11,250 square feet (one quarter acre) and includes:

- 160 solar panels,
- 5 Inverters, and
- Pole mounted racking, oriented at 35° tilt and 180° azimuth.

Community Solar Farm Structure and Ownership:

This project is one of the first in the state organized as a Community Solar Farm under the Maine Public Utilities Commission net metering rules, 65-407 C.M.R. ch. 313. This rule allows a family without a viable solar site at home to own a share of a communal solar array. In short, it functions as a remote residential solar installation. For each kWh of electricity generated at the solar farm, the members receive a kWh credit on their residential electric bills. Credits are allocated in proportion to each member's ownership share of the Solar Farm. Unused credits are banked for future use, and expire after 12 months. No cash is ever paid to solar farm members.

The project is located on leased land and is the private, *non-commercial* personal property of the nine individual families that are members of the farm. Each family owns a certain number of solar panels, and shares in the remainder of the system as tenants in common. The members have formed a mutual benefit non-profit association to manage the system.

Taxation Issues – Real Property:

The Solar Farm lease has a 25-year term, with optional extensions to 30 years. Current market rates for Solar Farm leases average \$15/kW for small projects as here (\$744/year), and on the order of \$5/kW or less for larger solar projects.

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Given the very modest lease income and the inability of a prospective purchaser to use the leased property for other purposes, this arrangement will likely result in lower land values in the marketplace for the host property. Accordingly, the real property valuation should be reduced to reflect these impacts.

Taxation Issues – Personal Property:

As noted above, the Solar Farm equipment is the private, *non-commercial* personal property of the members. Because the Solar Farm is not a commercial activity, is used solely to offset members' residential electric usage, and cannot, by law, generate income, we recommend that the Town of Wayne apply the same taxation principles for this project as it does for any other residential solar project, or for any other private, non-commercial personal property.

If the town does not assess taxes on residential solar arrays, then it would be inequitable and unfair to for the town assess members of the Sky Ranch Solar Farm for taxes that no other town resident must pay. The same is true for personal property – if the town does not tax the private personal property of its residents, then it also should not tax this private personal property.

Property Tax Impacts on Solar Project Value:

We understand that the Town has proposed a valuation of the Sky Ranch Solar Farm at \$149,000, which equates to a \$2,200 tax bill for 2016, and that the Town has proposed a 25-year depreciation schedule.

Under the PUC rules, a Solar Farm can offset only the portion of a residential electric bill measured in kilowatt-hours. 65-407 C.M.R. ch. 313, §3(E)(4). In this case, the Sky Ranch Solar Farm is projected to generate 59,500 kWh/year. At the current default service electrical rates for the Central Maine Power service territory, each kWh is worth 13.2¢.¹ Offsetting this are operating costs, including operations and maintenance, rent, insurance, license fees, and meter fees – totaling about \$3,300/year.

Thus, the net energy savings from the farm as a whole are approximately \$4,600. The proposed property tax would take almost half of that – and push the payback period out to 30 years. Although not intentional, the practical effect of this level of taxation on the solar farm members is extreme and is patently unfair, particularly for a town where no other residential solar energy owner is similarly taxed.

¹ The Maine Public Utilities Commission has proposed to eliminate Transmission & Distribution costs from net energy billing compensation after 15 years, which would cut the per kWh value in half. See Maine PUC, Docket No. 2016-222.

91 West Main Street
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(207) 589-4171

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Lastly, we wanted the town to be aware that the project was organized by the Maine Chapter of the Sierra Club as a way to allow families to access clean, renewable energy in order to lower their personal carbon footprint and help do their part to fight climate change.

We urge the Town to make every effort possible to promote this sort of responsible environmental and community action.

Thank you for your consideration of these concerns and please let us know if we can provide further information or clarification.

Sincerely,

Stephen F. Hinchman, Esq
Chief Counsel
Director of Development
ReVision Energy, LLC
208-837-8637

91 West Main Street
Liberty, ME 04949

(207) 589-4171

142 Presumpscot Street
Portland, ME 04103

(207) 221-6342

14 Dixon Ave
Concord, NH 03301

(603) 415-0151

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Brentwood, NH 03833

(603) 679-1777

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February 16, 2017

Matt Caldwell, Assessor
Town of Wayne
P.O. Box 400
Wayne, ME 04284

Dear Mr. Caldwell,

At the request of the members of the Sky Ranch Community Solar Farm I am providing the attached follow-up information about the solar farm.

Project Ownership:

As discussed on our call before the holidays, the Solar Farm is owned by its members as private, non-commercial personal property. The members have formed an association to manage the system, however the members – not the association – own the array.

Member	Panels Owned	kW	Share
Thomas E. Berman	23.2	7.20	14.5%
Jean N. Crawford	16.6	5.14	10.4%
Robert Foster	25.7	7.97	16.1%
Rosanne Graef	15.8	4.88	9.8%
Richard E. Reese	16.6	5.14	10.4%
Philip Kerber	16.6	5.14	10.4%
Christopher Dumaine	24.9	7.71	15.5%
Ian D. Meng	20.7	6.42	13.0%
Total	160.0	49.6	

For purposes of comparison, a typical residential rooftop solar array in Maine is 5-10 kW (16-32 panels). As noted previously, if the town does not assess taxes on residential solar arrays, then it would be inequitable and unfair to for the town assess members of the Sky Ranch Solar Farm for taxes that no other resident must pay.

Valuation:

To the extent that the Town of Wayne does decide to tax all residential solar arrays, we recommend that it consider the income capitalization approach, which is increasingly being used by assessors and appraisers around the country for commercial solar projects.¹ Using the income method requires consideration of the Maine Public Utilities commission rules for net energy

¹ See Appraisal Institute announcement supporting Solar Valuation Form using income capitalization approach as developed by Sandia National Laboratories, available at <http://www.appraisalinstitute.org/appraisal-institute-announces-support-for-new-solar-valuation-form/> (last visited Nov. 25, 2016).

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billing and an understanding of the unique operating costs and environment for a community solar farm. Information on both issues is presented below. We have also provided project specific data in the attached excel spreadsheet.

Under Maine PUC rules, a net-metered Solar Farm can offset only the portion of a residential electric bill measured in kilowatt-hours. 65-407 C.M.R. ch. Ch 313, §3(E)(4). In this case, the Sky Ranch Solar Farm is projected to generate 59,500 kWh/year. At the current default service electrical rates for the Central Maine Power service territory, each kWh is worth 13.2¢. Offsetting this are operating costs, including operations and maintenance, rent, insurance, and license and meter fees.

As shown in the attached spreadsheet, the pre-tax value from the income capitalization approach is \$60,364, using project specific data. This does not include reductions in net energy billing credits under the Maine PUC's new net metering rules,² which would eliminate all Transmission & Distribution bill credits after 15 years, thereby cutting the value of energy from the solar array by half.

Property Tax Impacts on Solar Project Value:

We understand that the proposed valuation for the Sky Ranch Solar Farm is \$144,000, which equates to a \$2,100 tax bill for 2016, and that the Town has proposed depreciating the asset to a quarter of its initial value over 10 years. As shown in the attached spreadsheet, over the 20-year project life, this proposed tax schedule would take over a third of the energy savings of the solar array – equating to a property tax rate of 36%. This is unreasonably high and demonstrates that the proposed assessment is excessive in relation to the economic value of the solar project over its useful life.

Thank you for your consideration of these concerns and please let us know if we can provide further information or clarification.

Sincerely,

Stephen F. Hinchman, Esq
Chief Counsel
ReVision Energy, LLC
208-837-8637

² See Maine PUC, Docket No. 2016-222.

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Liberty, ME 04949

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Lifecycle Cash Flow - Sky Ranch CSF

System Design	
Annual Generation (kWh)	59,472
System Size in kW (DC)	49.60
System Size in kW (AC)	36.30
Annual Output Derate	0.5%
Loan	\$133,000
Interest Rate	5.25%
Term	12

Project Income	
Year 1 Utility Rate	\$0.1320
REC Price (\$/MWh)	2.5%
REC Term (Years)	5
Est. Total REC Value	\$9,595

Project Expenses	
OSM	\$8.00
2% Property Insurance	2%
OSM Escalator	\$932
Property Insurance	\$1,000
Land Lease Payments	\$744
Meter Fee	\$180
License Fees	\$40
Inverter Replacement	\$3,850

Year	Generation		Income				Expenses				Balance		Property Tax		Cumulative			
	Year	Gen.	REC Value (per REC)	REC Value	Total Income	OSM	Property & Liability Insurance	Rent	Fees	Inverter	Interest Expense	Total Expense	Net	Cumulative		Proposed Valuation	Mill Rate with Escalator	Tax
1	59,472	\$7,850	\$18.00	\$1,070	\$8,920	(\$397)	(\$1,922)	(\$744)	(\$220)	\$0	(\$6,093)	(\$10,275)	(\$1,355)	(\$1,355)	\$144,000	14.80	\$2,131	(\$3,486)
2	59,472	\$8,006	\$17.10	\$1,012	\$9,018	(\$403)	(\$1,980)	(\$759)	(\$220)	\$0	(\$6,550)	(\$9,914)	(\$410)	(\$2,250)	\$108,000	15.10	\$1,630	(\$2,926)
3	59,472	\$8,165	\$16.25	\$956	\$9,122	(\$411)	(\$2,040)	(\$774)	(\$220)	\$0	(\$7,095)	(\$9,532)	(\$410)	(\$2,650)	\$97,200	15.40	\$1,497	(\$1,906)
4	59,472	\$8,328	\$15.43	\$904	\$9,232	(\$420)	(\$2,100)	(\$791)	(\$220)	\$0	(\$7,615)	(\$9,127)	(\$410)	(\$2,556)	\$87,480	15.71	\$1,374	(\$1,269)
5	59,472	\$8,493	\$14.66	\$855	\$9,348	(\$430)	(\$2,161)	(\$807)	(\$220)	\$0	(\$8,112)	(\$8,699)	(\$410)	(\$2,492)	\$78,732	16.02	\$1,261	(\$743)
6	59,472	\$8,662	\$13.90	\$809	\$9,471	(\$440)	(\$2,221)	(\$823)	(\$220)	\$0	(\$8,623)	(\$8,247)	(\$410)	(\$2,492)	\$70,859	16.34	\$1,158	(\$213)
7	59,472	\$8,834	\$13.15	\$766	\$9,600	(\$450)	(\$2,281)	(\$839)	(\$220)	\$0	(\$9,090)	(\$7,869)	(\$410)	(\$2,492)	\$63,773	16.67	\$1,063	(\$3)
8	59,472	\$9,011	\$12.40	\$725	\$9,736	(\$460)	(\$2,341)	(\$855)	(\$220)	\$0	(\$9,576)	(\$7,462)	(\$410)	(\$2,492)	\$57,396	17.00	\$976	(\$9,746)
9	59,472	\$9,193	\$11.65	\$686	\$9,871	(\$470)	(\$2,401)	(\$871)	(\$220)	\$0	(\$10,062)	(\$7,061)	(\$410)	(\$2,492)	\$51,656	17.34	\$896	(\$1,566)
10	59,472	\$9,380	\$10.90	\$649	\$10,020	(\$480)	(\$2,461)	(\$887)	(\$220)	\$0	(\$10,564)	(\$6,660)	(\$410)	(\$2,492)	\$46,490	17.69	\$822	(\$2,387)
11	59,472	\$9,572	\$10.15	\$614	\$10,186	(\$490)	(\$2,521)	(\$903)	(\$220)	\$0	(\$11,076)	(\$6,260)	(\$410)	(\$2,492)	\$42,490	18.04	\$756	(\$3,155)
12	59,472	\$9,769	\$9.40	\$581	\$10,357	(\$500)	(\$2,581)	(\$920)	(\$220)	\$0	(\$11,599)	(\$5,860)	(\$410)	(\$2,492)	\$38,990	18.40	\$696	(\$3,860)
13	59,472	\$9,971	\$8.65	\$549	\$10,532	(\$510)	(\$2,641)	(\$937)	(\$220)	\$0	(\$12,132)	(\$5,460)	(\$410)	(\$2,492)	\$35,990	18.77	\$641	(\$4,501)
14	59,472	\$10,178	\$7.90	\$518	\$10,710	(\$520)	(\$2,701)	(\$954)	(\$220)	\$0	(\$12,676)	(\$5,060)	(\$410)	(\$2,492)	\$33,490	19.15	\$590	(\$5,091)
15	59,472	\$10,390	\$7.15	\$489	\$10,891	(\$530)	(\$2,761)	(\$972)	(\$220)	\$0	(\$13,230)	(\$4,660)	(\$410)	(\$2,492)	\$31,490	19.53	\$542	(\$5,623)
16	59,472	\$10,607	\$6.40	\$461	\$11,075	(\$540)	(\$2,821)	(\$990)	(\$220)	\$0	(\$13,794)	(\$4,260)	(\$410)	(\$2,492)	\$29,990	19.91	\$497	(\$6,116)
17	59,472	\$10,829	\$5.65	\$434	\$11,263	(\$550)	(\$2,881)	(\$1,008)	(\$220)	\$0	(\$14,368)	(\$3,860)	(\$410)	(\$2,492)	\$28,490	20.29	\$456	(\$6,570)
18	59,472	\$11,056	\$4.90	\$408	\$11,454	(\$560)	(\$2,941)	(\$1,026)	(\$220)	\$0	(\$14,952)	(\$3,460)	(\$410)	(\$2,492)	\$26,990	20.67	\$418	(\$6,988)
19	59,472	\$11,288	\$4.15	\$383	\$11,648	(\$570)	(\$3,001)	(\$1,044)	(\$220)	\$0	(\$15,546)	(\$3,060)	(\$410)	(\$2,492)	\$25,490	21.05	\$383	(\$7,371)
20	59,472	\$11,525	\$3.40	\$359	\$11,845	(\$580)	(\$3,061)	(\$1,063)	(\$220)	\$0	(\$16,150)	(\$2,660)	(\$410)	(\$2,492)	\$24,990	21.44	\$352	(\$7,723)
Totals	1,134,601	\$190,505	\$0.00	\$11,410	\$114,410	(\$578)	(\$3,089)	(\$1,084)	(\$220)	(\$3,850)	(\$18,821)	(\$2,589)	\$60,364	\$21,392	\$46,490	21.56	\$1,002	(\$3,857)
													\$21,392	\$46,490	\$21,392	\$3,857		

* as described by Town Assessor
 25 depreciation Y1&2
 10% depreciation Y3-10
 flat thereafter

Mooring Field Androscoggin Lake

Discussion Items for Select Board prepared by the Conservation Commission 3/2017

Issue: Peter Davis, who owns shore frontage and a summer home across the inlet from the Androscoggin Yacht club, has expressed concerns about the mooring field and boat traffic. Specifically, he argues that there are too many moorings and that they impede his access to his waterfront property from the lake. He would like to have the water safety zone adjacent to his shore front clear of moorings so that he can safely maneuver a small experimental plane into a pull out area. He also notes that moorings are placed in the “fairway” in violation of navigation rules and that the plant beds adjacent to the shores are being damaged by boat traffic. There have been other concerns in the past.

The Wayne selectmen asked the Conservation Commission to review the issues concerning the Yacht Club mooring field and prepare recommendations for Select Board consideration. Specifically the Conservation Commission was asked to review and prepare information re:

The economic impacts of the mooring field,
The environmental impacts of the mooring field,
State and local regulatory issues involving the mooring field in that location,
And to propose changes in the mooring field.

Economic Impacts of the Mooring Field and the Yacht Club

The Androscoggin Yacht Club was established in 1906 and there have been varying numbers of boats, both sail and motorboats, in the cove adjacent to the club since that time. There doesn't appear to be an annual record of the number of moorings but it is safe to say that the number has apparently increased in the last two decades. The moorings are in use during a season extending from early May to mid October and not all are in use at any given time. An aerial photo (Bing Map) shown below shows approximately 50 boats. It is unknown exactly when the photo was taken.

The ability to safely moor boats in the cove is at least partially why the club was established in 1906 and is part of the reason why it exists today. Approximately 30% of members own moorings. A draft policy clarifies that members are solely responsible for siting and maintaining their moorings. The Yacht Club owns and maintains; two moorings, two wharfs one of which is available for short term public use, the swim float, and a float which can be used by members for placement of moorings. The town

owns the launch area which extends from Lake Street and its costs are shared. Given the difficulty of separating the value of the mooring field from the Yacht Club, the economic benefits discussion includes both.

Kevin O'Rourke, Commodore of the Yacht Club, provided a list of economic benefits to the town from the Yacht Club which is summarized here.

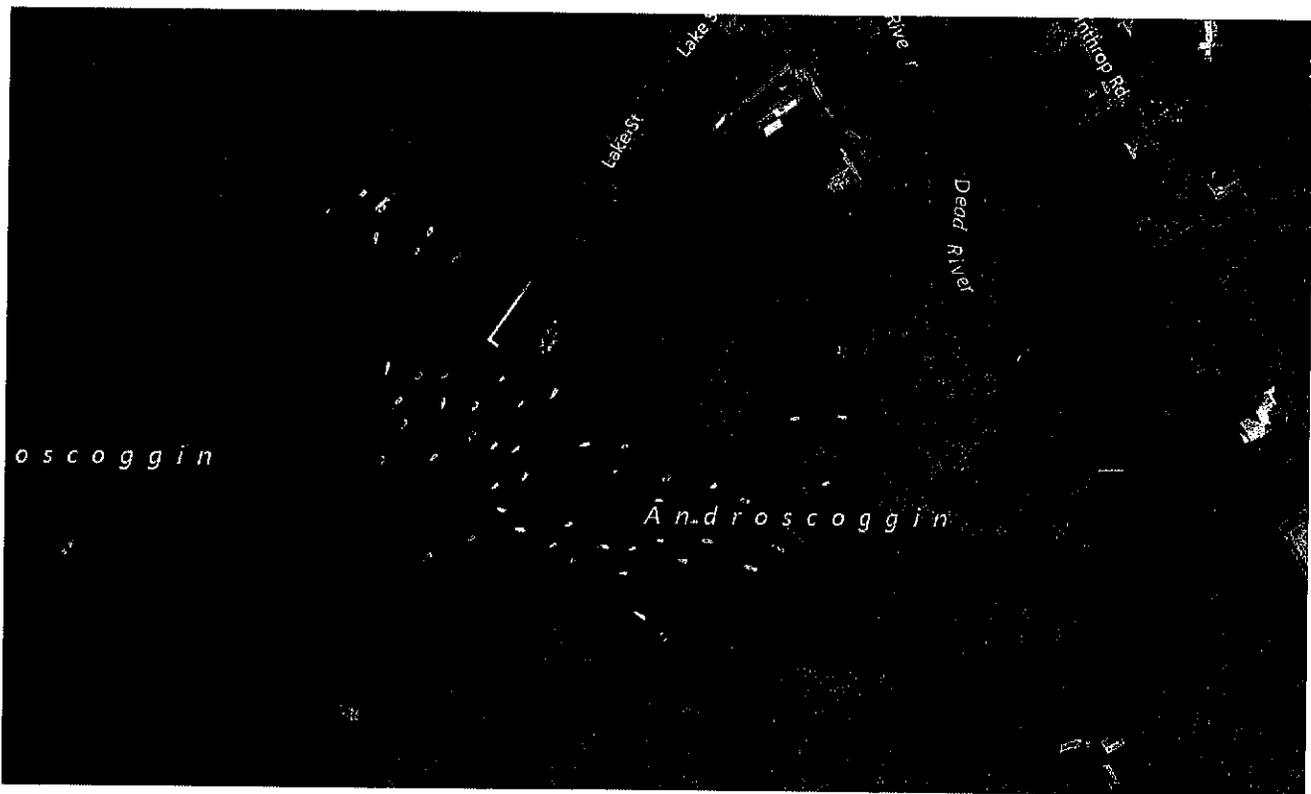
Significant contributions include:

- Recurring annual payments for the caretaker and assistant, swim and sailing instructor, heavy machinery to move the docks, taxes and a few other minor costs total over \$10,000.
- Periodic payments for major repairs, equipment rental, contractors etc. vary from year to year but can be significant. For example, the Club contributed \$3000 for the first repair project to the public boat ramp repair project in 2014-15 and more this past year.
- Other Club benefits are harder to value and include items like providing docking and access to the village and lake for non members such as visitors, summer camp owners, campers, and young people participating in Ladd Rec programs.
- Of course, the Club offers significant value to its members not the least of which is access to the lake for swimming and other recreational purposes. There are few areas in Wayne where people who do not own or rent shore frontage can access the water. Other benefits include: sailing and swimming lessons, the regatta (open to non members), dinners and other events.
- Other community groups including the Library, the Church, and the Lake Association use the building for various meetings and community programs.
- Rental for gatherings like weddings, family reunions is helpful for members and others.
- Members, visitors, boaters on the lake, summer campers, and those who rent the Club for events, frequently shop in the area which benefits businesses like the General Store, Tubby's, and others.

Environmental Impacts of the Mooring Field

We considered a wide range of environmental considerations.

This photo (from a Bing map) shows the mooring field, plant beds and Mill Stream channel. It is unknown exactly what year it was taken. Given the extent of the plant beds, it was probably taken in late July or early August at a time when the water level was not high and the majority of moorings were in use.



Physical Description:

The area in question is the western or outer portion of the cove which comprises the north east corner of Androscoggin Lake. The shallow eastern portion of the cove (bordered by the Ault's lawn) is significantly obscured by plant beds by mid summer and is very shallow except for the channel. Pre-dam topo maps show a channel through a wetland. The outer portion of the cove, where the mooring field is located, is deeper

water ranging from a couple of feet around the edges where there is some emergent plant growth to a depth where the bottom and plants are not visible from the surface. There are a few large submerged rocks mostly along the southern shore culminating at the “Whaleback” which (according to the Androscoggin Lake Improvement Corporation website hereinafter ALIC) is 1 foot out of water at full pond (or 269 feet above mean sea level hereinafter MSL). The bottom is mostly loosely consolidated sediment, much of which is over a bed of shavings deposited in the 1800's.

The Mill Stream which enters the eastern cove from the north, is shallow and rocky after the Village Dam. At high water it is possible to take a shallow draft boat almost to the dam. At very low water in 2016 (perhaps slightly below 268' MSL), it was barely accessible by Kayak. Current varies with water level and can be significant in floods.

The narrow deeper channel leaving the Mill Stream travels south into the eastern cove and then circles back to the north. It is bounded by a large shallow area which extends from the south shore almost to the northern shore before it empties into the outer cove. There is also a shallow area north of the channel. See the attached Bing Photo. This shallow bar is covered with a significant plant bed including emergents and is difficult or impossible to navigate by boat at seasonal low water (usually kept as close as possible to 269' or “full pond” by those who maintain the Dead River Dam). Currently there are usually a couple of moorings placed in the narrow channel. The cove east of the yacht club on the north shore is shallow and unsuitable for moorings as is the majority of the eastern cove.

Flora

The mooring field is bordered on the east by the large shallow area or bar that extends from the south shore and effectively divides the sections of the cove. This healthy bed hosts emergents (like pickerel weed, pipewort, rushes and sedges) floating leafed (like the numerous species of lily, and pondweeds), and submerged (like coontail, elodea, and bassweed) plants. There is even a native milfoil that shows up occasionally. The plant beds bordering the mooring field are impacted by uses in the cove although the Bing photo shows that many boats in the mooring field never need to approach the plant beds. There is some shearing resulting from boat traffic but that is somewhat limited by the fact that boats progress at very slow speeds through the crowded field. There are also some motorized boats which travel further into the shallow eastern end of the cove for fishing. Many of these do not originate from the Club. Roberta Hill, the plant specialist at the Volunteer Lakes Monitoring Project, said that the plants that live in the cove are those best suited to live in a disturbed environment and that most are perennial and reproduce from underground rhizome growth or from rooted plant fragments so the shearing even if significant, probably doesn't impact reproduction or

survival. Studies by Timothy R. Asplund, say that boats do damage plants but the best solution is to maintain headway speeds which significantly limits that damage.

Consultation with John McPhedran and others at DEP confirms that there are no known regulatory restrictions on mooring fields relative to protection of plant beds. Mike Mullen, notes that moorings are specifically exempt under the Natural Resources Protection Act irrespective of number. DEP also believes that resuspension of phosphorus associated with loose sediments would have only an ephemeral effect and would not affect water quality at measurable levels. Personal discussion with John McPhedran, Invasive Plant Section, DEP, followed by correspondence from Linda Bacon, Lake Assessment Section, and Mike Mullen, Bureau of Land Resources, Enforcement. 10/18/2016

Introduction of invasive plants is a concern where boats are regularly launched after visiting other water bodies where they might pick up fragments. Float planes are a concern here too. There are protocols for limiting risks but they are difficult to enforce. Roberta noted that a mooring field presents a lower risk of invasive introduction because the boats are less likely to travel to other water bodies.

The cove has been checked for invasives and the native resident plants mapped by several individuals. We have found no plants of concern nor are there any known rare or endangered species. Several individuals including yacht club members and ALIC members, keep an eye on the beds.

Fauna

The Beginning with Habitat Maps available on the town website identify wetland habitat at the foot of the easternmost cove which may be appropriate for some Priority Trust Species (91 Gulf of Maine species identified by US Fish and Wildlife as needing some level of protection) which could be expected to occupy the area such as the American Eel, American Eagle and the Common Loon as well as others. The historical loon nest in the small cove on the south shore does not appear to be active and they have not chosen to use the platform provided by Kevin O'Rourke in the northern cove although they still feed in the cove. There are a number of reasons why Androscoggin Lake is poor loon habitat including flooding and boat wakes which actually aren't a factor here because of the crowded field. Interestingly enough, the plants, loons and even swimmers could be at greater risk if the fairway rule discussed below were actually enforced. Removing moorings from the fairway would allow higher speeds in the otherwise protected cove.

There are plenty of other mammals, reptiles, birds and fish that have been observed in the cove. Neighbors would prefer that the Canada Geese and Beavers were not doing as well as they are. Northern water snakes and snapping turtles are also seen along with mink, numerous birds including gulls and terns, the full array of warm water fish and the occasional deer. Brown trout are stocked and migrate through the cove to attempt spawning in the Mill Stream.

Of course, we have no way of knowing what conditions were prior to the disruptions occasioned by settlement, industrialization in the 1800's and the Yacht Club uses starting in 1906. Given that, we have observed a wide array of apparently healthy flora and fauna in the area.

Risk of Spills;

Kevin noted that there had been rare minor spills from boats. Linda Bacon DEP suggested that the Yacht Club have absorbent mats available.

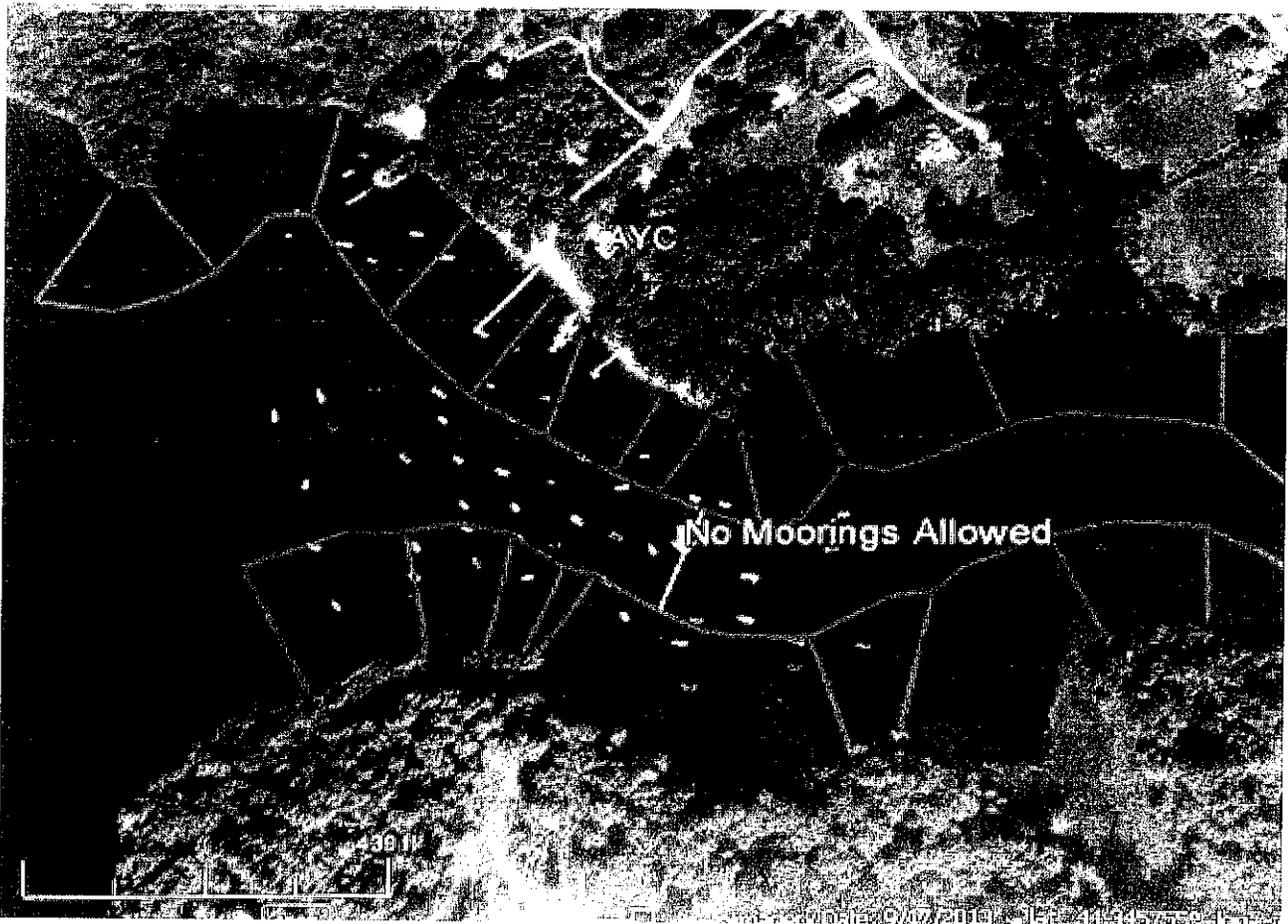
There may also be some risk of spills if boats on shorter mooring lines are damaged in flood conditions. Owners should be acquainted with Andro flood risks and be prepared to take appropriate action

State and Local Regulatory Issues

Navigation Rules and Considerations

There are navigation rules which apply to the Yacht Club mooring field in that there is a State requirement that a “water safety zone” and a “fairway” for navigational purposes be observed. 01-670 Code of Maine Regulations Chapter 3 (Maine State Aids to Navigation). Section III, 5a is the relevant rule which was adopted in 1976.

5a. MOORING BUOYS: To avoid mistaking mooring buoys for aids to navigation or regulatory markers, they shall be colored white with a single BLUE horizontal band clearly visible above the water line. **No mooring may be installed so that it or the object moored thereto extends beyond the water safety zone (200 feet from any shore) or one-third the distance to the opposite shore whichever is less.**



The above depiction of the navigation zone was created by George Powell (Retired, Navigation Aides, BPL DACF) in 2015 in response to a question from Peter and could be different as zone boundaries appear to differ depending on water levels. The navigation rules (section 1C) define “shoreline” as “The demarcation between land and water at any specific time.” The shoreline will vary as the water level fluctuates.”

If this definition is used for the measurements defining the water safety zones and fairway, the boundaries are not certain. Here, the north and south boundaries around the mooring field probably wouldn't change significantly but the eastern boundary as shown here is questionable.

Mr Powell also stated that: “Compliance with navigation rules is the responsibility of the individual who owns the mooring and is enforceable (under 12 MRS Section 1806) by any law enforcement officer, which includes local police, county sheriffs, state police and game wardens. The violation is a civil violation subject to a forfeiture of up to \$500.” (e-mail dated 6/15/2015 from George Powell, Director Boating Facilities Division, now retired) in response to a question from Peter Davis in re a 2014 letter.)

Anne Huntngton and Tim Thurston (BPL Navigational Aides), discussed the impact of these rules in a telephone conversation on Jan. 23, 2017. The gist of that conversation is that the rules do apply and that while Warden Service enforcement is inconsistent, that could change in the future. Tim said that even absent a Harbormaster Ordinance, the town does have authority to lay out a narrow channel over the existing channel through the water safety zone and restrict mooring there if clear access to the eastern cove is a necessity. This would be in addition to the fairway. Doing so would not address Peter Davis's concerns so this is a separate issue. (There are currently moorings in the channel. See Bing map. The eastern cove is a fishing area. So far, there are no known complaints concerning access.)

We were unable to locate (by checking aerial photos) any similar large freshwater mooring fields in Maine. Most are smaller, not in coves and well within the water safety zone. Those rare fields in coves (Sebago Basin, Harrison) are on crowded lakes and the towns have adopted Harbormaster Ordinances. Also, many facilities in crowded lakes rely on wharfs with slips and limit moorings. This solution is actually less environmentally friendly because of bottom and shoreline disruption.

Mooring fields on salt water can be very large and “fairways” generally are very narrow channels that lead directly to docks or through restricted areas. David Boureau (sp?) phone 347 5015, is the Coast Guard official responsible for laying out marine

channels which are designated and marked to facilitate safe passage and have no specific width requirement. There is nothing similar to a “water safety zone”. The Coast Guard has authority on coastal rivers but not upland rivers or great ponds.

Submerged Lands Statutes and Rules Governing Moorings

The Bureau of Parks and Lands manages submerged lands. See: 12 MRS section 1861 et seq, especially 12 MRS 1862 “Submerged and Intertidal Lands Owned by State”

BPL's Authority to make rules is at 12 MRS section 1803(6), and authority to enforce those rules is at 12 MRS Section 180

The Rules governing uses of the submerged lands are found at 01-670 Code of Maine Regulations Chapter 53

Generally speaking the rules specify that in Great Ponds, submerged lands below the **un**impounded natural low water mark are owned by the State and held in trust for the public. According to Carol DiBello from the Bureau of Submerged Lands in the Department of Agriculture, Conservation and Forestry the gist of this is that, barring any local harbormaster ordinance, moorings are exempt from lease requirements and anyone can place a mooring on submerged lands as long as they are within the water safety zone as defined by the rules governing navigation. There is also no limit on the number of moorings that can be placed again subject to navigational safety requirements.

“Natural Low Water” is the boundary of the State owned submerged lands where mooring is not limited. In an impounded lake, that boundary is under water and bounded by “flowed lands” (those which weren't flooded before the dam was built) where the upland owner **may** have some rights.

264-265' MSL was identified as both the 100 yr drought level and the natural low water level of Androscoggin Lake by Dana Murch in a 2000 letter. At that time there was some confusion about the height of the dam. 264' vs 265'. At the actual 275' height, the natural low water level as identified by Murch becomes 265'-266' or at least 1' above the 100 year natural drought low.

The Dead River Dam was constructed following a disastrous flood in the 1930's. It was meant to keep polluted Androscoggin River water out of the Lake rather than to

impound water in the Lake. During the years the Dead River Gauge was operating (2004-14), low water never fell below 268'. Currently the "Dam Maintenance Committee" tries not to let the water get too low in part because rapid lowering of water levels in early to mid summer threatens the popular bass fishery and unexpected submerged rocks are tough on boats. The Committee has little actual control of the water levels but aims to maintain 269'. They, or in some cases unauthorized individuals, can slow outflow somewhat by placing barriers in the dam. Generally, the dam results in an impoundment of only 2-3 feet. According to ALIC, the water level is approximately 269' or "full pond" when the Whaleback has a foot of rock showing. This elevation should be confirmed because it is an easy way to determine water levels in the cove.

Given these numbers, the border of the submerged lands (265'-266' or 9-10' below the top of the dam) is probably quite close to the shoreline on the southern shore of the cove so the existing moorings (estimated to be in at least 3-4' of water at seasonable lows) appear to be within the publicly owned lands. Any that prove to be in shallower water could be relocated.

A factor which might be considered is that many shore front property owners may not be aware of the fact that moorings can legally be placed in front of their property. According to Tim Thurston BPL Navigational Aides, this issue has become very controversial in some of the more heavily developed lakes especially in areas adjacent to public launch sites. Hence perhaps the demand that Towns take control of mooring issues.

Query What if any obligation does the town now have to enforce any of the above regulations or even to be involved in a controversy which is basically an argument between two property owners? This may be a question for the Town Attorney.

Query There may be a common law requirement that a landowner have access to his shore front and littoral lands but the public also has significant access rights to the submerged lands. Can a landowner's access to shore front or use of waters over publicly owned submerged land, absent any structure on leased submerged land, exclude all public access to the submerged lands? This does not seem likely under these rules and submerged lands access policy and protections. Legal opinion may be helpful but it may not be the Town's responsibility.

Harbormaster/Ordinance

Demand for mooring space in ever more crowded Maritime harbors has resulted in

creation under federal / state law of a means for local regulation and enforcement of mooring sites. In areas bordering territorial or maritime waters a harbormaster ordinance and position are required if requested. Lately this option has been available **but is not required** for towns concerned about demand and siting of moorings on Great Ponds. There are several statutes governing this area and they continue to be amended so it is necessary for those towns choosing the harbormaster option to monitor changes and update their ordinances as necessary. That said, towns considering a mooring ordinance / harbormaster remedy have wide latitude in determining what those ordinances will regulate.

Relevant Statutes.

Title 12 MRS section 13072 outlines the process for hiring an inland harbormaster and section 1 makes that decision optional

Title 12 MRS section 13073 Violations of a harbormasters order is a Class E crime

Title 38 MRS Chapter 1 Operation of Vessels, subchapter 1 sections 1-13 govern Harbormasters as follows:

Section:

- 1 – Appointment
- 2 – Training
- 3 – Mooring Sites; shorefront owners are entitled to 1 site abutting property, but can ask for additional sites under allocations for others
- 3A – Mooring Transfer
- 4 – Neglecting to remove replace moorings
- 5 – Removal of Vessels
- 6 – Power to arrest for assault
- 7 – Relation to other laws; basically this includes many provisions which may be addressed by a local ordinance as follows:

Nothing in this subchapter may be construed to be a limitation on the authority of municipalities to enact ordinances to regulate the assignment or placement of moorings and other activities in their harbors. These ordinances may include, but are not limited to: A process for assigning mooring privileges and determining the location of moorings; a waiting list for the assignment of mooring privileges; a fee schedule; construction standards for moorings; time limits on the mooring of vessels; a process for appeals from decisions of the harbor master; provisions that recognize that mooring privileges in lawful existence on the effective date of an ordinance may be preserved or continued after adoption of that ordinance, the

location and use to be determined by the harbor master or other appropriate local authority; and provisions that establish a harbor commission or committee to administer the ordinance or ordinances and oversee the duties of the harbor master. Regulations adopted by the municipal officers under section 2 remain in effect unless the municipality's legislative body enacts an ordinance pertaining to the same matter pursuant to the Constitution of Maine, Article VIII, Part 2, and Title 30-A, section 3001. [1997, c. 89, §1 (AMD).]

7A – Nonresident waiting lists

8 – Waiting lists

9 – Abandonment of watercraft

10 – Harbormaster liability

11 – Definitions

12 – Violation of subchapter see also 30A section 4452 Enforcement of land use laws and ordinances

13 – Failure to obey orders of Harbormaster

As we understand it, should Wayne decide to develop such an ordinance under the Statute, it would apply to all lakes in the town, have some provisions which should be addressed (such as a mooring plan to guide the harbor master, scope of the Harbor Master's authority, and a provision for waiting lists) but would allow flexibility in developing a plan which meets the town's needs. For example, the town could designate specific areas and requirements for mooring fields while leaving the remainder of the shore front largely as is, subject of course, to some oversight. The town can also specify standards for new moorings so that the ice and wind don't relocate them. An Ordinance could even be adopted in conjunction with neighboring towns so that the harbormaster position could be shared. A grandfather clause protecting existing uses could be included. There are educational requirements for the harbormaster who could also be responsible for enforcement of other State laws governing Great Ponds including those governing invasive plants. At the most extreme, following completion of programs through the criminal justice academy, the harbormaster can be a law enforcement official allowed to carry a gun but this level is not required. In some cases, the harbormaster may be a volunteer but generally it appears that there is a salary involved. At the least, there would be costs for training of the Harbor Master. Basically, such a plan shifts the burden of enforcing various water based issues from the State to the town. This is a complex area and may require consultation with others to help determine the best path.

Summary and Recommendations

So to summarize, as the situation stands today:

1. Within an inland harbor there are specific state requirements on individuals who elect to place moorings to meet navigational safety rules concerning water safety zones and a fairway which is unimpeded by moorings. These rules (currently rarely enforced) do apply to the mooring field at the Yacht Club. See discussion re Navigation above.
2. Currently in Wayne, an individual can place a mooring on the State owned submerged lands within the water safety zone. It is the sole responsibility of individual owners of moorings to comply with all navigation rules and the responsibility of law enforcement agencies, generally the warden service, to enforce the rules. The town has no authority to require changes to the field.
3. The Select Board could elect to pursue the Harbormaster option. This would require development of an Ordinance, employment of a Harbormaster with associated costs, and would shift mooring placement decisions from the mooring owner to the town and enforcement requirements from the State to the Town.

The Conservation Commission recommends the select board consider the following options:

- A. Stay with the current system and encourage the Yacht Club to educate it's members.
- B. Should demand for mooring sites continue to increase, it may be beneficial to search for alternative locations where moorings and other recreational access for the public might be appropriate.
- C. If moorings become more of a public concern in the future, the select board could make a determination whether it is appropriate to consider an ordinance. They could then create a committee to review and evaluate Harbormaster Ordinance options and prepare an Ordinance which balances the needs of property owners and recreational boaters.

Sources Not Available On Line (Attached)

About the Androscoggin Yacht Club

Prepared by Kevin O'Rourke 2016

7 Pages

Letters from Dana Murch DEP concerning water levels in Androscoggin Lake. The primary focus is flood estimation but the letters also include information about the Dead River Dam and low water estimates.

1. Addressed to Martha Hoddinott ALIC, April 20, 2000, 14 pages
2. Addressed to Molly Saunders ALIC, September 28, 2000, 8 pages

Draft Water Level Graph prepared by Anne Huntington 2017 to illustrate the various water levels that are important on Androscoggin Lake. I'm still working to confirm and fine tune some of these numbers but this is generally pretty accurate.

Sources Available on Line

Androscoggin Lake Improvement Corporation Website

Information about Dam, Lake Levels, and the Dead River Gauge

With a good connection you can get to archived USGS gauge data from the ALIC website. ALIC has also archived Gauge data or contact Nicholas Stasulis at USGS data office nstasuli@usgs.gov

Timothy R Asplund articles re effect of motorized watercraft on plants

The Effects of Motorized Watercraft on Aquatic Ecosystems March 2000 synopsis of multiple studies

dnr.wi.gov/topic/shorelandzoning/documents/201301041052.pdf

Effects of Motorboats on Submerged Aquatic Macrophytes

Link <http://dx.doi.org/10.1080/07438149709354290>

or google his name. Both studies will come up

Bureau of Public Lands (BPL) Rules governing Navigation Aides

Search for: 01-670-Code of Maine Regulations Chapter 3

BPL Rules governing Submerged Lands

Search for: 01-670 Code of Maine Regulations Chapter 53

Search for Maine Harbormasters Association

Click “resources” then “Harbor Management” for a good discussion of the laws governing Harbormasters.

Statutes re the Harbormaster Option

search for Title 12 MRS subsection 13072

search for Title 12 MRS subsection 13073

search for Title 38 MRS Chapter 1, go to Subchapter 1, go to sections 1-13

Potential Water Levels Androscoggin Lake
Above Mean Sea Level (MSL)
(Draft prepared with available numbers)

MSL

291'	Highest known flood level
290'	
289'	100 yr flood 15' over dam, 11' over flashboards Murch (1936, 1951, 1987 floods 289-291'
288'	dam built 1939)
287'	
286'	Andro "Flood Zone" from zoning Ord / FEMA Map,
285'	
284'	
283'	10 yr reverse flow flood 8' over dam / 4' over flashboards (Murch)
282'	
281'	
280'	
279'	
278'	Top of Flashboards <i>If Andro River level exceeds this at dam, we get reverse flows</i>
277'	<i>If 30 mile river upstream floods as well, Andro lake level can rise very fast</i>
276'	277.7' pin at Yacht Club showing "Normal high water"
275'	Top of dam
274'	
273'	
272'	
271'	
270'	Top of Whaleback Rock (ALIC) Confirm elevation
269'	accepted "full pond"
268'	post impoundment low water (gauge data 2004 – 2014)
267'	
266'	Natural low water 9-10 ' below top of dam <i>This is probable lowest possible boundry of the</i>
265'	<i>submerged lands</i>
264'	<i>100 yr natural pre-impoundment drought 264-265' (Murch)</i>
263'	
262'	
261'	? Base of Dam (Murch thought it was 274' rather than 275')
260'	Base of dam (Murch) ?

If these figures are accurate, the boundary of the submerged lands is approximately 4-5 feet down when Whaleback is just breaking surface.

Also note that the FEMA flood zone and insurance requirement ends well below 100 yr flood level



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

ANGUS S. KING, JR.
GOVERNOR

MARTHA KIRKPATRICK
COMMISSIONER

April 20, 2000

Martha Hoddinott, President
Androscoggin Lake Improvement Corporation
PO Box 250
Wayne, ME 04284

RE: Dead River Dam

Dear Martha:

I hope the winter has treated you well and that you are looking forward (as I am) to warmer weather.

Since our meeting and trip to the Dead River Dam last December, I have made a number of return visits to the dam and lake to study water level and flow conditions. I have also done some research on historic conditions and flood levels in the drainage.

I have enclosed the results of my efforts. I have summarized my findings in a statement of "Dead River Dam Facts", and I tried in this summary to address some of the questions that you and Molly Saunders asked at our meeting.

As you know, Roy Bouchard of this office has initiated a study to determine the sources and magnitude of nutrient problems in the lake. You should contact Roy directly for any updated on this study.

I will be happy to meet with you and other interested parties to discuss my findings and their implications for the future management of the dam.

Sincerely,

Dana Paul Murch
Dams Supervisor

Enclosure

AUGUSTA
17 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0017
(207) 287-7688
RAY BLDG., HOSPITAL ST.

BANGOR
106 HOGAN ROAD
BANGOR, MAINE 04401
(207) 941-4570 FAX: (207) 941-4584

PORTLAND
312 CANCO ROAD
PORTLAND, MAINE 04103
(207) 822-6300 FAX: (207) 822-6303

PRESQUE ISLE
1235 CENTRAL DRIVE, SKYWAY PARK
PRESQUE ISLE, MAINE 04769-2094
(207) 764-0477 FAX: (207) 764-0507

Letter to Martha Hoddinott

April 20, 2000

Page 2

cc: Senator John Nutting
Representative Linda McKee
Molly Saunders, ALIC
Ron Kreisman, Esq.
Peter Nielson, Town of Wayne
Steve Groves, IP
Scott Reed, Mead
Greg Trundy, Rumford-Mexico Sewer District
Mark Holt, North Jay WWTP
Kent Mitchell, Livermore Falls WWTP
Peter Mosher, Dept. of Agriculture
Steve Timpano, IF&W-Augusta
Jim Stahlnecker, IF&W-Sidney (Fisheries)
James Connolly, IF&W-Sidney (Wildlife)
David Van Wie, DEP
Dave Courtemanch, DEP
Roy Bouchard, DEP
Barry Mower, DEP
Mike Barden, DEP
Gregg Wood, DEP

\hoddinott

DEAD RIVER DAM FACTS

1. The Dead River Dam is a concrete gravity dam measuring about 145 feet in length and 14 feet in height, with two one-way "flapper" gates near the middle of the dam. The condition and functioning of these gates has not been verified. The dam has a fixed crest at elevation 274 feet mean sea level (msl) and is currently topped by 2-foot high flashboards (6-8 foot long wooden planks supported by metal pins).
2. The dam was built circa 1931 by the State of Maine for the express purpose of preventing contamination of Androscoggin Lake by the inflow of water from the Androscoggin River. The dam is located in the Town of Leeds about 1½ miles from the confluence of the Dead River with the Androscoggin River.
3. Androscoggin Lake is a natural flood storage reservoir for the Androscoggin River. This is confirmed by the existence of a delta at each end of the Dead River and by the fact that, in the 6.7-mile long stretch of the Dead River from the Androscoggin River to the Leeds-Wayne town line, the stream bed drops in elevation by 15 feet (see attached portion of 1910 USGS topographic map and FEMA flood profiles).
4. Before the Dead River Dam was built, the level of Androscoggin Lake fluctuated with that of the Androscoggin River. The assumed natural full pond level of the lake is at elevation 269 feet msl, 5 feet below the top of the dam (see attached topo map). The natural low water level of the lake is probably in the range of 9 to 10 feet below the top of the dam, while the 100-year flood level of the lake is more than 12 feet above the top of the dam (see attached FEMA flood profiles).
5. Today, the dam serves to keep a limited amount of river water out of the lake and to retard flows out of the lake. The dam is overtopped whenever the flow in the Androscoggin River is greater than about 16,000 cubic feet per second (cfs) (see attached summary of DEP observations during the winter/spring of 1999/2000). This flow is exceeded about 4% of the time, and occurs on an almost annual basis, primarily during the months of April and May. The U.S.G.S. estimates that, on average, 2 billion cubic feet of water flows from the river into the lake, while 5 billion cubic feet of water (or 2 ½ times as much water) flows into the lake from its natural drainage area (see attached flow duration curve and letter from U.S.G.S.).
6. With the flashboards in place and fully functional, the dam is only overtopped when the flow in the Androscoggin River is greater than about 25,000 cfs. This flow is exceeded about 2% of the time and occurs almost annually. Given the frequency of this occurrence and the volume of water that enters the lake from the river, it is not clear that the flashboards have any great value.

DEAD RIVER DAM FACTS

Page 2

7. The level of the Androscoggin River both rises and falls faster than does the level of the lake (see attached summary of DEP observations). The effect of this is that short periods of time when the river flows into the lake are interspersed by longer periods of time when the lake flows out into the river. In addition, when the lake and the river are at approximately the same level, there is little or no flow through the dam, and the Dead River lives up to its name. Before the dam was built, it is likely that such conditions existed throughout much of the summer season.
8. Today, three things affect the level of Androscoggin Lake: (1) the amount of water entering the lake from direct runoff and drainage from Pocasset Lake and its tributaries; (2) the amount of water entering the lake from the Androscoggin River; and (3) the length of time that the level of the river is equal to or higher than the level of the lake.
9. Whenever the level of the river is higher than that of the lake, no water flows out of the lake. This is true whether or not there is a dam in place on the Dead River. In addition, whenever the level of the river is higher than that of the lake, water flows from the river into the lake through the dam unless the gates are fully closed and completely block the passage of water at all levels. From the observations made to date, it appears that the gates are being held partially open by debris.
10. When the level of the lake is higher than that of the Androscoggin River, water flows from the lake into the river. The rate of this flow is determined by the relative difference in water levels between the lake and the river and the size of the opening created by the dam gates. More or larger gates would allow the lake to drain more quickly.
11. Keeping just the 10-year flood flows of the Androscoggin River out of Androscoggin Lake would require building a dam 8 feet higher than the current one that would stretch across the floodplain field leading to the Nutting's farm. Keeping the 100-year flood flows of the river out of the lake would require building an even longer dam an additional 6 feet higher.
12. Completely removing the Dead River Dam would result in (1) marginally more water from the Androscoggin River getting into the lake, (2) the lake level both rising and falling faster than it does now, and (3) the lake level fluctuating with that of the river, as it did naturally.

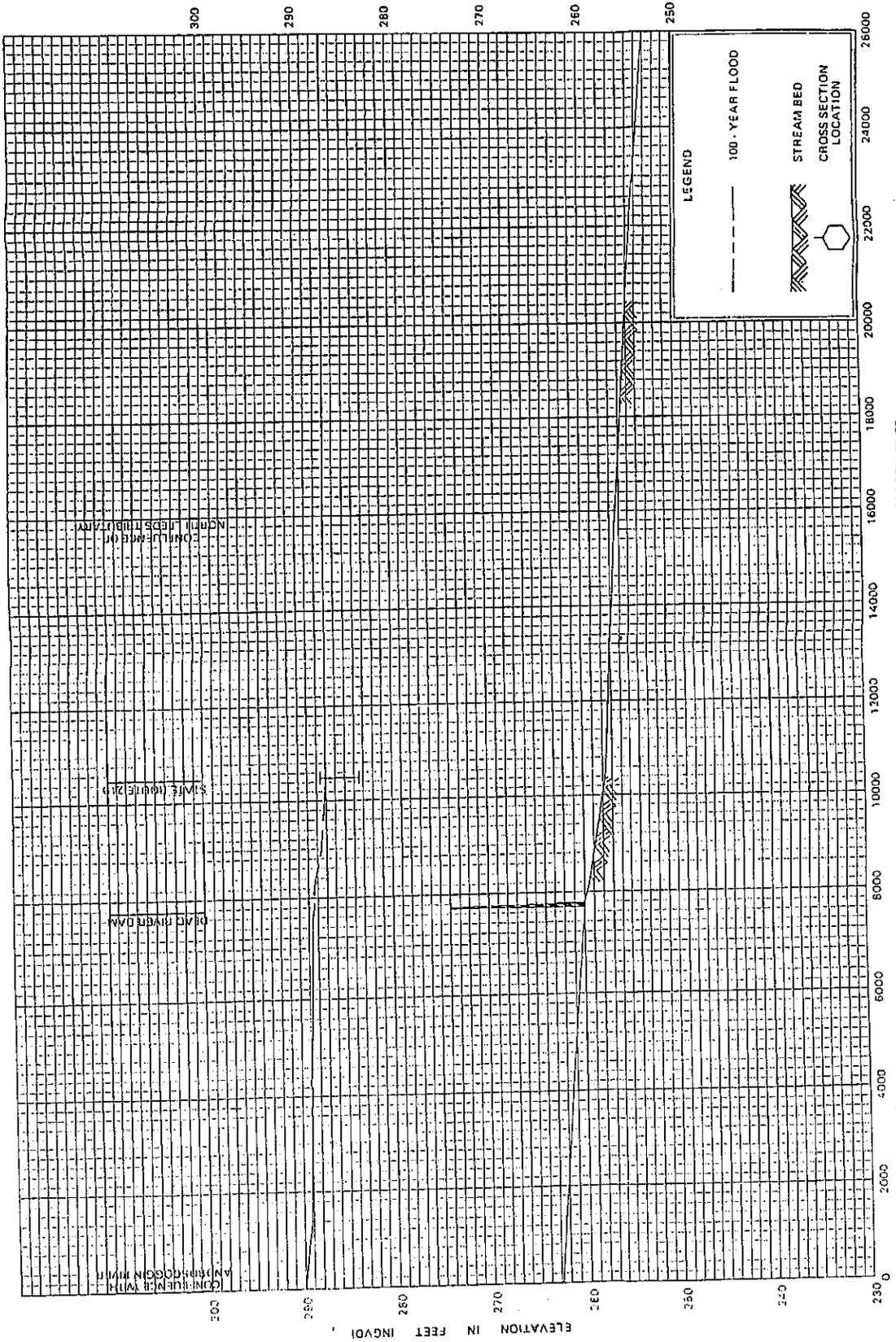
Prepared by: Dana Paul Murch, Dams Supervisor
Department of Environmental Protection
April 19, 2000

\\dead river dam facts

FLOOD PROFILES
DEAD RIVER

FEDERAL EMERGENCY MANAGEMENT AGENCY
TOWN OF LEEDS, ME
(ANDROSCOGGIN CO.)

05P

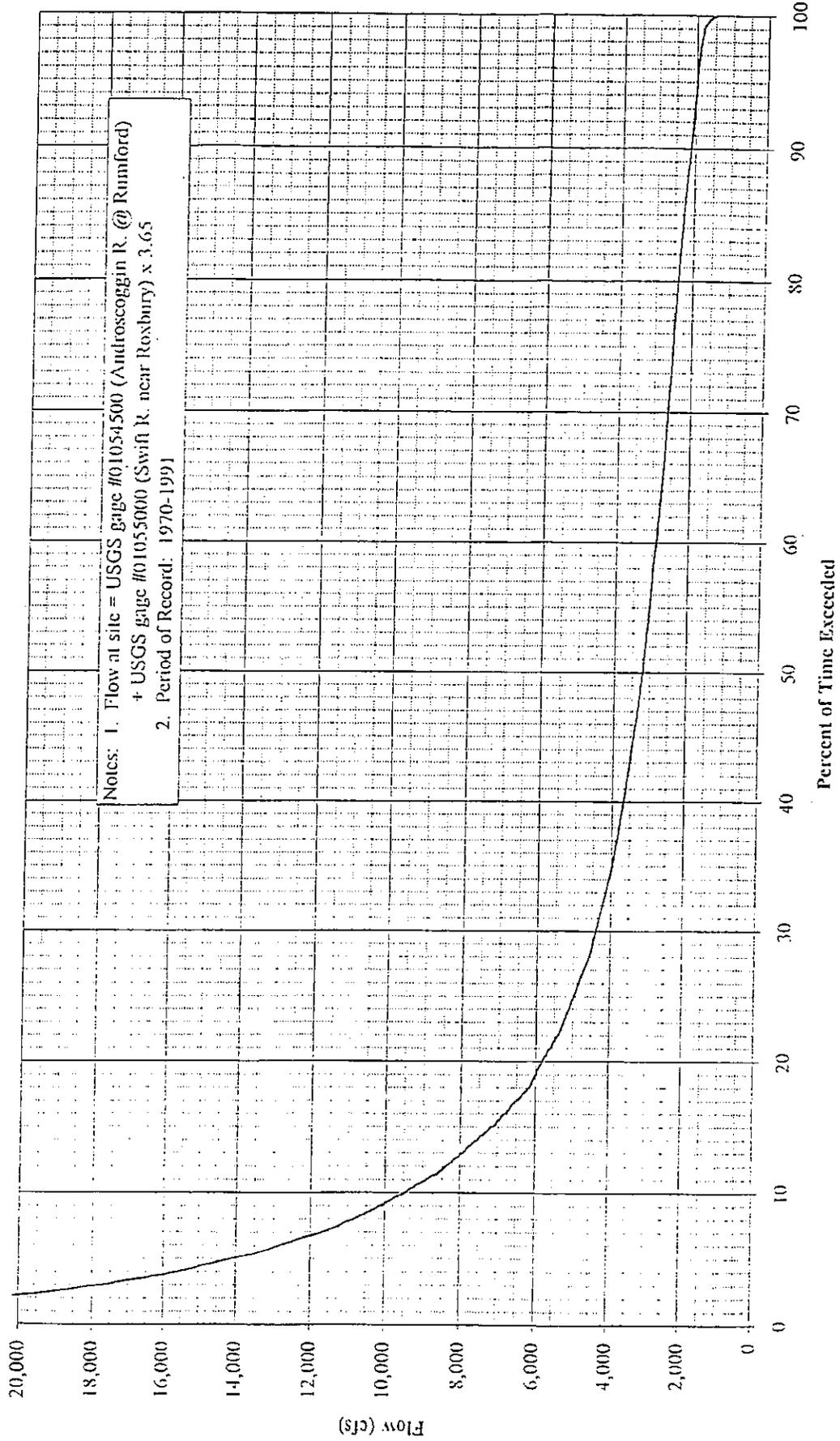




STREAM DISTANCE IN FEET ABOVE CONFLUENCE WITH ANDROSCOGGIN RIVER

ELEVATION IN FEET (NGVD)

FIGURE B-1. International Paper Company, Riley-Jay-Livermore Falls Project (FERC No. 2375), Annual Flow Duration Curve.





United States Department of the Interior

U.S. GEOLOGICAL SURVEY

Water Resources Division
Maine District Office
26 Ganneston Drive
Augusta, Maine 04330

Roy Bouchard
Maine DEP
State House Station 17
Augusta, ME 04333

On January 20, 2000 the USGS, Maine District Office met with Dana Merch, Roy Bouchard, and David Halliwell from DEP to discuss the hydrology of Lake Androscoggin. As requested at this meeting, the USGS performed a preliminary analysis using existing information to determine the inflow to Androscoggin Lake from the Androscoggin River. The analysis indicated that on average 2 billion ft³ flows annually into Androscoggin Lake from the Androscoggin River, as compared to an estimated 5 billion ft³ from the natural drainage of Androscoggin Lake. The analysis further showed that the Androscoggin River flows into Androscoggin Lake approximately 4% of the time, and that this occurs on an almost annual basis (1.05 year recurrence interval).

Any comments or questions that you have should be directed to Gregory Stewart in the Maine District Office, telephone number (207) 622-8201, extension 118 (email: gstewart@usgs.gov). We look forward to discussing the possibility of further work on the Lake.


Gregory J. Stewart P.E.
Hydrologist
Maine District Office
U S Geological Survey
26 Ganneston Drive
Augusta, ME 04330

~ 2/15/2000

SUMMARY OF DEAD RIVER DAM/ANDROSCOGGIN LAKE OBSERVATIONS
WINTER/SPRING 1999/2000

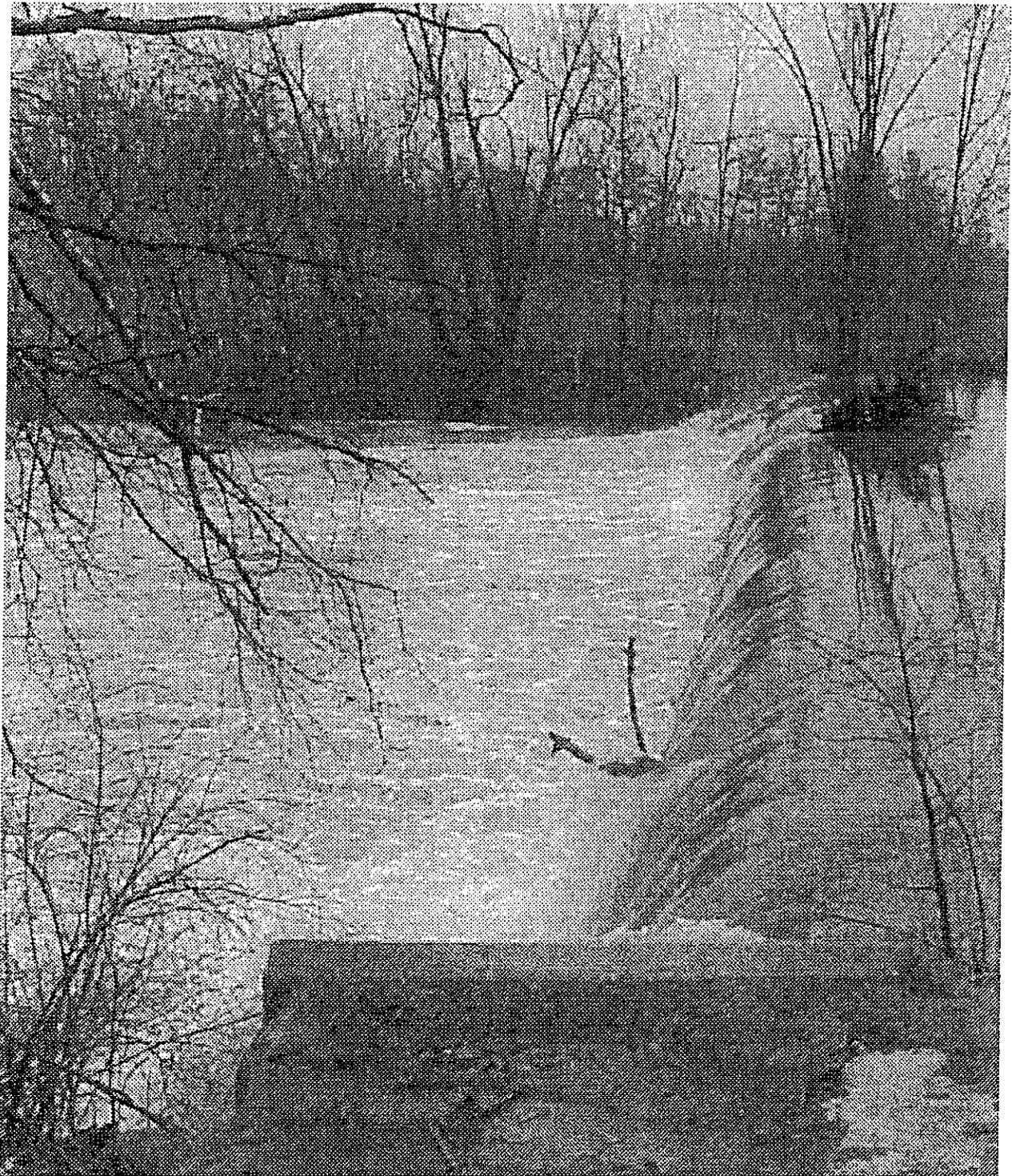
[For the purpose of the following summary, the "lake" is Androscoggin Lake and the flooded portion of the Dead River to the east of the Dead River Dam, while the "river" is the Androscoggin River and Dead River to the west of the dam.]

- 12/22/1999 10 A.M. The river was about 5.3 feet below the top of the concrete dam. River flows were at about 5,700 cfs, well above average (median) flows for the date. The lake was about 3.3 feet below the top of the concrete dam. Water was flowing out of the lake into the river. Flashboards were in place.
- 03/27/2000 2:15 P.M. Water was essentially equal on each side of the dam at about 3 feet below the top of the concrete dam, with very little discernable flow through the dam. River flow was about 9,700 cfs. Two 6-foot long sections of flashboards had been displaced by ice or debris.
- 03/28/2000 Heavy rain and snow melt began this day. The Swift River near Roxbury peaked in the afternoon of the 28th at about 1 foot over flood stage, while the Androscoggin River at Rumford peaked early on the 29th at about 2 feet below flood stage.
- 03/29/2000 10:15 A.M. The river had risen to a level about 4 feet over the top of the concrete dam (2 feet over the flashboards) and was flowing into the lake (see photograph). River flow was about 33,900 cfs. The maximum level reached by the river was probably less 5 feet over the dam. The lake was about ½ foot below the top of the concrete dam, and peaked sometime on the 30th at a level probably approaching the top of the concrete dam. At the Route 106 bridge (east of the dam), the water level was over the banks of the flooded river channel, with a strong and definite current of water flowing from the Androscoggin River into the lake.
- 03/31/2000 11:30 A.M. The river had dropped to a level about ¾ths of a foot below the top of the concrete dam, while the lake level was about 1 ½ inches higher than the river level. The lake was clearly flowing out through the dam into the river.

- 04/08/2000 Heavy rains and snowmelt again occurred on April 8th and 9th. The Swift River at Roxbury peaked in the afternoon on the 9th at about 5 feet above flood stage. The Androscoggin River at Rumford peaked in the morning on the 10th at about flood stage.
- 04/11/2000 9:30 A.M. The river was about 3 ½ feet above the top of the concrete dam, and was receding after the heavy rains of the previous weekend. The maximum level reached by the river was probably more than 5 feet above the top of the concrete dam. There was a strong and steady flow from the Androscoggin River into the lake. The lake had risen to a level more than 2 feet above the top of the concrete dam. The maximum level reached by the lake was probably about 2 ½ feet above the top of the concrete dam (equal to about ½ foot above the top of the flashboards). The bases of all the trees along the river channel to the east of the dam were under water, as were the trees around the lake as viewed from the yacht club in Wayne.
- 04/13/2000 10:30 A.M. The river had dropped to about ¾th of a foot below the top of the concrete dam. The lake was just below the top of the flashboards, about 2 feet above the top of the concrete dam. There was a strong flow out of the lake into the river. There was significant bank erosion evident along the river channel.

Summary Prepared By: Dana Paul Murch, Dams Supervisor
Department of Environmental Protection
April 18, 2000

\\dead river flooding



Seal River Dam 3/29/2000 10:15 AM
← Lake

RIVER →

**ANDROSCOGGIN RIVER FLOWS AND WATER LEVELS
AT DEAD RIVER DAM**

RIVER FLOW AT DAM	WATER LEVEL AT DAM HEIGHT (FT)	HEIGHT (MSL)	DATA SOURCE
5,732	-5.3	268.7	Observations made 12/22/1999 10:00
9,700	-3.0	271.0	Observations made 03/27/2000 14:15
12,620	-0.7	273.3	Observations made 04/13/2000 10:30
33,925	4.0	278.0	Observations made 03/29/2000 10:15
52,800	8.0	282.0	Calculated 10-year flood conditions
74,400	12.0	286.0	Calculated 50-year flood conditions
86,100	14.0	288.0	Calculated 100-year flood conditions

COMMENTS

1. Flows in the Androscoggin River (except for calculated flood flows) are based on USGS gauging station data (provisional) adjusted to Livermore Falls using the following formula (developed by International Paper):

Flow at Livermore Falls = Rumford gauge flow + (Swift River gauge flow x 3.65).

These flows are approximate, as the formula does not account for the time of travel between the source gauges and Livermore Falls. Flows determined using the formula are especially suspect during times of rapid changes in flows.

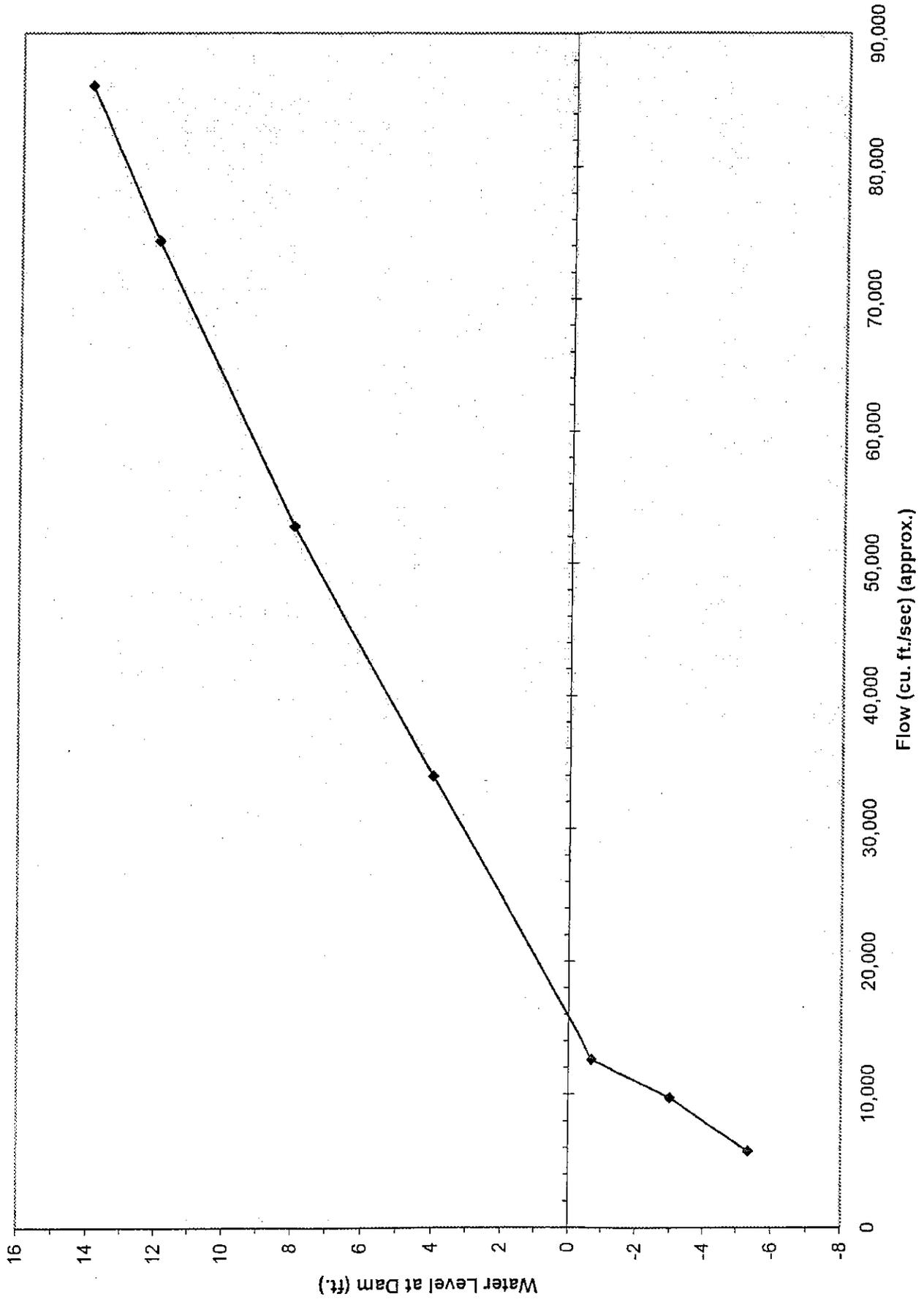
Note on 03/27/2000 flows: Swift River gauge was reporting ice on this date. Flow at gauge was assumed to be 3 times median flow for date.

2. Water levels at the dam (except for calculated flood levels) are based on measurements by DEP staff on the date and time noted. Water levels are given in feet above or below the top of the concrete spillway, which is at a reported elevation of 274.0 feet msl. At the time of the observations, the spillway was fitted with 2-foot high flashboards.
3. All flood flows are from FEMA Flood Insurance Study for the Town of Livermore Falls (1991).
4. 100-year flood level at the dam is from FEMA Flood Insurance Study for the Town of Leeds (1990). This level is 3 feet lower than the 100-year flood level for the Androscoggin River at the confluence with the Dead River, as reported in the FEMA Flood Insurance Study for the Town of Livermore Falls. Based on this, the 10-year and 50-year flood levels at the dam determined by subtracting 3 feet from these levels for the Androscoggin River at the confluence with the Dead River.

Prepared by: Dana Murch, Dams Supervisor
 Department of Environmental Protection
 April 18, 2000

\\dead river dam water levels

Androskoggin River Flows and Water Levels at Dead River Dam





STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

ANGUS S. KING, JR.
GOVERNOR

MARTHA KIRKPATRICK
COMMISSIONER

September 28, 2000

Molly Saunders, President
Androscoggin Lake Improvement Corporation
c/o Wayne Village Pottery
PO Box 231
Wayne, ME 04284

RE: Dead River Dam

Dear Molly:

This is a follow-up to our recent telephone conversation and my recent visit to the Dead River Dam. (And congratulations on your election as President of the Androscoggin Lake Improvement Corporation!)

I have been waiting for an opportunity to see the dam when the flow in the Androscoggin River was very low. I got that opportunity when I visited the dam on September 11, 2000 with Peter Mosher from the Department of Agriculture.

The estimated flow in the Androscoggin River at the time on my visit was 1815 cubic feet per second (cfs). This approximates the once-in-ten-year drought flow for the river, which has been calculated by DEP as 1730 cfs at Livermore Falls.

The upshot of this is that I saw the river at its 10-year drought level. At this flow, the river was about 8 feet below the top of the concrete dam. I must point out, however, that the current 1730 cfs drought flow in the river is not natural, but is the result of the release of water during the summer months from various headwater storage dams. The natural drought flow in the river at Livermore Falls was in the range of 150-200 cfs, with a correspondingly lower river level (this information has been extrapolated from data presented in FPL Energy's December 1999 Application for License for the Upper and Middle Dams Storage Project).

AUGUSTA
17 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0017
(207) 287-7688
RAY BLDG., HOSPITAL ST.

BANGOR
108 HOGAN ROAD
BANGOR, MAINE 04401
(207) 941-4570 FAX: (207) 941-4584

PORTLAND
312 CANCO ROAD
PORTLAND, MAINE 04103
(207) 822-6300 FAX: (207) 822-6303

PRESQUE ISLE
1235 CENTRAL DRIVE, SKYWAY PARK
PRESQUE ISLE, MAINE 04769-2194
(207) 764-0477 FAX: (207) 764-1507

Letter to Molly Saunders
September 28, 2000
Page 2

Therefore, I can now verify that the natural low water level of Androscoggin Lake is in fact in the range of 9 to 10 feet below the top of the concrete dam, as I surmised in my April 20, 2000 report. (Note: The available flood plain maps show the highest point in the stream bed under the Dead River to be at elevation 263 feet mean sea level, located at the confluence with the Androscoggin River. This is 11 feet below the top of the dam.)

I have revised the table and chart of Androscoggin River flows and water levels at Dead River Dam that were included in my April 2000 report to include my recent observations. These revised documents are attached.

As explained in the attached table, the calculated 100-year flood level of the Androscoggin River at the dam is at elevation 288 feet msl (14 feet above the top of the concrete dam) based on a flood flow of 86,100 cfs. However, in addition to increasing drought flows in the river, the presence of the various headwater storage dams also has the effect of reducing natural flood flows in the Androscoggin River. Extrapolating from data in the FPL Energy application cited above, the natural 100-year flood flow in the Androscoggin River at Livermore Falls was about 95,600, which would raise the 100-year flood level at the dam by about 1 foot. Other flood levels would be corresponding higher also.

At the time of my recent visit, the level of Androscoggin Lake was about 5.75 feet below the top of the dam. This means that the lake was still more than 2 feet higher than the river, and water was flowing out of the lake. The middle of the dam houses two wooden "flapper" gates, hinged at the top. The gates were designed to be pushed shut to keep the river out whenever the level of the river was higher than that of the lake, and to be pushed open to let the lake drain out whenever the lake was higher than the river. The gates appeared to be very old (they may in fact be original equipment) and, while sound, will need to be replaced at some point if they are to continue to function. Both gates appeared to be incapable of being fully closed due to debris that has clogged the gateways.

So, here's what this all means:

- The natural (i.e., undammed and unregulated) water levels of Androscoggin Lake ranged from an estimated 100-year drought low of elevation 264-265 feet msl (9-10 feet below the top of the Dead River Dam) to an estimated 100-year flood high of about elevation 289 feet msl (15 feet above the top of the dam). This means that, over a 100-year period, the level of Androscoggin Lake naturally varied by about 25 feet.

- The presence of the various headwater storage dams on the Androscoggin River has the effect of increasing natural drought flows and decreasing natural flood flows in the river. Based on a recent analysis (FPL 1999), the best estimate of this effect is that the headwater storage dams increase the 100-year drought level of Androscoggin Lake by 1-2 feet (to 8 feet below the top of the dam) and decrease the 100-year flood level of the lake by about 1 foot (to 14 feet over the top of the dam). This means that, over a 100-year period with the headwater storage dams in place, the level of Androscoggin Lake would vary by about 22 feet.
- The natural water levels of Androscoggin Lake over a 10-year period ranged from a 10-year drought low of elevation 266 feet msl (8 feet below the top of the dam) to a 10-year flood high of elevation 284 feet msl (10 feet above the top of the dam). This means that, over a 10-year period, the level of Androscoggin Lake naturally varied by about 18 feet.
- The presence of the Dead River Dam has the effect of slowing the natural flow of water into the lake during floods and slowing the natural release of water from the lake during droughts. As a result, the lake now both rises less and falls less than it would under natural flood and drought conditions. Based on observations to date, the best estimate of this effect is that the Dead River Dam increases the 10-year drought level of the lake by 2 feet (to 6 feet below the top of the dam) and reduces the 10-year flood level of the lake by 2 feet (to 8 feet above the top the dam). This means that, over a 10-year period with the headwater storage dams and the Dead River Dam in place, the level of the lake still varies by about 14 feet.
- With the flapper gates in the dam blocked partially open, some river water currently enters the lake whenever the level of the river is higher than that of the lake. However, at the same time, the higher river water prevents any water coming into the lake from its drainage area from leaving, so the lake rises in large part as it "fills up" with its own water. It is not clear how much river water is prevented from entering the lake by the presence of the dam.

On a final note, the Department of Agriculture has now acknowledged that it owns the dam. I suspect that the Department will soon be considering whether it should continue to own the dam.

Letter to Molly Saunders
September 28, 2000
Page 4

I understand that you hope to organize a series of stakeholders meetings soon to discuss the situation with the dam and water quality/water levels in the lake. I would be happy to come and discuss my findings and thoughts about the future of the dam.

If you have any questions, please feel free to call me at 287-3901.

Sincerely,



Dana Paul Murch
Dams Supervisor

Attachments

cc: Mailing List (Attached)

saunders

ANDROSCOGGIN LAKE/DEAR RIVER DAM
MAILING LIST
September 2000
Page 1

Molly Saunders, President
Androscoggin Lake Improvement Corp.
c/o Wayne Village Pottery
PO Box 231
Wayne, ME 04284

Martha Hoddinott, Vice President
Androscoggin Lake Improvement Corp.
PO Box 250
Wayne, ME 04284

Peter Neilson, Town Manager
Town of Wayne
RR 1 Box 515
Wayne, ME 04284

Jane Wheeler, Administrative Assistant
Town of Leeds
PO Box 206
Leeds, ME 04263

State Senator John Nutting
RR 1 Box 3410
Leeds, ME 04263

State Representative Linda McKee
RR 1 Box 280
Wayne, ME 04284

Peter Mosher
Office of Agriculture, Natural & Rural Resources
Department of Agriculture
28 State House Station
Augusta, ME 04333

Bob Lent
U.S. Geological Survey
26 Ganneston Drive
Augusta, ME 04330

Ron Kreisman
25 Page Street
Hallowell, ME 04347

Steve Groves
International Paper Company
PO Box 20
Jay, ME 04239

Scott Reed
Mead Oxford Corp.
35 Hartford Street
Rumford, ME 04276

Ray Danforth
Pulp & Paper of America
650 Main Street
Berlin, NH 03570

Greg Trundy
Rumford-Mexico Sewer District
PO Box 160
Rumford, ME 04276

Mark Holt
North Jay WWTP
Town of Jay
99 Main Street
Jay, ME 04239

ANDROSCOGGIN LAKE/DEAR RIVER DAM

MAILING LIST

September 2000

Page 2

Kent Mitchell
Livermore Falls WWTP
2 Main Street
Livermore Falls, ME 04254

Steve Timpano
Department of Inland Fisheries & Wildlife
41 State House Station
Augusta, ME 04333

Jim Stahlnecker
Regional Fisheries Biologist
Department of Inland Fisheries & Wildlife
270 Lyons Road
Sidney, ME 04901

James Connolly
Regional Wildlife Biologist
Department of Inland Fisheries & Wildlife
270 Lyons Road
Sidney, ME 04901

Dan McGillvray
Kennebec Journal
PO Box 22
Mount Vernon, ME 04352

David Van Wie, Director
Bureau of Land & Water Quality
Department of Environmental Protection
17 State House Station
Augusta, ME 04333

David Courtemanch, Director-DEA
Bureau of Land & Water Quality
Department of Environmental Protection
17 State House Station
Augusta, ME 04333

Roy Bouchard, Lakes Assessment Section
Bureau of Land & Water Quality
Department of Environmental Protection
17 State House Station
Augusta, ME 04333

Barry Mower, Rivers Assessment Section
Bureau of Land & Water Quality
Department of Environmental Protection
17 State House Station
Augusta, ME 04333

Mike Barden, Director-DWRR
Bureau of Land & Water Quality
Department of Environmental Protection
17 State House Station
Augusta, ME 04333

Gregg Wood, Waste Water Licensing
Bureau of Land & Water Quality
Department of Environmental Protection
17 State House Station
Augusta, ME 04333

Dana Murch, Dams Supervisor
Bureau of Land & Water Quality
Department of Environmental Protection
17 State House Station
Augusta, ME 04333

dead river dam list

**ANDROSCOGGIN RIVER FLOWS AND WATER LEVELS
AT DEAD RIVER DAM**

RIVER FLOW AT DAM	WATER LEVEL AT DAM		DATA SOURCE
	HEIGHT (FT)	HEIGHT (MSL)	
1,815	-8.0	266.0	Observations made 09/11/2000 13:45
5,732	-5.3	268.7	Observations made 12/22/1999 10:00
9,700	-3.0	271.0	Observations made 03/27/2000 14:15
12,620	-0.7	273.3	Observations made 04/13/2000 10:30
33,925	4.0	278.0	Observations made 03/29/2000 10:15
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COMMENTS

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$$\text{Flow at Livermore Falls} = \text{Rumford gauge flow} + (\text{Swift River gauge flow} \times 3.65).$$

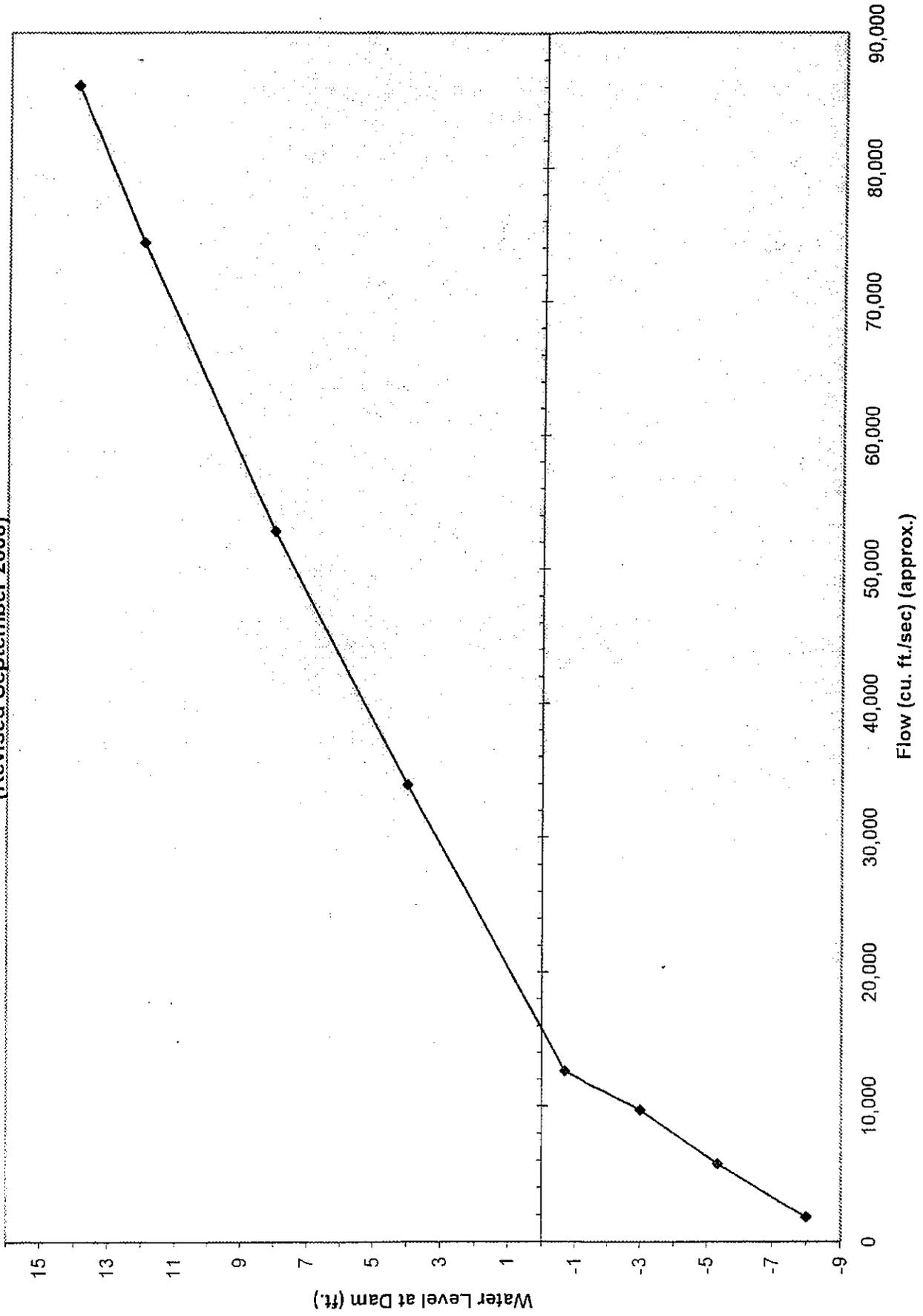
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3. All flood flows are from FEMA Flood Insurance Study for the Town of Livermore Falls (1991).
4. 100-year flood level at the dam is from FEMA Flood Insurance Study for the Town of Leeds (1990). This level is 3 feet lower than the 100-year flood level for the Androscoggin River at the confluence with the Dead River, as reported in the FEMA Flood Insurance Study for the Town of Livermore Falls. Based on this, the 10-year and 50-year flood levels at the dam determined by subtracting 3 feet from these levels for the Androscoggin River at the confluence with the Dead River.

Prepared by:
Dana Murch, Dams Supervisor
Department of Environmental Protection
Revised September 2000

Androscoggin River Flows and Water Levels at Dead River Dam
(Revised September 2000)



About the Androscoggin Yacht Club

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Androscoggin Yacht Club

Overview

The Androscoggin Yacht Club (AYC) is an historic member-owned club on the shore of Androscoggin Lake in Wayne, Maine. The club is a venue for recreation, water sports, social gatherings and youth classes for developing skills in swimming and sailing. It supports Wayne community groups and facilitates access between the lake and the village center. Financially self-sufficient, the club covers its taxes and expenses, while pricing membership fees modestly to foster inclusion. People of all ages have enjoyed summers at the club for generations, and the AYC aims to be a feature that enhances the appeal of the town of Wayne.

Organization

Founded in the first decade of the 20th century, the AYC is owned by members and run by volunteers. Members elect a five-person board annually, headed by a Commodore who serves for a term of no more than two consecutive years. In turn, the board appoints various committees to oversee key functions of the club, such as maintenance, fundraising, event rentals, facilities, etc. The club hires several part-time employees for grounds keeping and swim-lesson instruction. The club runs on a set of bylaws established at its founding and amended periodically (most recently in 2006).

Membership

The AYC is open to all member applicants, and the club circulates applications annually. The price of a family account is \$95 per season, and the price for an individual account is \$55 per season. The membership entails access to club facilities and activities. Members include residents of Wayne as well as neighboring towns and cities; there are also many summer residents or vacationers who visit Wayne from other states and countries.

The club currently has 187 membership accounts. These include family accounts as well as individual accounts. By comparison, in 1976 there were 103 total memberships, and as of 1995 this was virtually unchanged, with 107 total memberships that year. By 2012, there were 187 total memberships.

Facilities

The club occupies a small plot of land with a beach in downtown Wayne on the shore of Androscoggin Lake. The clubhouse itself is a building registered as an historic landmark; it consists of a large central hall, a fully equipped kitchen, a wraparound screened porch, two restrooms and a storage area underneath. The club has its own septic distribution system and it draws its water intake from the lake. There is a sandy beach that varies in size depending on

Androscoggin Yacht Club

water level, and a town-owned boat launch that the club assists in maintaining. Each year the club deploys a main boat dock, a smaller dock for accommodating dinghies, and a swim float. The club provides for summer storage racks for canoes and kayaks, three picnic tables and a charcoal pit for barbecuing. For parking space, the club rents a land area behind the club owned by a neighbor.

Docks

The club's main dock serves, in effect, as an item of public infrastructure, enabling boaters from anywhere on the lake to dock and walk a short distance to downtown Wayne. This function dates back to the first decade of the 20th century, when Wayne residents constructed a permanent stone pier extending into the lake, at the site of the present-day seasonal dock. Winter ice destroyed this pier, and by the 1920s the AYC was using a seasonal wooden dock.

Since approximately the 1960s, the main AYC dock has had its present dimensions and shape, which is in the form of a letter 'L'. The main dock consists of eight regular sections (each 14' long x 6' wide); one junction section (8' long x 10' wide); and an additional regular section extending at a right angle (i.e., parallel to shore). The dock's total length is therefore approximately 112 feet. The dinghy dock consists of three regular pieces (each 14' x 6') and one winch float (6' x 6'), for a total length of 48 feet.

Activities

The AYC provides for a wider range of recreational and social activities for people of all ages.

Swimming Lessons

Teaching youth to swim is arguably the club's most important function. For more than 50 years, the club has offered swimming lessons to local youth, and since that time the club's instructors have taught hundreds of people to swim. Lessons take place for a six-week period in the middle of the summer. Participants range in age from small toddlers to teenagers, and many take part annually throughout their childhood. The club has at times provided advanced courses such as personal water safety, lifeguarding and adult swim lessons.

The lessons take place within an area partly enclosed by an 'L'-shaped dock, and within the confines of safety swim lines. Shallow water at the edge of the beach provides a comfortable area for the smallest swimmers, while medium depths part-way along the dock enable intermediates to practice. Deeper water near the vertex of the L shape allows for diving, as does the swim float.

The swim instructor is a paid employee of the club, and the position provides a valuable form of employment for a young adult recruited from Wayne or the immediate vicinity. Past swim instructors have included Kurt Ross, Stefan Pakulski, Amanda Black and Daphne Ellis, to name just a few. The current instructor is Readfield resident Mary Erb,

Androscoggin Yacht Club

a nationally ranked competitive swimmer from Kents Hill School who is currently attending Connecticut College. In 2016, swim classes involved an average of 12 students per session.

Swim lesson enrollment was far higher in the past: historical records for 1977, for instance, show that a total of 48 children took part in swim lessons that year.

Ladd Rec Free Swim

The club makes its facilities available to groups of youth enrolled in the summer programs of Wayne's Ladd Recreation Center. Plans exist to further integrate the daily Ladd Rec free swim with the club's swim-lesson instruction, in order to enhance both programs.

Sailing Lessons

AYC members are able to enroll in lessons to learn techniques of sailing. The club employs a part-time instructor who takes several students for lessons for two-and-half hours each week for three weeks. Students range from elementary-school children to adults of all ages. The course of instruction covers sailing techniques, equipment preparation, boat-handling, seamanship, navigation, safety, maritime skills and boat maintenance.

Family Barbecues

Each week during the summer on Thursday nights, the club lights charcoal in the barbecue pit for any members who wish to bring and cook their own picnic dinner. This is a popular event that typically attracts more than two dozen people.

Sailing Regatta

The club hosts an annual sailing Regatta with several races during the course of the day, including boats from the club and elsewhere on the lake. Youth from Camp Androscoggin are particularly enthusiastic participants, sailing in a variety of small sailboats.

Potluck Suppers

Several potluck suppers take place throughout the summer for club members. In addition, as a fundraiser, members arrange a supper for the general public with an admission charge of eight dollars; the proceeds benefit the club. Attendance usually exceeds 100 people.

The Club Dance

The AYC hosts a dance of live music for the public on a Saturday night in July. The event is typically very well attended and provides a unique social activity for the community.

Androscoggin Yacht Club

Wayne Homes Tour

In 2017, as in past years, the AYC will provide a venue for supporting the annual Wayne Homes Tour conducted by the Cary Memorial Library and the Wayne Community Church.

Boat Moorings

The area of the lake in front of the AYC property is popular as a place for boat owners to moor their vessels each year from late spring until early fall. The club makes two or three AYC dinghies available for use by members, as well as a dock for securing dinghies owned by boat owners. In this way the club facilitates the access of club members to boats moored offshore.

Nearly all of the boats moored near the Yacht Club belong to club members. Likewise, the moorings themselves – including anchors, chains and mooring balls – also belong to the boat owners, not to the club. This policy is a clear part of the AYC's By-Laws (see Appendix).

The AYC board appoints a mooring committee chair who provides club members with assistance, primarily notifying them in the event that boats break loose from moorings in foul weather or due to faulty equipment. The club also maintains a mooring float, equipped with a winch and electric motor, to enable club members to deploy or move their moorings. The club does not provide equipment for installing moorings; instead, boat owners must provide their own concrete mooring tubs, as well as chains, shackles and balls. Boat owners are fully responsible for all aspects of their moorings, with the club being advisory only.

Neighbor Relations

The AYC maintains cordial and supportive relations with its neighbors in the immediate vicinity of the club, with one exception. In this one case, the club has been the object of an array of complaints since 1989. The club, through its officers, has endeavored repeatedly to address those complaints deemed reasonable in order to bring about constructive relations. Significant complaints about the club and its operations have only ever originated from one individual neighbor.

Dock Length

A complaint focused on the AYC pertains to the length of the club's main dock. The club originally erected a permanent year-around pier in the first decade of the 20th century, but later the club replaced this with a seasonal dock. Since at least the mid-1960s, the AYC dock has had the same size and shape as it does currently. The club has periodically replaced individual sections of docking, but without altering the dimensions of the overall dock. The position of the dock depends on the water level of the lake, and is moved down the beach as the water level lowers throughout the summer.

Androscoggin Yacht Club

The AYC dock is an intrinsic element of the club's activities. It provides a platform for swimming lessons for students of all ages, and also supports the club's sailing lessons. It is the launch point for the annual AYC Regatta. Members use the dock for boating (loading and unloading). The dock protects the beach from waves and rough water, thereby enhancing the appeal of the beach as a swimming destination for families with young children. The dock also enables older children to swim a short distance to the deeper-water swim float – a popular activity for Wayne's youth.

As AYC property, the dock is for the use of AYC members as well as for the use of Wayne residents. The dock is, in effect, an item of public infrastructure, providing direct and crucial support for all Wayne boaters using the immediately adjacent town-owned boat launch. Boaters from throughout the lake regularly use the AYC dock as point of egress and access to the Wayne village and its businesses.

Mooring Locations and Navigation Channel

There have been complaints that moorings in front of the AYC are located too close to the opposite shore, irking or inconveniencing the owner of the shoreline. In 2014, AYC officers contacted approximately one dozen mooring owners and secured their approval to move their moorings away from shore. In most cases, this increased the distance between the moorings and the shoreline by a factor of approximately two. The process of performing this labor, including underwater preparation of mooring hardware and the extraction of anchors embedded in mud using a float-mounted winch, involved considerable time and effort by AYC volunteers.

Despite this effort, the complaint about moorings went before the town Select Board. The board members reviewed relevant regulations and determined that moorings need not be a specific distance away from shore; instead, regulations arguably require a navigable channel through the center of the mooring area (if the mooring area is perceived to be a cove, without an outlet, no channel is needed; alternatively, if the area is perceived to be a channel, with an outlet to a destination beyond, a navigable path through the area is a necessity.)

Although there was no official designation at the time resolving the question of whether the mooring area is a cove or a channel, the AYC board took the initiative to apply a prudent approach and comply with requirements for a channel. AYC volunteers therefore labored again to communicate with mooring owners and shift numerous moorings to create a navigable channel of sufficient width through the center of the mooring area. This perforce required the moving of a number of moorings towards the far shore from the club – i.e., back towards where they had been moved away earlier in the season.

The channel created underwent review by the town manager in the Fall of 2014. Complaints from the landowner persisted, but otherwise the club is unaware of any other dissatisfaction with the results of the channel created.

Androscoggin Yacht Club

Aquatic Waterplants

A complaint exists that the mooring of boats in front of the AYC impedes the growth of aquatic plant life, such as lily pads, which function to cleanse impurities from water entering Androscoggin Lake from Pocasset Lake. According to the complaint, lily pads grew in the recesses of the cove (or the recessed innermost part of the channel) several decades ago.

The club is unaware of any research or evidence supporting the claim that the mooring of boats affects the growth of nymphaeaceae (e.g., 'lily pads' or water lilies). In recent decades, the newly constructed dam at the outlet of the Dead River has tended to keep Androscoggin Lake's water levels significantly higher throughout the bulk of the summer, relative to levels that prevailed historically prior to the building of the dam (2016, with a drought, was an exception). It seems questionable whether the average depths in the aforementioned part of the cove are sufficient for lily pad growth. Nymphaeaceae require depths of less than one meter, and the plant grows best in depths of 30-60 centimeters.¹

Flotsam

A complaint about the AYC pertains to flotsam and litter that collects on the shoreline opposite the club. Items found along the shoreline have included severed mooring balls, mooring site markers (such as large plastic bottles), boat bumpers and scraps of line. Other items include drink cans, plastic trash and styrofoam (items which can originate from anywhere on the lake and settle on all shores of the coves as the result of prevailing winds). There are also items such as tires and wooden docks that did not originate from the AYC. In any event, in recent years AYC volunteers have periodically used small craft to collect any and all non-natural items from the shoreline opposite the club, including a tire, for disposal at the Transfer Station in Readfield. The club members will continue to undertake this voluntary activity, on a periodic basis as needed, to help maintain the environs.

Appendix: AYC Mooring Policy (By Laws Excerpt)

BOAT MOORING POLICY OF THE AYC

1. Purpose

¹ Sciencedirect.com, "Germination and early growth of *Nymphaea odorata* at different", <http://tinyurl.com/zatuzqo>.

Androscoggin Yacht Club

The purpose of this policy is to state clearly the intentions and actions of the AYC with respect to boat moorings located in the cove adjacent to the AYC clubhouse, docks and other club facilities (“the Cove”).

2. Policy

It is the policy of the AYC that, with the exceptions noted below, the AYC does not place, replace, move, remove, alter, manage, or maintain boat moorings located in the Cove. Any member may, at the member’s sole election, place and otherwise manage and maintain a mooring in the Cove within the limitations of the applicable laws and state and local ordinances and regulations. Any member placing or maintaining a mooring in the Cove shall be solely responsible for the condition, location, repair, and security of the mooring and for assuring that the mooring is in compliance with all related legal requirements including, without limitation, the proper placement of the mooring anchor in a legally permissible location. The AYC shall have no responsibility of any kind for any member-owned mooring.

3. Exception

The AYC may place, own, and maintain a maximum of three (3) moorings in the Cove for the purpose of mooring boats owned and used by the AYC in connection with the AYC summer sailing instruction program.

4. Record

The AYC will maintain a record of boat moorings placed in the Cove by members of the AYC who choose to report their moorings, together with the identifying numbers/letters marked on the mooring buoy, if any, to the AYC for the purpose of facilitating contact with the member in the event of a loose mooring and/or boat. Reporting of a mooring and its identifying information is voluntary on the part of the members and is not required. No member will be penalized for failure to report a mooring.

Town of Wayne, Maine

PSAP & Dispatch Services
FY 2017-2018

**Somerset County
Communication Center
Skowhegan, ME**

FY 2015-2016
\$2.10 per capita x 1,189 (2010 Census) = \$2,497

FY 2016-2017
\$2.10 per capita x 1,189 (2010 Census) = \$2,497

FY 2017-2018
\$2.20 per capita x 1,189 (2010 Census) = \$2,616

Public Safety Answering Point (PSAP)

- Dial 911

**Central Maine Regional Communication Center
Augusta, ME**

FY 2015-2016
\$7,916

FY 2016-2017
\$6,795.00

FY 2017-2018
\$6,847.00

Law Enforcement Rural Patrol Dispatch

- Kennebec Sheriff's Office

**Winthrop Communication Center
Winthrop, ME**

FY 2015-2016
\$1.85 per capita x 1,189 (2010 Census) = \$2,197

FY 2016-2017
\$1.94 per capita x 1,189 (2010 Census) = \$2,307

Fire/ Ambulance Dispatch

- Wayne Fire Department
- Winthrop Ambulance

AGREEMENT
BETWEEN
STATE OF MAINE, DEPARTMENT OF PUBLIC SAFETY
AND
TOWN OF WAYNE

This Agreement is between the State of Maine, Department of Public Safety, with a mailing address of 104 State House Station, Augusta, Maine 04333-0104 (“Department”) and the Town of Wayne, with a mailing address of PO Box 400 48 Pond Road, Wayne, Maine 04284 (“Town”), hereinafter referred to jointly as the “Parties”.

WHEREAS, the Town of Wayne has an obligation to provide Public Safety Law Enforcement Dispatch services; and

WHEREAS, the Town wishes to contract with the Department for the provision of law enforcement dispatch services; and

WHEREAS, the Department is willing to provide law enforcement dispatch services:

NOW THEREFORE, in consideration of the premises and the covenants set forth herein, the Parties agree as follows:

1. The Department agrees to furnish to the Town all qualified personnel, facilities and materials necessary to provide Public Safety Law Enforcement Dispatch services as set forth in Attachment A to this Agreement (“Project”).
2. The Department shall provide to the Town:
 - a. A quarterly statistical report of law enforcement dispatch services;

- b. Transcripts of 9-1-1 calls received in connection with the performance of law enforcement dispatch services under this Agreement, upon the request of the Town;
- c. Copies of tapes of radio calls received in connection with the performance of law enforcement dispatch services under this Agreement, upon the request of the Town (for court and investigative purposes); and

3. The Town shall pay to the Department a fee for Public Safety Law Enforcement dispatch services pursuant to the Local Jurisdiction Fee Schedule as developed and approved by the Maine Communications System Policy Board. For purposes of determining the total annual fee of \$6,847.00, for the Town of Wayne during the period commencing July 1, 2017, and ending June 30, 2018, the census population data of 1,189, and dispatched call volume for 2016 of 309 for the local jurisdiction has been used. The census data population number is subject to revision at the time of any extended term of this Agreement, and shall be set forth in any amendment to the Agreement. The Department shall invoice the Town quarterly.

4. The term of this Agreement shall be twelve (12) months commencing July 1, 2017, and ending June 30, 2018. The Town may extend the term of the Agreement on the same terms and conditions for an additional twelve (12) month period by giving the Department written notice of such request sixty (60) days prior to the expiration of this Agreement. Any extension of the term of this Agreement must be approved by both Parties in writing as an amendment to the Agreement.

5. This Agreement may be terminated by either Party for convenience by notifying the other Party in writing of the termination six (6) months prior to the date of

termination. In the event of such termination, the Parties agree to work together to ensure continuation of dispatch services.

6. The Department and the Town shall each appoint a Project Administrator.

7. The Parties shall comply with all applicable state and federal laws, rules, and regulations in performance under this Agreement.

8. The Department shall maintain all books, documents, records and other materials, in whatever form, pertaining to this Agreement and retain such books, documents, records and other materials during the term of this Agreement and for such period of time as required by the Maine Archivist and the accounting and auditing practices of the State of Maine. The Department shall make the books, documents, records, and other materials available for inspecting and copying in accordance with the provisions of the Maine Freedom of Access law.

9. This Agreement shall be governed by the laws of the State of Maine.

10. The Town may request changes in the work ("Change Request") to be performed by the Department. A Change Request shall be in writing and submitted to the Department's Project Administrator. Within fifteen (15) days of receipt of a Change Request, the Department shall provide to the Town Project Administrator a written statement indicating whether the Change Request has a price or schedule impact. If there is a price or schedule impact, the statement shall include a description of the estimated price increase or decrease and any impact on schedule. In the event the Parties agree to the Change Request, they shall attempt to negotiate in good faith the terms and conditions for implementation of the Change Request. A Change request shall not be effective unless memorialized in writing and signed by both Parties.

11. The Town Project Administrator shall have responsibility for coordinating the performance of dispatch services by the Department, including, but not limited to:

- a. Reviewing written planning documents prepared by the Department;
- b. Being available to the Department Project Administrator during normal business hours for consultation and decision making;
- c. Forming a Dispatch Advisory Sub-Committee (“Advisory Sub-Committee”) that will be responsible for providing advice to the Maine Communications System Policy Board regarding dispatching services (optional); and
- d. Scheduling and attending regular meetings of the Advisory Sub-Committee.

12. The Department’s Project Administrator shall have responsibility for coordinating the performance of dispatching services with the Town, including, but not limited to:

- a. Preparing written planning documents that set forth dispatching service tasks in detail;
- b. Being available to the Town Project Administrator during normal business hours for consultation and decision making;
- c. Attending meetings of the Advisory Sub-Committee if formed;
- d. Supervising Department personnel involved in providing dispatch services; and
- e. Ensuring that dispatching services are performed in accordance with Department standards.

13. The Parties acknowledge that during performance of this Agreement they each may be exposed to or acquire confidential information. Subject to the requirements of federal and State law, the Parties agree to hold such information in strict confidence and not to copy, reproduce, sell, assign, license, market, transfer, give or otherwise disclose such information to third parties or to use such information for any purpose other than for the provision of dispatch services. The Parties shall advise each of their employees, agents and representatives of their obligations to keep such information confidential. The Parties shall use reasonable efforts to assist each other in identifying and preventing any unauthorized use or disclosure of such information. Without limitation of the foregoing, the Parties shall make reasonable efforts to advise each other immediately in the event that either learns or has reason to believe that any person who has had access to such information has violated or intends to violate either the terms of this Agreement, or applicable law and will reasonably cooperate in seeking injunctive relief against any such person. Nothing in this Section 13 shall prohibit disclosure of public records or other information by either party when such disclosure is permitted by Maine's Freedom of Access law, 1 M.R.S.A. sec. 401 *et seq.*, or by court order. Responses to requests for public records related to this contract shall be made jointly and cooperatively by the Parties. The terms of this Section 13 shall survive the expiration or termination of this Agreement.

14. In the event of any dispute arising during the term of this Agreement concerning performance of the work under the Agreement, either party shall serve notice of such dispute on the other party and the Commissioner of Public Safety. The Commissioner shall decide the dispute, reduce the decision to writing, and serve a copy on both Parties. The Commissioner's decision shall be final, unless either party seeks relief under applicable law.

15. The Parties shall not be deemed to have waived any provision of this Agreement unless expressed in writing and signed by the waiving Party. The Parties agree that they shall not assert in any action relating to the Agreement that any waiver occurred between the Parties that is not expressed in writing. The failure of any Party to insist in any one or more instances upon strict performance of any of the terms and provisions of the Agreement, or to exercise an option or election under the Agreement,

shall not be construed as a waiver or relinquishment for the future of such terms, provisions, option or election, but the same shall continue in full force and effect, and no waiver by any party of any one or more of its rights or remedies under the Agreement shall be deemed to be a waiver of any prior or subsequent rights or remedy under the Agreement.

16. The Department shall have the right to terminate this Agreement in the event of a material breach or default by the Town of its obligations hereunder that is not cured within thirty (30) days from the date of receipt by the Town of written notice of such breach from the Department. If the breach or default, by its nature, cannot be cured within such thirty (30) day period, then the Town shall have such additional time (not to exceed thirty (30) additional days) as may be necessary to cure the breach or default, provided the Town has exercised reasonable efforts and taken appropriate action to begin cure of the breach or default within the initial thirty (30) day cure period.

17. The Town shall have the right to terminate this Agreement in the event of a material breach or default by the Department of its obligations hereunder that is not cured within thirty (30) days from the date of receipt by the Department of written notice of such breach from the Town. If the breach or default, by its nature, cannot be cured within such thirty (30) day period, then the Department shall have such additional time (not to exceed thirty (30) additional days) as may be necessary to cure the breach or default, provided the Department has exercised reasonable efforts and taken appropriate actions to begin cure of the breach or default within the initial thirty (30) day cure period.

18. This Agreement is subject to available budgetary appropriations and shall not create any obligation on behalf of the Town in excess of such appropriations. In the event insufficient funds are appropriated to fund this Agreement, or if funds are deappropriated, the Town shall immediately notify the Department of such action. The failure of the Town to meet its obligations under this Agreement as a result of insufficient funding may be deemed by the Department as a breach of this Agreement.

19. The Department shall be excused from its performance obligations under this Agreement if and to the extent that the Department's provision of dispatching

services is prevented or rendered functionally useless by circumstances including, but not limited to, telecommunications failures, damage to equipment, or other physical causes resulting from an act of God, act of war, riot, fire, explosion, flood or other catastrophe, or any other event beyond the control of, and that could not reasonably be foreseen by, the Department. In such an event, to the extent that circumstances may reasonably allow, the Department shall promptly take all appropriate and necessary actions within its power to restore dispatch services to the fullest extent possible, in accordance with this Agreement.

20. The invalidity or unenforceability of any particular provision or part thereof of this Agreement shall not affect the remainder of said provision or any other provisions, and this Agreement shall be construed in all respects as if such invalid or unenforceable provision or part thereof had been omitted.

21. This Agreement contains the entire agreement of the Parties with respect to the matters addressed therein. This Agreement may not be amended except upon the express written agreement of the Department and the Town.

22. In the event of any litigation between the Parties with regard to the Agreement, each party shall be responsible for its own expenses, costs and attorney fees.

WHEREFORE, the Parties have caused this Agreement to be executed by their duly authorized representatives on the date set forth below.

Dated: _____

DEPARTMENT OF PUBLIC SAFETY

By: John E. Morris
Title: Commissioner

Dated: _____

TOWN OF WAYNE

By: _____
Title: _____

ATTACHMENT "A"

SPECIFICATIONS OF SERVICES TO BE PERFORMED

The Department agrees to provide the Town with emergency communication services for appropriate service providers. These include, but are not limited to, Fire, Rescue, Animal Control, and Law Enforcement.

[Appropriately tailored for PSAP-only services, dispatch-only services or PSAP and dispatch services.]

- A. Provide adequate facilities, equipment and personnel to carry out the purposes stated in the PSAP standards of the State of Maine.
- B. Provide call answering, which shall include but not be limited to all emergency and non-emergency calls for service.
- C. Provide dispatching service, which shall include but not be limited to dispatching personnel and equipment for emergency and non-emergency calls for service, dispatching for all on-going incidents, as well as coordination of all support services as deemed appropriate by the Incident Commander and/or authorized agency personnel.
- D. Provide METRO/NCIC (Maine Telecommunications and Routing Operations System/National Crime Information Center) services, as needed or requested by the Law Enforcement branch of the Town. A Secondary Users Agreement must be signed by the Chief Law Enforcement Officer of the City/Town.
- E. Ensure that all the calls for service are dispatched to the appropriate service providers for the Town.
- F. Provide all services in the most cost effective and efficient manner possible.

Expense Summary Report

Fund: 1

ALL Months

Account	Budget Net	YTD Net	Unexpended Balance	Percent Spent
100 - General Admin	234,985.00	167,819.96	67,165.04	71.42
01 - Salaries	156,169.00	104,711.00	51,458.00	67.05
01 - Selectmen	7,162.00	3,581.10	3,580.90	50.00
05 - Town Manager	50,000.00	34,603.20	15,396.80	69.21
10 - Bookkeeper	0.00	300.00	-300.00	----
15 - Treasurer	3,000.00	1,500.00	1,500.00	50.00
20 - Tax Collector	22,241.00	15,904.94	6,336.06	71.51
25 - Town Clerk	23,071.00	16,832.60	6,238.40	72.96
35 - Meeting Clerk	1,282.00	49.29	1,232.71	3.84
70 - Med/Fica	8,167.00	5,545.96	2,621.04	67.91
75 - Health Insurance	35,396.00	24,362.16	11,033.84	68.83
80 - Retirement	4,830.00	1,655.75	3,174.25	34.28
81 - Income Protection plan	1,020.00	376.00	644.00	36.86
02 - Operating Expense	27,260.00	23,991.10	3,268.90	88.01
01 - Office Expense	4,000.00	5,248.33	-1,248.33	131.21
05 - Travel expenses	2,000.00	1,000.23	999.77	50.01
10 - Training Expense	2,000.00	1,313.53	686.47	65.68
20 - MMA Dues	2,310.00	2,439.00	-129.00	105.58
25 - Computer Repairs	1,500.00	1,026.88	473.12	68.46
30 - Computer Software	9,500.00	9,908.14	-408.14	104.30
35 - Website	750.00	450.00	300.00	60.00
40 - Town Report	1,000.00	0.00	1,000.00	0.00
45 - Sunshine Fund	200.00	0.00	200.00	0.00
50 - Tax Administration	4,000.00	2,604.99	1,395.01	65.12
03 - Contractual	48,956.00	37,239.79	11,716.21	76.07
01 - Legal Services	15,000.00	5,977.04	9,022.96	39.85
05 - Audit Services	5,300.00	5,040.00	260.00	95.09
15 - Insurance	18,000.00	17,619.00	381.00	97.88
20 - Rent	6,656.00	6,656.00	0.00	100.00
25 - Copier lease	4,000.00	1,947.75	2,052.25	48.69
05 - Utilities	2,600.00	1,878.07	721.93	72.23
01 - Telephone	2,600.00	1,878.07	721.93	72.23
101 - Debt Service	167,580.00	168,272.43	-692.43	100.41
15 - Debt Service	167,580.00	168,272.43	-692.43	100.41
05 - North Wayne Road Bond	36,366.00	36,396.66	-30.66	100.08
10 - Kings Highway	65,905.00	66,570.00	-665.00	101.01
15 - Old Winthrop Road Bond	65,309.00	65,305.77	3.23	100.00
102 - Elections & Hearings	1,750.00	1,913.52	-163.52	109.34
01 - Salaries	1,250.00	905.70	344.30	72.46
41 - Elections clerk	1,250.00	880.61	369.39	70.45
70 - Med/Fica	0.00	25.09	-25.09	----
02 - Operating Expense	500.00	1,007.82	-507.82	201.56
01 - Office Expense	500.00	1,007.82	-507.82	201.56
103 - General Assistance	3,000.00	365.86	2,634.14	12.20
10 - Social Services/Community Serv	3,000.00	365.86	2,634.14	12.20
85 - General Assistance	2,500.00	365.86	2,134.14	14.63
87 - Ladd Alternative GA	500.00	0.00	500.00	0.00
104 - Fire Department	53,995.00	21,429.52	32,565.48	39.69

Expense Summary Report

Fund: 1
ALL Months

Account	Budget Net	YTD Net	Unexpended Balance	Percent Spent
104 - Fire Department CONT'D				
01 - Salaries	13,995.00	5,382.54	8,612.46	38.46
50 - Chief Officers stipends	6,000.00	3,000.00	3,000.00	50.00
52 - Firefighter stipends	7,000.00	2,000.00	5,000.00	28.57
70 - Med/Fica	995.00	382.54	612.46	38.45
02 - Operating Expense	40,000.00	16,046.98	23,953.02	40.12
60 - Fire Operations	22,000.00	9,513.21	12,486.79	43.24
61 - Fire Communications	4,000.00	2,008.82	1,991.18	50.22
62 - Fire Equipment	14,000.00	4,524.95	9,475.05	32.32
105 - Assessing	22,350.00	18,400.00	3,950.00	82.33
02 - Operating Expense	1,800.00	1,800.00	0.00	100.00
75 - GIS Maps	1,800.00	1,800.00	0.00	100.00
03 - Contractual	20,550.00	16,600.00	3,950.00	80.78
30 - Assessing/Mapping	14,750.00	10,800.00	3,950.00	73.22
35 - Quarterly review	5,800.00	5,800.00	0.00	100.00
106 - Animal Control	5,230.00	3,032.64	2,197.36	57.99
01 - Salaries	3,230.00	1,614.75	1,615.25	49.99
55 - Animal control officer	3,000.00	1,500.00	1,500.00	50.00
70 - Med/Fica	230.00	114.75	115.25	49.89
10 - Social Services/Community Serv	2,000.00	1,417.89	582.11	70.89
90 - Humane Society	2,000.00	1,417.89	582.11	70.89
107 - Code Enforcement	16,214.00	11,662.50	4,551.50	71.93
01 - Salaries	12,514.00	8,868.95	3,645.05	70.87
56 - Code Enforcement Officer	11,625.00	8,187.48	3,437.52	70.43
70 - Med/Fica	889.00	681.47	207.53	76.66
02 - Operating Expense	2,700.00	2,583.00	117.00	95.67
21 - KVCOG Dues	2,700.00	2,583.00	117.00	95.67
65 - Unclassified	1,000.00	210.55	789.45	21.06
10 - Planning Board	0.00	122.55	-122.55	----
30 - Ordinance & Mapping	1,000.00	88.00	912.00	8.80
108 - Public Safety	35,202.00	22,875.43	12,326.57	64.98
03 - Contractual	28,302.00	18,256.98	10,045.02	64.51
40 - Ambulance	10,700.00	5,350.50	5,349.50	50.00
45 - Sheriff Dept	6,000.00	4,160.00	1,840.00	69.33
50 - PSAP Dispatching	11,602.00	8,746.48	2,855.52	75.39
05 - Utilities	6,900.00	4,618.45	2,281.55	66.93
20 - Street lights	6,900.00	4,618.45	2,281.55	66.93
109 - Roads	305,763.00	246,712.25	59,050.75	80.69
03 - Contractual	167,263.00	128,119.00	39,144.00	76.60
55 - Parking Lot Plowing	3,800.00	3,331.00	469.00	87.66
60 - Road Plowing	158,463.00	121,488.00	36,975.00	76.67
75 - Roadside mowing	5,000.00	3,300.00	1,700.00	66.00
05 - Utilities	500.00	416.42	83.58	83.28
05 - Electricity	500.00	416.42	83.58	83.28
25 - Roads	138,000.00	118,176.83	19,823.17	85.64
01 - Roads Administration	2,000.00	764.75	1,235.25	38.24

Expense Summary Report

Fund: 1

ALL Months

Account	Budget Net	YTD Net	Unexpended Balance	Percent Spent
109 - Roads CONT'D				
05 - Brush/Tree removal	16,000.00	10,727.00	5,273.00	67.04
10 - Calcium chloride	8,000.00	2,697.50	5,302.50	33.72
15 - Sweeping	4,000.00	0.00	4,000.00	0.00
20 - Patching	4,000.00	4,119.81	-119.81	103.00
30 - Signs	3,000.00	5,985.13	-2,985.13	199.50
35 - Painting	1,000.00	0.00	1,000.00	0.00
40 - Culverts	10,000.00	7,658.88	2,341.12	76.59
45 - Gravel	26,000.00	29,537.70	-3,537.70	113.61
46 - Winter salt	15,000.00	11,343.00	3,657.00	75.62
70 - Grading	9,000.00	4,725.00	4,275.00	52.50
75 - Ditching	40,000.00	40,514.06	-514.06	101.29
80 - Catch Basin	0.00	104.00	-104.00	----
110 - Transfer Station	112,908.00	81,763.27	31,144.73	72.42
02 - Operating Expense	3,800.00	2,751.75	1,048.25	72.41
80 - Hazardous waste	1,500.00	0.00	1,500.00	0.00
85 - TS Backhoe Rental	2,300.00	2,751.75	-451.75	119.64
03 - Contractual	109,108.00	79,011.52	30,096.48	72.42
65 - Transfer Station Operations	108,108.00	79,011.52	29,096.48	73.09
80 - Landfill mowing	1,000.00	0.00	1,000.00	0.00
111 - Outside Agencies	24,116.00	23,915.50	200.50	99.17
10 - Social Services/Community Serv	24,116.00	23,915.50	200.50	99.17
01 - Library	6,000.00	6,000.00	0.00	100.00
10 - Archival board	500.00	300.00	200.00	60.00
15 - Messenger	2,000.00	2,000.00	0.00	100.00
20 - Cemetery Association	3,500.00	3,500.00	0.00	100.00
25 - Rural Community Action	3,700.00	3,700.00	0.00	100.00
30 - Senior Spectrum	1,004.00	1,004.00	0.00	100.00
35 - Hospice	1,000.00	1,000.00	0.00	100.00
40 - Family Violence	1,000.00	1,000.00	0.00	100.00
45 - Maine Public Broadcasting	100.00	100.00	0.00	100.00
50 - Kennebec Valley Behavioral Hea	1,600.00	1,600.00	0.00	100.00
55 - Children Center	595.00	595.00	0.00	100.00
60 - Red Cross	1,200.00	1,200.00	0.00	100.00
65 - Sexual Assault Crisis Support	417.00	416.50	0.50	99.88
94 - Winthrop Food Pantry	1,500.00	1,500.00	0.00	100.00
112 - Recreation	23,303.00	15,617.18	7,685.82	67.02
01 - Salaries	2,153.00	1,076.50	1,076.50	50.00
67 - Recreation Coordinator	2,000.00	1,000.00	1,000.00	50.00
70 - Med/Fica	153.00	76.50	76.50	50.00
02 - Operating Expense	4,300.00	0.00	4,300.00	0.00
90 - Ladd Operational expenses	4,300.00	0.00	4,300.00	0.00
03 - Contractual	5,850.00	4,243.44	1,606.56	72.54
70 - Mowing	2,350.00	1,303.44	1,046.56	55.47
71 - Ladd Mowing	3,500.00	2,940.00	560.00	84.00
10 - Social Services/Community Serv	11,000.00	10,297.24	702.76	93.61
80 - 30 Mile River Snowmobile Assoc	650.00	0.00	650.00	0.00
91 - Kennebec Land Trust	250.00	1,300.00	-1,050.00	520.00
92 - Friends of Cobbossee Watershe	1,300.00	250.00	1,050.00	19.23
93 - Memorial Day	300.00	247.24	52.76	82.41

Expense Summary Report

Fund: 1
ALL Months

Account	Budget Net	YTD Net	Unexpended Balance	Percent Spent
112 - Recreation CONT'D				
97 - Andro Lake Improve Corp	3,000.00	3,000.00	0.00	100.00
98 - Andro Yacht club	500.00	500.00	0.00	100.00
99 - 30 Mile Watershed	5,000.00	5,000.00	0.00	100.00
113 - Land and Buildings	2,600.00	2,958.25	-358.25	113.78
02 - Operating Expense	1,600.00	2,412.53	-812.53	150.78
15 - Maintenance and Repairs	1,000.00	2,057.84	-1,057.84	205.78
95 - NW Schoolhouse	200.00	107.22	92.78	53.61
96 - NW Building	200.00	126.23	73.77	63.12
97 - Town House	200.00	121.24	78.76	60.62
03 - Contractual	1,000.00	545.72	454.28	54.57
72 - Historic Property Mowing	1,000.00	545.72	454.28	54.57
114 - Capital Reserves transfers	147,000.00	150,021.54	-3,021.54	102.06
52 - Capital Reserve Funds	147,000.00	150,021.54	-3,021.54	102.06
05 - Fire Truck	30,000.00	30,000.00	0.00	100.00
50 - Road Recon. & Pav. Project	100,000.00	100,000.00	0.00	100.00
65 - Town Office	15,000.00	15,000.00	0.00	100.00
75 - Technology Replacement Plan	2,000.00	2,000.00	0.00	100.00
90 - Former Pettengill Property Leg	0.00	3,021.54	-3,021.54	----
115 - School RSU #38	2,033,394.00	1,525,045.50	508,348.50	75.00
60 - Intergovernment	2,033,394.00	1,525,045.50	508,348.50	75.00
15 - RSU #38	2,033,394.00	1,525,045.50	508,348.50	75.00
116 - County Tax	187,625.00	187,624.68	0.32	100.00
60 - Intergovernment	187,625.00	187,624.68	0.32	100.00
20 - Kennebec County Tax	187,625.00	187,624.68	0.32	100.00
117 - Cobbossee Watershed District	2,462.00	1,641.34	820.66	66.67
60 - Intergovernment	2,462.00	1,641.34	820.66	66.67
25 - Cobbossee Watershed District	2,462.00	1,641.34	820.66	66.67
118 - Overlay	10,000.00	97.88	9,902.12	0.98
60 - Intergovernment	10,000.00	97.88	9,902.12	0.98
30 - Overlay	10,000.00	97.88	9,902.12	0.98
120 - Selectboard Contingency	5,000.00	814.99	4,185.01	16.30
65 - Unclassified	5,000.00	814.99	4,185.01	16.30
01 - Contigent	5,000.00	814.99	4,185.01	16.30
Final Totals	3,394,477.00	2,651,984.24	742,492.76	78.13

Revenue Summary Report

Fund: 1

ALL

Account	Budget Net	YTD Net	Uncollected Balance	Percent Collected
100 - General Admin	626,469.00	2,902,489.81	-2,276,020.81	463.31
01 - Banking Interest	400.00	845.68	-445.68	211.42
03 - Lien costs	5,000.00	2,030.82	2,969.18	40.62
04 - Interest on taxes	12,000.00	5,819.04	6,180.96	48.49
05 - MV Agent fees	4,250.00	2,733.00	1,517.00	64.31
06 - IFW Agent fees	500.00	309.25	190.75	61.85
07 - Motor Vehicle excise	232,000.00	167,706.60	64,293.40	72.29
08 - Boat Excise	2,000.00	957.70	1,042.30	47.89
09 - Vitals	600.00	323.00	277.00	53.83
10 - Cash Short/ Over	0.00	-10.56	10.56	----
13 - Cable TV Franchise	4,200.00	2,081.40	2,118.60	49.56
14 - Misc revenue	15,000.00	1,048.95	13,951.05	6.99
15 - Surplus	300,000.00	0.00	300,000.00	0.00
20 - Insurance Dividends/Reimburse	0.00	1,165.00	-1,165.00	----
21 - State revenue sharing	45,519.00	31,705.85	13,813.15	69.65
25 - Tax Commitment	0.00	2,685,574.08	-2,685,574.08	----
26 - Supplemental Taxes	5,000.00	0.00	5,000.00	0.00
27 - Payment in Lieu of Taxes	0.00	200.00	-200.00	----
103 - General Assistance	1,250.00	1,081.60	168.40	86.53
01 - GA Reimbursement	1,250.00	1,081.60	168.40	86.53
105 - Assessing	31,541.00	42,934.23	-11,393.23	136.12
01 - Tree Growth	4,000.00	3,632.23	367.77	90.81
02 - Homestead Exemption	26,000.00	34,240.00	-8,240.00	131.69
03 - Veteran reimbursement	1,500.00	1,396.00	104.00	93.07
04 - BETE Reimbursement	41.00	3,666.00	-3,625.00	999.99
106 - Animal Control	800.00	667.00	133.00	83.38
01 - Dog fees	750.00	642.00	108.00	85.60
02 - Dog late fees	50.00	25.00	25.00	50.00
107 - Code Enforcement	2,000.00	1,213.00	787.00	60.65
01 - Building permits	2,000.00	1,206.00	794.00	60.30
02 - Yard Sale Permit	0.00	7.00	-7.00	----
109 - Roads	30,848.00	30,708.00	140.00	99.55
01 - Local Road Assist Program	30,848.00	30,708.00	140.00	99.55
119 - Snowmobile	650.00	417.06	232.94	64.16
01 - State Reimbursement	650.00	417.06	232.94	64.16
Final Totals	693,558.00	2,979,510.70	-2,285,952.70	429.60

General Ledger Summary Report

Fund(s): ALL

ALL

Account	Beg Bal	----- Y T D -----		Pending Activity	Balance Net	
	Net	Debits	Credits			Net
1 - General Fund	0.00	18,785,246.45	18,785,246.45	0.00	1,263.41	1,263.41
Assets	1,119,946.59	6,028,402.14	5,327,028.48	701,373.66	296.95	1,821,617.20
100-00 Cash / Checking	1,035,397.87	2,879,931.73	2,853,716.52	26,215.21	3,320.92	1,064,934.00
110-00 Debit Card Account-Androscogg	2,000.00	0.00	0.00	0.00	0.00	2,000.00
110-01 Cash Drawers	401.70	0.00	1.70	-1.70	0.00	400.00
110-03 Andro Savings 1600191314	243,374.44	0.00	0.00	0.00	0.00	243,374.44
116-00 NSF CHECK	948.73	1,089.79	797.93	291.86	0.00	1,240.59
120-00 ACCOUNTS RECEIVABLE	772.57	0.00	0.00	0.00	0.00	772.57
150-05 2005 Real Estate Taxes	0.00	0.00	0.00	0.00	0.00	-0.01
150-12 2012 Real Estate Taxes	5,612.51	0.00	0.00	0.00	0.00	5,612.51
150-13 2013 Real Estate Taxes	0.10	0.00	0.08	-0.08	0.00	0.02
150-14 2014 Real Estate Taxes	1.31	21.39	1.29	20.10	0.00	21.41
150-15 2015 Real Estate Taxes	76,780.58	886.10	77,592.38	-76,706.28	0.00	74.30
150-16 2016 Real Estate Taxes	-2,436.30	2,676,867.88	1,871,742.78	805,125.10	-5,078.21	797,610.59
150-17 2017 Real Estate Taxes	0.00	0.00	39.54	-39.54	0.00	-39.54
155-05 2005 pp Taxes	168.81	0.00	0.00	0.00	0.00	168.81
155-06 2006 pp Taxes	250.19	0.00	0.00	0.00	0.00	250.19
155-07 2007 pp Taxes	261.03	0.00	0.00	0.00	0.00	261.03
155-08 2008 pp Taxes	421.05	0.00	0.00	0.00	0.00	421.05
155-09 2009 pp Taxes	554.20	0.00	0.00	0.00	0.00	554.20
155-10 2010 pp Taxes	880.67	0.00	0.00	0.00	0.00	880.67
155-11 2011 pp Taxes	1,504.76	0.00	0.02	-0.02	0.00	1,504.74
155-12 2012 pp Taxes	1,761.53	0.00	256.79	-256.79	0.00	1,504.74
155-13 2013 pp Taxes	2,154.16	0.00	473.16	-473.16	0.00	1,681.01
155-14 2014 pp Taxes	3,270.95	0.00	1,092.67	-1,092.67	0.00	2,178.27
155-15 2015 pp Taxes	6,528.10	0.01	3,746.72	-3,746.72	0.00	2,781.38
155-16 2016 pp Taxes	-0.02	11,950.03	4,028.73	7,921.30	0.00	7,921.28
155-17 2017 pp Taxes	0.00	0.00	0.04	-0.04	0.00	-0.04
160-09 2009 Liens	5,411.87	0.00	0.00	0.00	0.00	5,411.87
160-10 2010 Liens	5,611.57	0.00	0.00	0.00	0.00	5,611.57
160-11 2011 Liens	5,611.57	0.00	0.00	0.00	0.00	5,611.57
160-13 2013 Liens	5,875.95	15.63	0.00	15.63	0.00	5,891.58
160-14 2014 Liens	36,926.13	0.00	25,316.64	-25,316.64	0.00	11,609.49
160-15 2015 Liens	0.00	60,137.84	21,024.95	39,112.89	0.00	39,112.89
199-02 Due to/from Ladd Rec	-1,570.12	69,593.43	70,563.83	-970.40	1,900.83	-639.69
199-03 Due to/from Special Revenues	-15,363.53	15,918.27	8,309.32	7,608.95	153.41	-7,601.17
199-04 Due to/from Capital Projects	-303,165.79	309,547.21	384,573.38	-75,026.17	0.00	-378,191.96
199-05 Due to/from Trust Funds	0.00	2,442.83	3,750.00	-1,307.17	0.00	-1,307.17
Liabilities	111,866.63	122,631.17	117,727.57	-4,903.60	-966.46	105,996.57
309-00 Community Directory	0.00	0.00	35.00	35.00	0.00	35.00
310-01 BMV	1,591.25	61,486.93	62,315.07	828.14	-110.08	2,309.31
310-03 State Vital Fees	0.00	35.60	52.00	16.40	0.00	16.40
310-15 IFW	4,587.25	13,924.89	10,388.83	-3,536.06	-1,119.39	-68.20
310-30 Dog License State	0.00	737.00	804.00	67.00	-13.00	54.00
310-35 State Plumbing Fee 25%	346.25	240.00	515.00	275.00	0.00	621.25
310-36 DEP Plumbing Fee \$15.00	-282.50	45.00	120.00	75.00	0.00	-207.50
320-00 Accounts Payable	3,729.13	3,920.33	191.20	-3,729.13	0.00	0.00
320-05 LPI Plumbing Fee 75%	-1,013.75	720.00	1,850.00	1,130.00	0.00	116.25
330-10 Federal withholding	0.00	30,844.28	30,844.28	0.00	0.00	0.00
330-25 State withholding	0.00	3,734.02	3,734.02	0.00	0.00	0.00
330-40 Retirement withholding	0.00	2,852.49	2,852.49	0.00	0.00	0.00

General Ledger Summary Report

Fund(s): ALL
ALL

Account	Beg Bal Net	----- Y T D -----		Net	Pending Activity	Balance Net
		Debits	Credits			
1 - General Fund CONT'D						
330-50 MMEHT with holding	0.00	4,090.63	4,025.68	-64.95	276.01	211.06
400-00 Deferred Tax Revenues	102,909.00	0.00	0.00	0.00	0.00	102,909.00
Fund Balance	1,008,079.96	12,634,213.14	13,340,490.40	706,277.26	0.00	1,714,357.22
500-00 Expense control	0.00	2,529,015.16	10,364,984.68	7,835,969.52	0.00	7,835,969.52
510-00 Revenue control	0.00	2,080,775.98	2,975,505.72	894,729.74	0.00	894,729.74
520-00 Undesignated fund balance	1,008,079.96	8,024,422.00	0.00	-8,024,422.00	0.00	-7,016,342.04
2 - Ladd Rec Operations						
Assets	0.00	140,157.26	140,157.26	0.00	-1,900.83	-1,900.83
199-01 Due to/from	1,570.12	70,563.83	69,593.43	970.40	-1,900.83	639.69
Liabilities	0.00	0.00	0.00	0.00	0.00	0.00
Fund Balance	1,570.12	69,593.43	70,563.83	970.40	0.00	2,540.52
500-00 Expense Control	0.00	69,593.43	2,608.25	-66,985.18	0.00	-66,985.18
510-00 Revenue Control	0.00	0.00	67,955.58	67,955.58	0.00	67,955.58
520-00 Fund Balance	1,570.12	0.00	0.00	0.00	0.00	1,570.12
3 - Special Revenues						
Assets	0.00	44,454.95	44,454.95	0.00	-153.41	-153.41
120-01 No. Wayne School House KSB	2,424.83	0.00	0.00	0.00	0.00	2,424.83
199-01 Due to/from	15,363.53	8,309.32	15,918.27	-7,608.95	-153.41	7,601.17
Liabilities	0.00	0.00	0.00	0.00	0.00	0.00
Fund Balance	17,788.36	36,145.63	28,536.68	-7,608.95	0.00	10,179.41
500-00 Expense Control	0.00	18,357.27	0.00	-18,357.27	0.00	-18,357.27
510-00 Revenue Control	0.00	0.00	28,536.68	28,536.68	0.00	28,536.68
525-00 Animal Control	2,100.03	2,100.03	0.00	-2,100.03	0.00	0.00
531-00 Farmers Market	476.52	476.52	0.00	-476.52	0.00	0.00
532-00 Wayne History Project	3,973.42	3,973.42	0.00	-3,973.42	0.00	0.00
535-00 Soccer	2,239.09	2,239.09	0.00	-2,239.09	0.00	0.00
536-00 Softball	621.02	621.02	0.00	-621.02	0.00	0.00
537-00 Baseball	118.90	118.90	0.00	-118.90	0.00	0.00
538-00 Cemetery Lot Sales	275.00	275.00	0.00	-275.00	0.00	0.00
539-00 Community Directory	115.00	115.00	0.00	-115.00	0.00	0.00
540-00 No. Wayne School House	2,395.84	2,395.84	0.00	-2,395.84	0.00	0.00
541-00 Water Quality	5,473.54	5,473.54	0.00	-5,473.54	0.00	0.00
4 - Capital Reserves						
Assets	0.00	1,017,679.17	1,017,679.17	0.00	0.00	0.00
109-00 Fire Truck - WAFUCU - 24852-00	25.00	0.00	0.00	0.00	0.00	25.00
110-00 Fire Truck - WAFUCU - 24852-64	17,928.79	0.00	0.00	0.00	0.00	17,928.79
199-01 Due to/from	303,165.79	439,548.38	309,547.21	130,001.17	0.00	433,166.96

General Ledger Summary Report

Fund(s): ALL

ALL

Account	Beg Bal Net	----- Y T D -----		Pending Activity	Balance Net	
		Debits	Credits			Net
4 - Capital Reserves CONT'D						
Liabilities	0.00	0.00	0.00	0.00	0.00	
Fund Balance	321,119.58	578,130.79	708,131.96	130,001.17	0.00	451,120.75
500-00 Expense Control	0.00	254,572.21	0.00	-254,572.21	0.00	-254,572.21
510-00 Revenue Control	0.00	2,439.00	708,131.96	705,692.96	0.00	705,692.96
521-00 Transfer Station	43,572.00	43,572.00	0.00	-43,572.00	0.00	0.00
523-00 Roads	83,203.44	83,203.44	0.00	-83,203.44	0.00	0.00
524-00 Fire Truck	42,928.79	42,928.79	0.00	-42,928.79	0.00	0.00
525-00 Sand Salt Shed	2,918.64	2,918.64	0.00	-2,918.64	0.00	0.00
526-00 Footbridge	3,617.44	3,617.44	0.00	-3,617.44	0.00	0.00
530-00 Fire Station	1,591.74	1,591.74	0.00	-1,591.74	0.00	0.00
531-00 Lord Road Paving	30,410.48	30,410.48	0.00	-30,410.48	0.00	0.00
532-00 Hardscrabble Road	2,810.53	2,810.53	0.00	-2,810.53	0.00	0.00
533-00 Lovejoy Pond Dam	16,560.53	16,560.53	0.00	-16,560.53	0.00	0.00
534-00 Land/Building	3,083.75	3,083.75	0.00	-3,083.75	0.00	0.00
535-00 Cemetery Stone Cleaning	9,900.00	9,900.00	0.00	-9,900.00	0.00	0.00
536-00 Town Office	47,402.50	47,402.50	0.00	-47,402.50	0.00	0.00
537-00 Besse Road Chip Seal	4,800.00	4,800.00	0.00	-4,800.00	0.00	0.00
538-00 Fire Equipement	6,572.52	6,572.52	0.00	-6,572.52	0.00	0.00
539-00 Village Improvements	2,737.87	2,737.87	0.00	-2,737.87	0.00	0.00
540-00 Technology	8,654.16	8,654.16	0.00	-8,654.16	0.00	0.00
542-00 Emergency Management	5,200.00	5,200.00	0.00	-5,200.00	0.00	0.00
543-00 Fire Pond/Dry Hydrant	1,633.00	1,633.00	0.00	-1,633.00	0.00	0.00
545-00 Fmr. Pettengill Property Legal	3,522.19	3,522.19	0.00	-3,522.19	0.00	0.00
5 - Trust Funds	0.00	6,192.83	6,192.83	0.00	0.00	0.00
Assets	80,400.90	3,750.00	2,442.83	1,307.17	0.00	81,708.07
101-00 Jaworski Andro 45107709	1,141.74	0.00	0.00	0.00	0.00	1,141.74
103-00 Ruth Lee Andro 45107645	8,486.39	0.00	0.00	0.00	0.00	8,486.39
104-00 Ladd Worthy Poor Andro 4510761	23,669.40	0.00	0.00	0.00	0.00	23,669.40
105-00 Ladd WAFCU 25542-ID 00	25.04	0.00	0.00	0.00	0.00	25.04
106-00 Ladd WAFCU 25542-ID 10 CD	14,862.67	0.00	0.00	0.00	0.00	14,862.67
107-00 Ladd WAFCU 25542-ID 64 Savings	32,215.66	0.00	0.00	0.00	0.00	32,215.66
199-01 Due to/from	0.00	3,750.00	2,442.83	1,307.17	0.00	1,307.17
Liabilities	0.00	0.00	0.00	0.00	0.00	0.00
Fund Balance	80,400.90	2,442.83	3,750.00	1,307.17	0.00	81,708.07
500-00 Expense Control	0.00	1,067.83	0.00	-1,067.83	0.00	-1,067.83
510-00 Revenue Control	0.00	1,375.00	3,750.00	2,375.00	0.00	2,375.00
521-00 Jaworski Fund Balance	1,141.74	0.00	0.00	0.00	0.00	1,141.74
522-00 Ladd Recreation Capital FB	47,103.37	0.00	0.00	0.00	0.00	47,103.37
523-00 Ruth Lee FB	8,486.39	0.00	0.00	0.00	0.00	8,486.39
524-00 Ladd Worthy Poor FB	23,669.40	0.00	0.00	0.00	0.00	23,669.40
Final Totals	0.00	19,993,730.66	19,993,730.66	0.00	-790.83	-790.83

Town News – March 2017

Winter is here! **Winter sand** is available for residents use only. This sand can be picked up at the Fairbank Road site. Please be considerate of your neighbors and only take two (2) five (5) gallon buckets per storm.

The Town of Wayne has posted all Town roads for the **mud season**. All overweight trucks will need to get permits at the Town Office to **travel Posted Roads**. During the spring thaw, please use caution while driving on Town roads, water can be on the road, new potholes can form and thick mud can be present. If you have any road issues, please don't hesitate to contact the Town Office at (207) 685-4983 or towmanager@waynemaine.org.

The Town of Wayne has an Animal Control Ordinance that states no domesticated animal, licensed or unlicensed, shall be permitted on Town property (highways, sidewalks, Ladd Recreation Center, parks, footbridge, Wayne Town House, North Wayne School House, Town Boat Launch, Fire Stations, or old Town Office) **without a leash**. The Town provides dog waste bags in the parks around the mill pond, please be courteous of others who use these public facilities and **pickup after your dogs**.

This month the Board of Selectmen will be meeting on **March 7** and **March 21** at **6:30 PM** at the Wayne Elementary School Gymnasium.

The Board of Selectmen will be holding a public hearing at the **Tuesday March 7, 2017** at **6:30 PM** at the Wayne Elementary School to discuss residents' concerns regarding the recent statewide referenda to legalize marijuana in Maine. Each community has the ability to regulate local land uses for the potential retail marijuana establishments in town.

The Town's **Assessor Agent** Matt Caldwell from RJD Appraisal will be available by appointment on **Monday March 27, 2017** from **8:00 AM** to **4:00 PM** to answer any questions you might have about your assessment or tax bill. Please contact, the Town Office to schedule an appointment.

Your third and final installments of **property taxes** are **due** by **Monday April 3rd, 2017** at **5:30 PM**. Interest will begin to accrue on April 4th, 2017 at 7% per annum.