

# **Town of Wayne Board of Selectmen**

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

## **Meeting Agenda**

**Date:** Tuesday, November 1, 2016

**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 – October 18, 2016.**  
Manager Recommendation: Move the Board to approve meeting minutes of the Wayne Board of Selectmen – October 18, 2016.

**Warrants.**

- a. Consider approving of Payroll Warrant #19.**  
Manager Recommendation: Move the Board to approve Payroll Warrant #19.
- b. Consider approving of Accounts Payable Warrant #20.**  
Manager Recommendation: Move the Board to approve Accounts Payable Warrant #20.

**Business Agenda.**

- a. Fire Chief is requesting authorization to use Fire Equipment Capital Reserve Fund.**  
Manager Recommendation: Move the Board to authorize the Fire Chief to use the Fire Equipment Capital Reserve Fund.
- b. Fire Chief is requesting authorization to use Fire Station Capital Reserve Fund.**  
Manager Recommendation: Move the Board to authorize the Fire Chief to use the Fire Station Capital Reserve Fund.
- c. Road Commissioner is requesting authorization to use Lord Road Capital Reserve Fund.**  
Manager Recommendation: Move the Board to authorize the Lord Road to use the Lord Road Capital Reserve Fund.

**d. Consider to authorizing the Town Manager to sign Mowing, Trimming and Lawn Care Maintenance for Town Properties with Bud Norton.**

Manager Recommendation: Move the Board to authorize the Town Manager to sign Mowing, Trimming and Lawn Care Maintenance for Town Properties with Bud Norton.

**e. Confirmation of Town Manager's appointment of Taylor Stevenson as the Animal Control Officer.**

Manager Recommendation: Move the Board to confirmation of Town Manager's appointment of Taylor Stevenson as the Animal Control Officer.

**f. Confirmation of Town Manager's appointment Pam Chenea as the Aging at Home Outreach Coordinator.**

Manager Recommendation: Move the Board to confirmation of Town Manager's appointment as the Aging at Home Outreach Coordinator.

**Supplements and Abatements.**

**Town Manager Report.**

**Board Member Reports.**

**Public Comments.**

**Adjourn.**

The next regularly scheduled **Board of Selectmen Meeting** is scheduled for **Tuesday November 15, 2016 at 6:30 PM** at the Wayne Elementary School - Gymnasium.

**To: Selectboard**  
**From: Aaron Chrostowsky, Town Manager**  
**Re: Agenda Items**

**a. Fire Chief is requesting authorization to use Fire Equipment Capital Reserve Fund.**

Manager Recommendation: Move the Board to authorize the Fire Chief to use the Fire Equipment Capital Reserve Fund.

The Fire Department is in process of purchasing 2x lighting systems, approximately \$600 each for a total amount of \$1,200. These lights are being paid through a grant from Kennebec County Emergency Management (KCEMA). They are requesting to use the Fire Equipment Capital Reserve Fund. Once, reimbursed from KCEMA from the grant program, funds will be placed back in the account.

Fire Equipment Capital Reserve Fund (balance as of 10/28/2016) \$7,913.90

**b. Fire Chief is requesting authorization to use Fire Station Capital Reserve Fund.**

Manager Recommendation: Move the Board to authorize the Fire Chief to use the Fire Station Capital Reserve Fund.

The Fire Department has been attempted to better secure their fire stations. They are purchasing two exterior doors and cipher lock system. This will cost approximately \$2,200. They would like to use all of the remaining funds in the Fire Station Capital Reserve Fund and the remaining costs out of the Fire Department's General Fund Operating accounts.

Fire Station Capital Reserve Fund (balance as of 10/28/2016) \$1,591.74

**c. Road Commissioner is requesting authorization to use Lord Road Capital Reserve Fund.**

Manager Recommendation: Move the Board to authorization use the Lord Road Capital Reserve Fund.

The Town has almost completed the gravel road rehabilitation of Lord Road. This including ditching most of the unpaved portions of the road, installing geo-textile fabric on about 1,200 feet of the road, installing a foot of gravel and installed several culverts. The Town spent Bruen Construction (Construction: \$10,475), William Pepper (Gravel: \$7,280), Gagne & Son (Geotextile Fabric: \$783.82), and Paris Farmers Union (Culvert: \$1,788.54). The Town is going to be placing surface gravel before winter.

Lord Road Capital Reserve Fund (balance as of 10/28/2016) \$30,410.48

**d. Consider to authorizing the Town Manager to sign Mowing, Trimming and Lawn Care Maintenance for Town Properties with Bud Norton.**

Manager Recommendation: Move the Board to authorize the Town Manager to sign Mowing, Trimming and Lawn Care Maintenance for Town Properties with Bud Norton.

See attached contract

**e. Confirmation of Town Manager's appointment of Taylor Stevenson as the Animal Control Officer.**

Manager Recommendation: Move the Board to confirmation of Town Manager's appointment of Taylor Stevenson as the Animal Control Officer.

See attached appointment paperwork

**f. Confirmation of Town Manager's appointment Pam Chenea as the Aging at Home Outreach Coordinator.**

Manager Recommendation: Move the Board to confirmation of Town Manager's appointment as the Aging at Home Outreach Coordinator.

See attached appointment paperwork

**Town of Wayne, Maine  
Select Board Meeting Minutes  
Tuesday October 18, 2016  
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: Gary Kenny, Stephanie Haines, Don Welsh, Jonathan Lamarche and Trent Emery.

Others Present: Aaron Chrostowsky, Town Manager and Cathy Cook, Town Clerk  
Audience: Baylee Bachelder, Peter Davis, Steve McLaughlin, Samuel Saunders and Robert Stephenson

**Pledge of Allegiance**

**Meeting Minutes**

- a. The Board moved to approve meeting minutes of the Board of Selectmen for October 4, 2016. (Haines/Lamarche) (5/0)
- b. The Board moved to approve meeting minutes of the Board of Selectmen for October 13, 2016. (Haines/Lamarche) Stephanie abstained

**Warrants**

- a. The Board approved Warrant #16 (Payroll) in the amount of \$94.20. (Welsh/Haines) (5/0)
- b. The Board approved Warrant #17 (Accounts Payable) in the amount of \$6,049.50. (Welsh/Lamarche) (5/0).
- c. The Board approved Warrant #18 (Accounts Payable) in the amount of \$60,724.18. (Emery/Lamarche) (5/0).

**Business Agenda**

- a. The Board moved to approve resolution adopting the 2016 Kennebec County Revised Hazard Mitigation Plan. (Welsh/Haines) (5/0).
- b. The Board moved to accept Britt Norton's contract for bids for Mowing, Trimming and Lawn Care Maintenance for Town Properties, with Town Manager's amendments with the condition of the added task of emptying trash container at North Wayne Dam area. (Lamarche/Welsh) (5/0).
- c. The Board moved to authorize the Town Manager to form an interview panel to conduct interviews for the animal control position. (Haines/Lamarche) (5/0).
- d. The Board moved to appoint Kristin Angell and Laura Briggs as Planning Board alternatives. (Haines/ Welsh) (5/0).

- e. The Board moved to appoint Stan Davis to the Board of Appeals. (Welsh/Lamarche) (5/0).
- f. Discussion about Lovejoy Regional Recycling & Solid Waste Facility Agreement.

**Abatements/Supplements: None**

**Town Manager Report:**

- a. Town Manager received email, a "weak claim," from a person who was injured in a car accident on Mt. Pisgah Road, who said he is looking into possibly suing Town because there was no sign warning of a curve in the road.
- b. Dog Rabies clinic scheduled for Nov. 12<sup>th</sup> at North Wayne Fire Station.
- c. Drought resources in packet from MEMA.
- d. Scheduled next Selectboard retreat for Nov. 3<sup>rd</sup> at 6pm.

**Board Member Reports: None**

**Public Comments:**

- a. Peter Davis complained about wording in Selectboard meeting minutes September 6, which he had asked for correction, and felt still didn't reflect what he said.

**Adjourn.**

Motion to Adjourn at 7:30 PM. (Haines/Welsh) (5/0)

The next Select Board Meeting is scheduled for Tuesday, November 1, 2016 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, MAINE  
MOWING, TRIMMING, AND LAWN CARE MAINTENANCE  
FOR TOWN PROPERTIES

Bid Specifications for a  
Three-Year Contract Term: April 1, 2017 through October 30, 2020

This contract is between the **Town of Wayne, Maine**, by and through its Municipal Officers, the Board of Selectmen (referred to as "Board of Selectmen"), and (Bud Norton dba **Norton's Lawncare**), which is a partnership / corporation (and referred to as "Contractor"). When the contract refers to "Contractor" it includes your employees and agents. The subject of this contract is Mowing, Trimming, and Lawn Care for Town Properties.

**A. SERVICES: What, When, Where.**

Contractor agrees to provide all the labor, materials, and equipment necessary to perform the mowing, trimming, and lawn care maintenance for the Town Properties as outlined in the attached mowing specifications from April 1, 2017 through October 30, 2020. The properties within the community which need to be maintained are as follows:

**Fire Stations**

**Wayne Village Fire Station, Main Street**  
**North Wayne Fire Station, Kents Hill Road**

**Historic Properties**

**North Wayne Building "old Town Office" and area beside North Wayne Dam, Lovejoy Pond Road**  
**North Wayne Schoolhouse, Kents Hill Road**  
**Wayne Town House, Main Street**

**Ladd Recreation Center**

**Ladd Recreation Center, Gott Road**

**Parks**

**Memorial Park**  
**Roderick Park**  
**Job Fuller Park**  
**Mill Stream Lot**

**Traffic Islands**

**Rte. 133 intersection with Old Winthrop Road**  
**Rte. 133 intersection with Memorial Park Lane**

**B. INDEPENDENT CONTRACTOR.**

Contractor and his agents and employees, during the performance of this contract shall act in an independent capacity and not as officers or employees of the Town of Wayne. Any and all

workers needed to fulfill the obligations of this contract shall be employed by the Contractor and the Contractor shall be solely responsible for complying with applicable state and federal laws including, but not limited to, workman's compensation law, employment security law, and minimum wage law. As an independent contractor, Contractor is responsible for maintaining the Contractor's equipment in a safe, operable, and legal condition.

The Contractor and his agents and employees, will have no one under 16 years of age may operate power driven machinery.

## **C. PERFORMANCE REQUIREMENTS.**

### **General Specifications (apply to all properties)**

1. Mowing will begin on or about April 15<sup>th</sup> each year and continue until on or about October 15<sup>th</sup> each year or until mowing is no longer required.
2. All grass will be mowed at a height of three inches (3"), but in no case will the maximum height exceed four inches (4").
3. Mowing will take place during any portion of the year when the grass is above the 3 – 4 inch maximum.
4. Trimming, racking and removing (limbs brush and grass) will be completed on an as needed basis to maintain a neat and clean appearance at all times.
5. All trash discovered upon the grounds will be picked up and disposed of properly at the Readfield Transfer Station. Trash can will be emptied when full at North Wayne Building
6. All areas will be mowed / trimmed to the property lines and or pins.
7. The Contractor agrees to do a "Spring Clean-up" of all areas. Clean up includes limbing, pruning and removal of any trees, limbs or brush damaged or fallen during the winter and raking of grass areas needed to remove excess sand, trash and other debris prior to the first mowing.

### **Parks Special Specifications**

1. Special attention will be given to the mowing around the fencing to allow for easy egress on both sides of the fencing and provide for a neat appearance.
2. The parks will be in optimal condition for Memorial Day.

### **Ladd Special Specifications**

1. Mow and trim all lawns, fields and playgrounds on the Ladd Recreation Center property.

2. The Contractor mowing schedule will not interfere with any scheduled games and/ or activities that will be held on the Ladd Recreation Center property. Contractor will receive a list of all scheduled games and/ or activities from Ladd Recreation Center Director.
3. All swale areas will be maintained by the contractor (at least annually).

#### **Historic Properties Specifications**

1. Trash can will be emptied when full at North Wayne Building (Old Town Office) and disposed of properly at the Readfield Transfer Station.

#### **D. INSURANCE.**

The Contractor agrees to purchase and maintain commercial general liability insurance in an amount of one million (\$1,000,000) dollars for personal injury, death or property damage claims, automobile liability, and worker's compensation liability which may arise from mowing operations under the contract. The Contractor further agrees to indemnify, assume the defense of and save harmless the Town of Wayne, its agents and employees from liability, actions, claims or damage for wrongful death, personal injuries or property damage suffered by any person or association, which results from the willful or negligent action or inaction of the Contractor in the performance of duties and the work performed under the contract.

#### **E. INDEMNIFICATION.**

The Contractor agrees to hold the Town of Wayne harmless from any claim of death, injury, property damage or other loss that may result from the Contractor's performance of mowing operations under the contract. In the event that such a claim is made against the Town of Wayne, the Contractor shall defend the Town of Wayne, and shall pay any amount (indemnify) for which the Town of Wayne may be held liable in a legal action for such claims.

#### **F. SUPERVISION AND CONTROL.**

The Contractor, as an independent contractor, has a right and duty to supervise and control their own employees, agents and equipment. The Town of Wayne Board of Selectmen or their designees has a right to inspect mowing operations and notify you of any problems, errors or non-performance. The Board of Selectmen may order that work be done in a satisfactory manner to be determined by them.

#### **G. BILLS AND CLAIMS.**

Contractor, as an independent contractor, is responsible for all costs and bills for labor, materials, equipment, fuel, and other items incurred in the performance of this contract. The Town of Wayne will not pay such bills.

#### **I. BREACH OF CONTRACT.**

If the Contractor is in violation of any terms of the contract, or if a majority of the Board of Selectmen vote that the work described in the contract is being performed unsatisfactorily, the

Town of Wayne shall immediately give oral notice to the Contractor. Upon receipt of such notice, the Contractor shall be given reasonable time ("Reasonable Time" may vary depending on the nature of the breach, and weather conditions) to comply with the terms and conditions of the contract or rectify the unsatisfactory work. In the event that the Contractor still does not (for whatever reason) perform duties of the contract to the satisfaction of the Board of Selectmen, or if the Contractor is not in compliance with the terms of the contract, the Town of Wayne shall have the following options:

1. Terminate the Contract: The Board of Selectmen may terminate the contract by sending the Contractor a written notice, stating the reason for the termination. Contractor shall be paid for all work that is satisfactorily done by that time, but the remainder of the money due under the contract may be used to obtain another contractor to conduct mowing operations.
2. Substitution: The Board of Selectmen may hire a substitute contractor to conduct specified mowing operations for any period of time considered necessary.
3. The Board of Selectmen shall also seek any other legal remedies available to enforce the contract.

**J. PAYMENT SCHEDULE.**

The Town of Wayne will pay the contractor in seven (7) equal installments, as follows:

**Year 1 / Year 2 / Year 3 / Year 4\***

\$1,285.40/ \$1,339.13/ \$1,395.29/ \$1,454.25	second warrant in April of each contract year.
\$1,285.40/ \$1,339.13/ \$1,395.29/ \$1,454.25	second warrant in May of each contract year.
\$1,285.40/ \$1,339.13/ \$1,395.29/ \$1,454.25	second warrant in June of each contract year.
\$1,285.40/ \$1,339.13/ \$1,395.29/ \$1,454.25	second warrant in July of each contract year.
\$1,285.40/ \$1,339.13/ \$1,395.29/ \$1,454.25	second warrant in Aug. of each contract year.
\$1,285.40/ \$1,339.13/ \$1,395.29/ \$1,454.25	second warrant in Sept. of each contract year.
\$1,285.40/ \$1,339.13/ \$1,395.29/ \$1,454.25	second warrant in Oct. of each contract year.
<b>\$8,997.80/ \$9,373.91/ \$9,767.03/ \$10,179.75</b>	<b>Total Contract Amount</b>

\* = Renewal Option

**K. RENEWAL.**

The Town reserves the right and is the option to extend this contract for one (1) additional year, at the terms and conditions set forth herein. The Town must exercise its option by

sending written notice thereof to the Contractor no later than three months prior to the expiration of this contract.

**L. ASSIGNMENT, AMENDMENT, SEVERABILITY, AND JURISDICTION.**

The Contractor's rights and duties under this contract cannot be assigned or transferred by the Contractor to another person or entity without the express written consent of the Board of Selectmen. This contract may be amended only by written consent of the Board of Selectmen. If any part of this contract is declared by a court to be void and unenforceable, the rest of the contract continues to be valid and effective. This contract is governed by the laws of the State of Maine.

In witness whereof, the parties, or their duly authorized agents, execute this agreement on the **1st** day of **November, 2016**.

FOR THE TOWN OF WAYNE

FOR THE CONTRACTOR

\_\_\_\_\_  
Aaron Chrostowsky, Town Manager

\_\_\_\_\_  
Bud Norton, Owner

**BID PROPOSAL FORM**  
**TOWN of WAYNE**  
**Mowing, Trimming, and Lawn Care Maintenance**  
**For Town Properties**  
**Contract Term: April 1, 2017 to October 30, 2020**  
**Three-Year Contract**

**BIDDER NAME:** Norton's Lawncare  
**& ADDRESS**  
 P.O. Box 13  
 Wayne, ME 04284

**PHONE #** (207) 685-9475

**Submit bid proposal form in a sealed envelope. No fax or email bids accepted. Mark outside of envelope "Mowing Bid for Town Properties". Bids opened at the\_\_\_\_\_.**

**SEND TO:** TOWN of WAYNE **DUE DATE:**  
 P.O. Box 400; 48 Pond Road  
 Wayne, ME 04284

**The Board of Selectmen reserves the right to waive formalities or reject any or all bids when such action is in the best interest of the Town. The Board of Selectmen reserves the right to accept or reject any and / or all bid proposals.**

In compliance with your Request for Bids and having carefully examined the specifications and having become acquainted and familiarized with the conditions of the specifications for the mowing contract for the Town of Wayne, I, the undersigned submit this bid proposal form provided by the Town of Wayne.

Cost per contract year for all work specified in the specifications, terms and conditions:

	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>	<u>Year 4*</u>
<u>Year/</u>	<u>4/1/17</u>	<u>4/1/18</u>	<u>4/1/19</u>	<u>4/1/20</u>
<u>Properties</u>	<u>-10/30/18</u>	<u>-10/30/19</u>	<u>-10/30/20</u>	<u>-10/30/21</u>
<b>Total</b>	<b>\$8,997.55</b>	<b>\$9,373.93</b>	<b>\$9,767.03</b>	<b>\$10,179.78</b>

\* = Renewal Option

The undersigned agrees, if awarded the contract, to sign a contract and deliver the necessary Certificate of Insurance within 60 days of signing a contract.

Signed: \_\_\_\_\_  
 Title: \_\_\_\_\_

Date: \_\_\_\_\_

**Town of Wane, Maine**  
**Mowing Contract**  
**3-Year Contract Term: April 1<sup>st</sup>, 2017 to October 30<sup>th</sup>, 2020**

**PAYMENT SCHEDULE**

Vendor: Britt Norton Vendor Number: 0223  
P.O. Box 13  
Wayne, ME 04284  
Phone: (207) 685-9475  
Email: [budnorton@aol.com](mailto:budnorton@aol.com)

**Payment Date**

**Year 1: (April 1, 2017 through October 30, 2017)**

**Payments Due: April 2017; May 2017; June 2017;  
July 2017; August 2017; September 2017; October 2017**

• Fire Stations ...	104-03-70	\$216
• Historic Properties:	113-03-70	\$143.20
• Town Parks: ...	112-03-70	\$342
• Ladd Recreation Center:	112-03-71	\$584.20
• Traffic Islands:	109-03-70	\$0
<b>Check Amount:</b>		<b>\$1,285.40</b>

**Year 2: (April 1, 2018 through October 30, 2018)**

**Payments Due: April 2018; May 2018; June 2018;  
July 2018; August 2018; September 2018; October 2018**

• Fire Stations ...	104-03-70	\$216
• Historic Properties:	113-03-70	\$150.13
• Town Parks: ...	112-03-70	\$360
• Ladd Recreation Center:	112-03-71	\$613
• Traffic Islands:	109-03-70	\$0
<b>Check Amount:</b>		<b>\$1,339.13</b>

**Year 3: (April 1, 2019 through October 30, 2019)**

**Payments Due: April 2019; May 2019; June 2019;  
July 2019; August 2019; September 2019; October 2019**

• Fire Stations ...	104-03-70	\$216
• Historic Properties:	113-03-70	\$157.64
• Town Parks: ...	112-03-70	\$378
• Ladd Recreation Center:	112-03-71	\$643.65
• Traffic Islands:	109-03-70	\$0
<b>Check Amount:</b>		<b>\$1,395.29</b>

**\*Renewal Option: Year 4: (April 1, 2020 through October 30, 2020)**

**Payments Due: April 2020; May 2020; June 2020;  
July 2020; August 2020; September 2020; October 2020**

• Fire Stations ...	104-04-70	\$216
• Historic Properties:	113-03-70	\$165.52
• Town Parks: ...	112-03-70	\$396.9
• Ladd Recreation Center:	112-03-71	\$675.83
• <u>Traffic Islands:</u>	<u>109-03-70</u>	<u>\$0</u>
<b>Check Amount:</b>		<b>\$1,454.25</b>

CERTIFICATE OF APPOINTMENT  
(Title 30A, M.R.S.A. 2636)

**Town Manager's Office**

MUNICIPALITY OF Wayne

November 1, 2016

To **Taylor Stevenson** of Wayne, Maine: There being a vacancy in the position of **Animal Control Officer I**, Aaron Chrostowsky, the Town Manager of the Municipality of Wayne do, in accordance with the provisions of the law of the State of Maine, hereby appoint you as an **Animal Control Officer** within and for the Municipality of Wayne, such appointment to be effective November 1, 2016 through June 30<sup>th</sup>, 2017.

Given under my hand this 1st day of November, 2016

\_\_\_\_\_  
*Town Manager of Wayne*

STATE OF MAINE

County of Kennebec

November 1, 2016

Personally appeared the above named, **Taylor Stevenson** who has been duly appointed by the Town Manager as an **Animal Control Officer** in said Municipality, and took the oath necessary to qualify him to discharge said duties for the term specified above according to law. Before me,

\_\_\_\_\_  
Municipal Clerk

**This Certificate and the Certificate of Oath shall be returned  
to the Municipal Clerk for filing.**

# *Town of Wayne*

P.O. Box 400; 48 Pond Road  
Wayne, ME 04284

Phone: (207) 685-4983 Fax: (207) 685-3836  
<http://www.waynemaine.org>

## **Town of Wayne Animal Control Officer (Part-time)**

The Town of Wayne is seeking an individual, who is interested in serving as the Town's Animal Control Officer for the purpose of enforcement of the provisions of the Town's Animal Control Ordinance and State Law relating to domestic animals.

**Qualifications:** Thorough knowledge of the Wayne community and experience working with animals.

The qualified individual must be at least 21 years old, at a minimum be a high school graduate or equivalent, hold a valid operator's license and must be a Certified Maine Animal Control Officer or be capable of obtaining an Maine Animal Control Officer certification within a reasonable time period (one-year from time of hire). The successful applicant must pass a pre-employment background check.

Applicant must possess physical strength and agility sufficient for performing job duties. Must have a flexible schedule and must be willing to respond to telephone inquiries or complaints during the day, evening, weekend and holiday hours.

Successful applicant must be able to communicate and work well with residents, town or state officials.

**Compensation:** \$3,000 per year, two equal installments one in December and one in June.

The position will be filled when a suitable candidate is found. Please contact Aaron Chrostowsky, Wayne Town Manager to apply or for more information.

Town of Wayne, Maine  
Position Description

Position Description: Animal Control Officer  
Reports To: Town Manager

Department: Animal Control  
Pay Classification: Non-Exempt

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**NATURE OF WORK:**

This is primary field work enforcing State statutes and Town ordinances relating to the regulation and control of dogs and other animals.

Employee of this class is responsible for the enforcement of various animal control ordinances. Work involves constant and varied contact with the public and potentially dangerous animals; maintaining records and reports; monitoring licensure and incident reports and assisting the officers of the department as needed. Work is carried out in accordance with established rules and procedures and is reviewed through reports and observation of results achieved.

**ESSENTIAL DUTIES AND RESPONSIBILITIES**

Investigates complaints concerning the regulation, licensing and control of dogs and other animals

Determines if any State laws or municipal ordinances have been violated and takes appropriate action such as catching, confining or quarantining dogs or other animals

Responds to complaints about loose or stray animals, and attempts to collect them

Issues warnings, or citations, to animal owners and appears as a witness in District Court as necessary

Delivers captured animals to the Animal Hospital or Humane Society

Rescues, or aids in the rescue of trapped, wounded, sick or injured animals

Maintains all necessary reports and records on incidents involving stray or wild animals

Conducts public education sessions as may be required

Performs related work as may be required

**REQUIREMENTS OF WORK**

Knowledge of the principles, practices and equipment used in animal handling

Knowledge of the geography of the Town

Knowledge of the applicable State statutes and Town ordinances

Ability to acquire working knowledge of applicable court procedures

Ability to prepare and maintain records and reports

Ability to deal courteously, but firmly, with the general public

Ability to communicate well, both orally and in writing

Skill in the handling of animals, both domestic and wild

### WORKING HOURS / CONDITIONS / DEMANDS

Must possess physical strength and agility sufficient for performing job duties

Must have a flexible schedule will include a mix of day, evening, weekend and holiday hours

Exterior environment subject to extremes in temperature, noise, odors, etc

Interior office environment not subject to extremes in temperature, noise, odors, etc

Uses computer keyboard requiring eye-hand coordination and finger dexterity

Must reside within 30 minutes of the Town of Wayne

### TRAINING AND EXPERIENCE REQUIRED

Must be 21 years of age

Graduation from an accredited high school or equivalent

Considerable experience in handling animals

Must possess and maintain a valid State of Maine motor vehicle Class A or B Commercial Driver's License (CDL) or Class C operator's license. Employee shall be insurable under the Town's vehicle insurance coverage

Must have an accident free driving record for the 18 months previous to applying for the position and no moving citations in the past 12 months

Experience in law enforcement desirable preferred. Maine Criminal Justice Academy certified either as a regular police officer or reserve police officer or through reciprocity with another state highly desirable. Comparable combination of training and experience may be considered in lieu of educational requirements

Must pass pre-employment background check

Must have no criminal record

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The above statements are intended to describe the general nature and level of work being performed by people assigned to this job. The above is not intended to be an exhaustive list of all responsibilities and duties required.

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External and internal applicants, as well as incumbents who become disabled as defined under the Americans with Disabilities Act, must be able to perform the essential job functions (as listed) either unaided or with the assistance of a reasonable accommodation to be determined by management on a case by case basis.

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DATE: October 4, 2016

**TOWN OF WAYNE  
ANIMAL CONTROL ORDINANCE**

**Part I. - PURPOSE.** The purpose of this ordinance is to require that all domesticated animals in the Town of Wayne be kept under the control of their owners at all times so that they will not injure persons, damage property, cause unreasonable noise or otherwise create a nuisance.

**Part II. – DEFINITIONS.**

- A. Domesticated Animal** – shall be intended to mean every living, sentient creature not a human being including but not limited to dogs, cats, ferrets, reptiles, fowl (i.e.: chicken, geese, ducks & swans), wildlife hybrids or livestock (i.e.: horse, cow, ox, swine, goat, pig or other grazing animal).
- B. Animal Control Officer** – shall be any person or persons, constable or law enforcement officer duly appointed/ authorized to issue compliance orders and court summons as required by this Ordinance.
- C. Running At Large** – shall be intended to mean off the premise of the owner and not under the control and restraint of any person by means of either by a leash, cord, chain, rope or cord of sufficient strength to control the action of such domesticated animal or such other personal presence and attention as will reasonably control the conduct of such domesticated animal.
- D. Dangerous Domesticated Animal** – means a domesticated animal which has bitten a person or has caused abrasion of the skin; or a domesticated animal which has caused a reasonable fear of bodily injury to any person acting in a peaceable manner by attacking or threatening to attack the person; or a domesticated animal which has attacked another person's domesticated animal shall be deemed a dangerous domesticated animal.
- E. Kennel** – shall be intended to mean one pack or collection of dogs kept under one ownership in a single premise for breeding, hunting show, training, field trials and exhibition purposes.
- F. General Nuisance** – means the causing of litter or property damage and the chasing of other animals, people, or vehicles (automobiles, motorcycles, & bicycles)
- G. Nuisance by Noise** – means any domesticated animal unnecessarily annoying or disturbing any person by continued or repeated barking, howling or making other loud sounds or unusual noises continuously for twenty (20) minutes or intermittently for one (1) hour or more. Domesticated animals barking/ alerting of trespassers on private property on which the domesticated animal is situated, dogs barking as part of an organized hunt, or dogs barking as a result of provocation shall not be deemed a nuisance.
- H. Owner** – shall be intended to mean person or persons, firm, association, or corporation, owning, keeping, harboring, or in possession of or having control of, a domesticated animal.

**Part III. – PROVISIONS.**

- A. Vaccination** – It shall be unlawful for the owner of any dog older than six months to keep and maintain such dog unless it has been vaccinated with anti-rabies vaccine as required by State Statute.

**B. Licensing of Dogs** – No dog shall be kept within the limits of the Town of Wayne unless such dog shall have been licensed by its owner in accordance with the statutes of the State of Maine. A town issued tag must be worn at all times by the dog for which the license was issued.

**C. Running At Large** – It shall be unlawful for the owner of any domesticated animal, licensed or unlicensed, to permit such domesticated animal to “run at large”. Any domesticated animal found running at large may be picked up and taken to a humane shelter.

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.

No domesticated animal, licensed or unlicensed, shall be permitted on School property unless part of school curriculum.

**D. Sick or Injured Animals** – Any person finding a sick or injured domesticated animal within the Town of Wayne may take such animal to the Animal Control Officer, who shall take said animal to any veterinarian or humane society shelter. The owner of such domesticated animal may be required to pay any veterinarian or shelter fees.

**E. Rabid Animals** – The Town’s health officer, duly authorized animal control officer or law enforcement officer shall direct the disposition of any animal determined to be infect with rabies.

During the period of time when a rabies quarantine invoked pursuant to this ordinance is in effect, every animal bitten by an animal adjudged to be rabid shall be forthwith destroyed or, at the owner’s expense and option, shall be treated for rabies infection by licensed veterinarian, or held under quarantine pursuant to quarantine provisions of state law.

No person shall fail or refuse to surrender animal for quarantine or destruction as required by this ordinance when demand is made therefore by the Town’s health officer, duly authorized animal control officer, or law enforcement officer.

**F. General Nuisance** – No owner or person having custody of any domesticated animal kept within the legal limits of the Town shall allow such domesticated animal to cause a general nuisance.

**G. Nuisance by Noise** – No owner or person having custody of any domesticated animal within the legal limits of the Town shall allow such domesticated animal to cause a nuisance by noise.

**H. Dangerous Domesticated Animal** – After written notice from the Animal Control Officer, an owner or keeper of a dangerous domesticated animal, as defined in this ordinance shall be required, at all times to keep the domesticated animal confined in a secure enclosure or building, or on a chain when outside the enclosure or building. The owner or keeper shall also, within 48 hours of receipt of that notice, purchase a muzzle which the domesticated animal is required to wear when on a chain outside a secure enclosure or building, when on a leash and at all other times the domesticated animal is taken outside the owner’s premises.

## Part III - ENFORCEMENT

- A. Animal Control Officer.** The Town Manager shall appoint an Animal Control Officer for the purpose of enforcement of the provisions of this Ordinance and State Law relating to animals.
- B. Impoundment.** Unlicensed dogs, whether or not at large, dangerous domesticated animals and dogs found running at large, whether or not licensed, may be seized, impounded or restrained by any law enforcement officer, animal control officer or other duly authorized person within the Town of Wayne and delivered to the person who is duly authorized to have control of impounding.

Before seizure, impounding, or restraint of any dog in violation of this ordinance, a written notice must be given to the owner of said dog, unless it is determined that the dog is a threat to themselves or others (sick or injured, running at large in traffic, dangerous dog). If the owner of such dog is known or can be located with reasonable diligence, then the person who has control of impounding shall personally notify the owner within three days of the receipt of such dog. If the owner of such dog is not known and cannot be located with reasonable diligence, then the person who has control of impounding shall post, within forty-eight hours of the time such person shall have taken such dog into his possession, written notices in three public places in the municipality, giving a description of the dog, stating where it is impounded and the conditions for its release.

If the owner within seven days after receiving notice, or within seven days after notice has been posted, does not claim such dog, then the person having control of impounding shall dispose of the dog by sale or otherwise, in a proper and humane manner. The person having control of impounding shall keep a record of every dog disposed of by sale or otherwise.

- C. Conditions of Release.** Before any impounded dog may be transferred or released (a) such dog shall be vaccinated with anti-rabies vaccine, or shall show proof of vaccination within the previous year, (b) such dog must be licensed in accordance with the statutes of the State of Maine, (c) pay all fines, (d) if dog is deemed dangerous, owner must demonstrate compliance with ordinance and (e) pay any fees incurred at the impounding facility.
- D. Penalties.** The penalty for violation of this ordinance shall be a fine of fifty dollars (\$50.00) for the first offense, and for a period of two years after the first offense, one hundred dollars (\$100.00) for any second offense, and two hundred and fifty dollars (\$250.00) for the third or any subsequent offense.

Any fees collected under this ordinance shall be designated to a special revenue account for animal control use in accordance with the provisions and requirements of State Statute.

Any person found guilty of violating this ordinance shall be required to reimburse the Town for the attorney's fees and costs incurred in the prosecution of the action.

- E. Authority to kill dangerous, fierce, vicious domesticated animal.** If any dangerous, fierce or vicious domesticated animal cannot be safely taken up and impounded; such domesticated animal may be slain by any duly authorized animal control officer or law enforcement officer.

#### **PART IV – SEVERABILITY - VALIDITY – EFFECTIVE DATE**

- A. Severability of provisions.** It is the intention of the municipality that each provision of this ordinance shall be deemed independent of all other provisions herein, and it is further the intention of the municipality that if any provision of this ordinance be declared invalid all other provisions thereof shall remain valid and enforceable.
- B.** This Ordinance shall take effect upon its passage at an Annual/ Special Town Meeting and will replace all previously adopted Barking Dog and Animal Control Ordinances.
- C.** In keeping with State law, Municipal Officers, with the assistance of the Animal Control Officer, will develop ordinance changes as needed, present them for review at a duly warned public hearing, and present them for adoption by voters at an appropriately warned Annual/ Special Town Meeting
- D. Effective date.** This Ordinance shall be in full force and effect immediately upon adoption at Annual/ Special Town Meeting.

Approved:

- Special Town Meeting, September 23, 2014



## Animal Control Officers / Dog Licensing and Regulation

*This packet is intended for general informational purposes only. It is not meant, nor should it be relied upon, as legal advice in any particular situation. Links to documents herein are provided as examples for informational purposes only and have not been reviewed by MMA Legal Services. Do not use any sample unless it has been reviewed by your legal counsel. The information herein is not a substitute for consultation with legal counsel and legal review or other specific guidance on the subject. The statutes and other information herein are only current as of the date of publication.*

Date of last revision: 8/2013; Reviewed 2/2015

This packet includes the following attachments:

- [Title 7 M.R.S.A. §§ 3901-3950-A](#) [scroll down several screens to *Part 9: Animal Welfare*], [3952](#) and [4041](#); [17 M.R.S.A. § 1023](#); [22 M.R.S.A. §§ 1313, 1313-A](#) and [1313-B](#)
- Sample [Consent, Permission and Release Form](#)
- "[The Rabies Threat](#)," *Maine Townsman*, May 1996

Important issues and considerations include:

### I. Generally

State law (the "Animal Welfare Act," [7 M.R.S.A. §§ 3901-3950-A](#)) imposes several duties upon municipalities with regard to the licensing, keeping and regulation of animals. These duties largely rest with the clerk and animal control officer ("ACO"), but other municipal officials also have a role to play in animal control and may be held accountable if they neglect or fail to act.

### II. The Animal Control Officer

Under [7 M.R.S.A. § 3947](#), each municipality shall appoint one or more ACOs to enforce provisions of the Animal Welfare Act and other State laws. A municipality may appoint an employee of an animal shelter as an ACO as long as the person meets the qualifications and training requirements for ACOs. The municipality cannot appoint a person as ACO if that person has been convicted of a Class A or B felony or a criminal violation under 17 M.R.S.A. §§ 1011-1046 ("Cruelty to Animals") or has been adjudicated liable for a civil violation for cruelty to animals under 7 M.R.S.A. §§ 4011- 4020. State law requires an ACO to complete training and be certified by the Commissioner of Agriculture, Food and Rural Resources within six months of appointment, by following the procedure outlined in [7 M.R.S.A. §3906-B\(4\)](#). ACOs must attend advanced training courses in order to maintain certification and must have a minimum of 8 hours of training per year. Upon appointment of an ACO, the municipal clerk must notify the Commissioner of the name, address and telephone number of the ACO. If the position becomes vacant due to termination or resignation of the ACO, the municipal clerk shall notify the Commissioner within 10 days of the vacancy.

### III. Dog and Kennel Licenses

#### A. Dog Licenses (7 M.R.S.A. §§ 3921-3924).

- **License Required.** State law prohibits the keeping of a dog within the limits of the State unless the dog's owner or keeper has licensed it ([7 M.R.S.A. § 3921](#)). The ACO enforces violations of this law ([7 M.R.S.A. § 3947](#)).
- **When Licensed.** The owner or keeper of a dog that is 6 months or more of age shall obtain a license on or before January 1 of each year from the clerk or dog licensing agent of the municipality where the dog is kept. However, if between January 1 and October 15 of any year, the dog reaches the age of 6 months or a person becomes the owner or keeper of a dog 6 months of age or older, the owner or keeper must obtain a license within 10 days of this event. To obtain a license, the owner or keeper must file with the clerk or dog licensing agent proof that the dog is immunized against rabies. [7 M.R.S.A. 3922](#). The Commissioner may authorize dog licensing agents (licensed veterinarians and licensed animal shelters) to issue dog licenses. [7 M.R.S.A. §3923-F](#). Veterinarians who vaccinate a dog for rabies must provide a copy of the certificate within 30 days to the

Department of Agriculture, Food and Rural Resources (the "Department"). No fewer than four times a year, the Department must distribute those certificates to the municipalities. The purpose of this law is to give municipalities additional information to use in identifying unlicensed dogs.

- **License Fees.** The license fees are \$11 for each dog capable of producing young (\$1 for the clerk or dog licensing agent to retain as a recording fee, and \$10 for the Department for the Animal Welfare Fund), and \$6 for each dog incapable of producing young (\$1 for the clerk or dog licensing agent to retain as a recording fee, \$2 for the municipality's animal welfare fund and \$3 for the Department for the Animal Welfare Fund). Police dogs and trained guide, hearing, service and search and rescue dogs must be licensed, but are exempt from the payment of fees. 7 M.R.S.A. §§ 3921 and 3923-A.

- **"Late Dogs."** Where an owner or keeper required to license a dog by January 1 fails to apply for a license until after January 31, that person must also pay a \$25 late fee (7 M.R.S.A. § 3923-A(4)). Until 2009, State law required that municipal officers issue a warrant to the ACO as the first step in the process of enforcing dog licensing laws against the owners or keepers of unlicensed dogs. With the 2009 repeal of 7 M.R.S.A. § 3943, however, State law no longer provides a detailed process for enforcing dog licensing laws. It is MMA's opinion that an ACO should enforce dog licensing laws in the same manner that a code enforcement officer enforces land use laws – making a phone call, following up with a letter, and then proceeding to court with the assistance of an attorney if the dog owner fails to comply.

- **How Licensed.** 7 M.R.S.A. § 3923-G allows municipalities to choose to work with the Commissioner to develop and implement a procedure for application for and issuance of dog licenses over the Internet. For more information on the program contact the Department at 287-3846 or [animal.welfare@maine.gov](mailto:animal.welfare@maine.gov). Otherwise, the procedure for dog licenses is the same as for other licenses issued by the clerk. Note that wolf hybrids cannot be licensed over the Internet.

- **Wolf Hybrids.** Effective June 1, 2011, ownership of wolf hybrids is prohibited unless a person holds a valid permit to possess wildlife in captivity issued by the Maine Department of Inland Fisheries and Wildlife ("MDIFW"). 7 M.R.S.A. § 3921-B. Anyone keeping a wolf hybrid as a pet as of June 1, 2011 may continue to do so, so long as the animal is (1) licensed in the municipality where the animal resides, (2) vaccinated for rabies, (3) permanently identified as a wolf hybrid, and (4) spayed or neutered.

As is the case with dogs, each owner or keeper of a wolf hybrid at the age of 6 months or more, on or before January 1 of each year, must obtain a license in the municipality or unorganized territory where the wolf hybrid is kept. A person must file proof that a wolf hybrid has been identified under 7 M.R.S.A. § 3921-A and licensed before the municipal clerk may issue a license. 7 M.R.S.A. § 3922(3-B).

A person may transfer ownership of a wolf hybrid in only the three following ways: (a) To a person holding a permit from MDIFW to possess wildlife; (b) to a person who operates an animal refuge in another state that is licensed to accept wolf hybrids, or (c) to a person who has had direct contact with the wolf hybrid, is familiar with the wolf hybrid's behavior and has been advised of the State's reporting and licensing requirements for wolf hybrids. A person who transfers ownership of a wolf hybrid must report the transfer to the Department within 10 days and provide the name and address of the person accepting the transfer. The owner of a wolf hybrid must report the death of that animal to the Department within 30 days. 7 M.R.S.A. § 3921-B(3). Violation of this statute is a civil violation that subjects the animal's owner or keeper to a fine of up to \$2,500.

#### **B. Kennel Licenses (7 M.R.S.A. §§ 3931-A - 3939).**

- **Breeding Kennels (7 M.R.S.A. § 3931-A).** Persons maintaining a breeding kennel must obtain an annual license from the Department. "Breeding kennel" means a location where 5 or more adult female dogs or cats capable of breeding are kept and some or all of the offspring are offered for sale, sold or exchanged for value or a location where more than 16 dogs or cats raised on the premises are sold to the public in a 12-month period. "Breeding kennel" does not include a kennel licensed by a municipality under section 3923-C when the dogs are kept primarily for hunting, show training, sledding, competition, field trials or exhibition purposes and not more than 16 dogs are offered for sale, sold or exchanged for value within a 12-month period.

- **Boarding Kennels (7 M.R.S.A. § 3932).** Persons maintaining a boarding kennel must obtain an annual license from the Department. "Boarding kennel" means any place, building, tract of land or abode in or on which 3 or more privately owned companion animals are kept at any one time for their owners in return for a fee or compensation and includes a facility where 3 or more companion animals are kept for training purposes for compensation. The Commissioner, a State humane agent, a State-employed veterinarian or a licensed veterinarian acting under the Commissioner's direction, but not the ACO, may inspect these facilities.

· **Kennels (7 M.R.S.A. § 3923-C).** A person having 5 or more dogs in a single location under one ownership for breeding, hunting, show training, field trials and exhibition purposes must obtain an annual kennel license from the clerk of the municipality where the dogs are kept. However, the sale or exchange of one litter of puppies within a 12-month period alone does not constitute the operation of a kennel. **7 M.R.S.A. § 3907(17).** The license fee is \$42 (\$2 for the clerk's recording fee, \$10 for the municipal animal welfare account and \$30 to the Department for the Animal Welfare Fund). A kennel owner may not keep more than 10 dogs per license. The ACO must inspect the kennel annually before license issuance. A late fee of \$25 must also be paid by a person who fails to obtain a municipal kennel license by January 31 of each year, which must be deposited into the municipality's animal welfare account.

· **Sale of Cats and Dogs (7 M.R.S.A. §3914).** A person wishing to sell, offer for sale or exchange for value more than one cat or dog under the age of 6 months in a 12-month period must obtain a vendor's license under 7 M.R.S.A. § 4163 or hold a valid license for an animal shelter, breeding kennel, boarding kennel, boarding kennel or pet shop. A wolf hybrid may not be sold or exchanged for value.

#### **C. Monthly Reports of License Fees (7 M.R.S.A. § 3923-E).**

Municipal clerks must pay the appropriate license fees to the Department and must make a monthly report to the Department (on Department-approved forms) of all licenses issued and fees received.

#### **IV. Uncontrolled and Stray Animals.**

· **Dogs at Large (7 M.R.S.A. §§ 3911-3912).** State law makes it unlawful for any dog, licensed or unlicensed, to be at large except when used for hunting. A dog is "at large" when it is "off the premises of the owner and not under the control of any person whose physical presence and attention would reasonably control the conduct of the animal" **7 M.R.S.A. § 3907(6).** Violation of this statute is a civil violation that subjects the dog's owner or keeper to a fine of at least \$50 and not more than \$250. **7 M.R.S.A. §§ 3911.**

State law provides as follows for the disposition of dogs at large. If ownership of the dog is known, the ACO shall seize, humanely trap, impound or restrain the dog at large and shall take it to its owner or to an animal shelter. Where the ACO chooses to take it to the animal shelter, we recommend that the ACO have the owner or keeper execute a consent, permission and release for the ACO to take the dog in a form similar to the sample contained in the form linked to above. If ownership of the dog cannot be established, the ACO shall deliver the dog to an animal shelter where it may be handled as a stray dog **(7 M.R.S.A. §3912).**

· **Stray Dogs (7 M.R.S.A. § 3913).** Any person finding a stray dog and taking control of that dog shall return it to its owner if known, or if unknown, to the appropriate animal shelter **(7 M.R.S.A. § 3913(1)).** State law provides as follows for the disposition of stray dogs placed in an animal shelter. Unless a shelter is in quarantine or has a bona fide lack of adequate space, a shelter shall accept a stray dog for six days. However, a shelter may refuse to accept a dog from a municipality that has no contract with that shelter. A shelter accepting a stray dog is entitled to receive \$4 per day from the Department; it must make this claim within 45 days of acceptance of the dog. To be eligible for reimbursement, the animal shelter must have an adoption policy which provides for a dog to be available for adoption for a minimum of 24 hours. If a person other than an ACO has delivered the stray dog to the shelter, the shelter shall notify the appropriate ACO on the next business day following its acceptance of the dog. If the owner claims the dog within the six-day period, before receiving the dog, the owner must pay the impoundment fee and any actual food, shelter, veterinary or other fees incurred by the shelter. If, at the end of the six-day period, the dog is unclaimed, the shelter then owns the dog and may: (a) sell it or give it away; or (b) humanely dispose of the dog, in which case the shelter must hold the dog for at least eight days. If the shelter sells or gives away the dog, it may issue a temporary license valid for ten days for the cost of \$1; it shall submit the copy of the license for the clerk and ACO to the municipal clerk **(7 M.R.S.A. § 3923-D).** However, under certain circumstances, a humane agent, ACO or animal shelter may in writing authorize immediate euthanasia of a severely injured or extremely vicious dog **(7 M.R.S.A. § 3913(6))** (Note that a new law regarding the abandonment and disposition of wolf hybrids was adopted in June 2011 and is discussed immediately below.)

· **Wolf Hybrids at Large. 7 M.R.S.A. §§ 3911-B.** State law provides as follows for the disposition of wolf hybrids at large. If ownership of the wolf hybrid is known, the ACO shall take it to its owner and issue a citation for violation of 7 M.R.S.A. § 3911-A, which makes it is civil violation to abandon a wolf hybrid. If ownership of the wolf hybrid is unknown, the ACO shall deliver the animal to the animal shelter designated by the municipality in which the wolf hybrid was found. A shelter accepting a wolf hybrid is entitled to receive \$4 per day from the Department; it must make this claim within 45 days of acceptance of the animal. If, at the end of the six-day period, the wolf hybrid is unclaimed, the shelter then owns the animal and may: (a) transfer ownership of the wolf hybrid to a person holding a permit to possess wildlife and authorized by the State

to accept wolf hybrids, (b) transfer ownership of the wolf hybrid to a person who operates an animal refuge in another state and is licensed to accept wolf hybrids, or (c) humanely dispose of the wolf hybrid, in which case the shelter must hold the animal for at least eight days. If ownership of an animal suspected of being a wolf hybrid is unknown, the ACO shall notify MDIFW and request assistance in the capture and disposition of the animal. Under certain circumstances, a humane agent, ACO or animal shelter may in writing authorize immediate euthanasia of a severely injured or extremely vicious wolf hybrid (**7 M.R.S.A. § 3911-B(4)**).

· **Stray Cats and Small Animals.** The same process applies to stray cats as applies to stray dogs. A person or ACO finding a stray cat or small animal may deliver it to an animal shelter or to its owner. If the cat or small animal has identification, the animal shelter will make a reasonable attempt to give the owner written or telephone notice within 24 hours of accepting the cat. The owner has six days within which to claim the cat or small animal, after which the animal shelter may dispose of the cat or small animal by sale or euthanasia; however, under certain circumstances, the animal shelter may euthanize the cat or small animal immediately if it is severely sick or injured or is extremely vicious. See **7 M.R.S.A. §§ 3919** and **3919-A**. Small animals are defined as birds, reptiles, amphibians or small mammals, other than cats and dogs, commonly kept as a household pet. 7 M.R.S.A. § 3907(25-B).

#### V. Dangerous Dogs.

The ACO upon written complaint may investigate complaints of a dangerous dog, and upon investigation, may issue a civil violation summons for that dog. After hearing, the District Court may order the dog muzzled, restrained or confined to the premises of its owner or keeper or confined in a secure container, or may order the dog euthanized if the dog has killed or inflicted serious bodily injury on a person or has a history of prior assault. However, where a dog poses an immediate or continuing threat to the public, the ACO may, after issuing a summons and before the court hearing, order the dog's owner or keeper to muzzle, restrain or confine the dog at a place determined by the ACO, and on failure of the owner or keeper to comply with this order, may apply to the District Court for an ex parte order to take possession of the dog. **7 M.R.S.A. § 3952**. The court may fine the owner or keeper of a dangerous dog between \$250 and \$1,000 plus costs.

#### VI. Other Municipal Duties and Powers.

· **Abandonment of Wolf Hybrids.** **7 M.R.S.A. §§ 3911-A**. Abandonment of a licensed wolf hybrid is a civil violation that subjects the animal's owner or keeper to a fine of up to \$1,000. If the wolf hybrid is unlicensed, the owner or keeper is also subject to a \$1,000 fine and may be subject to an additional penalty under **12 M.R.S.A. §§ 12153**. A wolf hybrid is deemed abandoned if the animal is found a distance of more than 5 miles from the owner's premises and is not under the control of any person.

· **Domesticated and Undomesticated Animals.** A municipality, through its ACO, "shall control domesticated animals that are a source of complaint in the community" and "shall control animals that pose a threat to public health or safety." However, "[A] municipality may control undomesticated animals in matters in which no other department is charged by law to regulate." **7 M.R.S.A. § 3948** (emphasis added). A municipality may contract with a licensed animal shelter for other animal control services; however, a municipality may not contract with a shelter for the performance of the duties of an ACO unless an employee of that shelter is the appointed ACO for that municipality and the duties of the ACO are performed by that person. **7 M.R.S.A. § 3949**.

· **Animal Shelter Designation.** The municipal clerk shall certify to the Commissioner on or before April 1 of each year the name and location of the animal shelter with which the municipality has entered into a contract or has made arrangements to accept stray animals (**7 M.R.S.A. § 3949**).

· **Local Ordinances.** A municipality may adopt or retain more stringent ordinances and regulations than provided in State law (e.g., leash laws and barking dog and "pooper scooper" ordinances), but cannot adopt breed-specific ordinances, laws or regulations (**7 M.R.S.A. § 3950**).

· **Refusal or Neglect to Perform Duty.** If the mayor, municipal officers (selectpersons, councilors), clerk, town or city manager, administrative assistant, dog recorder (in the unorganized territories), constable, sheriff, police officer or ACO refuses or intentionally fails to perform a duty required by 7 M.R.S.A. §§ 3911 - 3953, that person commits a civil violation punishable by a fine of at least \$50 but not more than \$500, plus costs. The Commissioner may investigate complaints and direct prosecutions, and in writing request the Attorney General or the district attorney to prosecute violations (**7 M.R.S.A. § 3950-A**). Any person may make a written complaint to the Commissioner regarding the alleged refusal or neglect of duty by any municipal officer.

- **Law Must be Posted.** At least 20 days before January 1st of each year, the municipal clerk must post copies of Title 7 M.R.S.A. Chapter 721 ("Dog Licenses") and Chapter 725 ("Municipal Duties") in the usual places(s) for the posting of notices of the annual municipal elections ([7 M.R.S.A. § 3941](#)).
- **Use of Fees and Fines.** Municipalities must keep the portions of fees and fines retained by them in a separate dedicated account that must be used for the salaries and costs of animal control, licensing, law enforcement, care of injured or abandoned stray animals and the support of one or more approved animal shelters. Any money remaining in the account at the end of the municipal fiscal year does not lapse, but must be carried over to the next fiscal year ([7 M.R.S.A. § 3945](#)). Maine's courts are to add a \$10 surcharge to every fine or penalty imposed by them for violation of animal welfare statutes, with proceeds to be deposited in the State's Animal Welfare Fund. [7 M.R.S.A. § 3910-A](#).
- **Rabies.** ACOs are required to respond to reports of animals, domesticated or undomesticated, suspected of having rabies ([7 M.R.S.A. § 3947](#), [22 M.R.S.A. § 1313](#)). An ACO may ask an owner or a keeper of a cat or dog for proof of a certificate of rabies vaccination issued by a veterinarian ([7 M.R.S.A. § 3916](#)). Failure to vaccinate cats or dogs for rabies is a civil violation punishable by a fine of up to \$100 unless exempt under 7 M.R.S.A. § 3916. [7 M.R.S.A. § 3918](#). The State Animal Welfare Program has copies of "The Rabies Management Guidelines" available for free; call 287-3846 to request a copy.
- **Cruelty to Animals.** State law authorizes the ACO to investigate complaints of animal cruelty (see [17 M.R.S.A. § 1023](#) and [7 M.R.S.A. § 3947](#)) and to make a report on the same to the Department.
- **Barking Dogs.** The Maine Supreme Judicial Court has upheld the Town of Baldwin's barking dog ordinance against a claim that it was unconstitutionally vague. The ordinance provided that "No owner or keeper of any dog within the legal limits of the Town of Baldwin shall allow such dog to unnecessarily annoy or disturb any person by continued or repeated barking, howling or other loud or unusual noise anytime, day or night." The Court used the "reasonable person" standard in determining whether the ordinance gave fair notice of the conduct it prohibited. *Town of Baldwin v. Carter*, 2002 ME 52, 794 A.2d 62. State law forbids the enforcement of barking dog ordinances against working dogs (such as herders) or agricultural guard dogs engaged in protecting livestock. [7 M.R.S.A. § 3950\(1\)](#).
- **Animal Trespass.** Once an ACO, law enforcement officer or authorized employee of the Department warns the owner of an animal that the animal was found on the property of another, the owner of that animal may not allow it to enter upon the property of another. The owner or keeper is responsible for the expense of removing an animal found trespassing and any reasonable court costs or legal fees the municipality may incur enforcing this law. If the owner or keeper fails to remove the animal after being notified by the ACO, law enforcement officer or authorized employee of the Department that the animal is trespassing or if the animal is an immediate danger to itself, persons or another's property, then the ACO may remove and control that animal at the expense of the owner or keeper. An owner who violates this law commits a civil violation which has a fine of up to \$500 for the first offense, \$1,000 for a second offense, and a fine of \$2,500 for further offenses. If the Department, municipality or law enforcement agency determine a repeated violation jeopardizes the public health, welfare or safety of the community, they may bring a forfeiture action in the county where the violation occurred. [7 M.R.S.A. § 4041](#). Cats are the only type of "animal" that are exempted from this statute. "Authorized employee of the Department" means a humane agent or any other employee of the Department designated by the Commissioner to assist with compliance and enforcement of the State's animal trespass laws.
- **Disposal of Animal Carcasses.** Where a person leaves an animal carcass in a location where it may become a nuisance, that person shall promptly remove, bury or dispose of the carcass upon receipt of a notice from the local health officer. Failure to obey this notice in a timely fashion or in a satisfactory manner is punishable by a fine of \$10 to \$100 or by imprisonment of not more than three months ([22 M.R.S.A. § 1562](#)).
- **State Guidance and Training.** The Commissioner of Agriculture, Food and Rural Resources oversees the activities and training of ACOs through the Animal Welfare Program, which conducts a certification training program for ACOs. First-time attendees receive a free copy of "The Animal Laws and the Animal Regulations." Copies of this booklet are available to others for \$10.00 per copy from the Animal Welfare Program; call 287-3846 to request a copy. The Animal Welfare Law Book can also be downloaded from the State's website: [www.maine.gov/agriculture/aw/downloads.html](http://www.maine.gov/agriculture/aw/downloads.html).
- **When Pet Owner is Institutionalized.** When a pet is brought to an animal shelter because the pet owner is incarcerated or hospitalized, the person bringing the pet to the shelter shall inform the shelter of the owner's name and current address, as well as the person's name, address and relationship to the owner. The animal shelter shall send the owner notice by mail within 24 hours of receiving the pet. The pet owner may arrange for the pet's release within 10 days after the shelter accepts the pet or else the animal shelter shall own the pet and may offer it for sale or adoption or may dispose of it humanely ([7](#)

**M.R.S.A. § 3919-B**). Note that wolf hybrids may not be sold, given away or offered for adoption. Transfer of a wolf hybrid is governed by **7 M.R.S.A. § 3921-B(3)**.

· **Removal From Unattended Motor Vehicle.** A law enforcement officer, humane agent, ACO, (as well as certain firefighters, first responders and security officers) may take all reasonably necessary steps to remove an animal from a motor vehicle if the animal's safety, health or well-being appears to be in immediate danger from heat, cold or lack of adequate ventilation and the conditions could reasonably be expected to cause extreme suffering or death. The authorized person who removes the animal must leave written notice which contains the officer's or agent's name and title and address of the location where the animal may be claimed. The authorized person is immune from criminal or civil liability for removing an animal pursuant this statute. **7 M.R.S.A. § 4019**.

· **Maine Animal Control Association.** Web site address: **<http://www.macamaine.com>**

#### **VII. Use of Weapons by ACOs.**

No statute specifically allows for ACOs to carry weapons in the performance of their duties. Rules adopted by the Department of Health and Human Services, governing procedures for handling rabid animals, allow "qualified" ACOs to use a weapon to shoot an animal suspected of having rabies if it poses an imminent danger. If the ACO holds a concealed weapons permit, the municipal officers should not allow the ACO to carry or use the weapon in the course of his or her duties unless the municipal officials have determined the ACO to be properly qualified. "Qualified" here is not defined, but presumably refers to qualification both as a trained ACO and weapon user.

**29-A M.R.S.A. §2054** allows ACOs to use flashing amber lights on their vehicles.

CERTIFICATE OF APPOINTMENT  
(Title 30A, M.R.S.A. 2636)

**Town Manager's Office**

MUNICIPALITY OF Wayne

November 1, 2016

To **Pam Chenea** of Wayne, Maine: There being a vacancy in the position of **Aging-At-Home Outreach Coordinator I**, Aaron Chrostowsky, the Town Manager of the Municipality of Wayne do, in accordance with the provisions of the law of the State of Maine, hereby appoint you as an **Aging-At-Home Outreach Coordinator** within and for the Municipality of Wayne, such appointment to be effective November 1, 2016 through June 30<sup>th</sup>, 2017.

Given under my hand this 1st day of November, 2016

\_\_\_\_\_  
*Town Manager of Wayne*

STATE OF MAINE

County of Kennebec

November 1, 2016

Personally appeared the above named, **Pam Chenea** who has been duly appointed by the Town Manager as an **Aging-At-Home Outreach Coordinator** in said Municipality, and took the oath necessary to qualify him to discharge said duties for the term specified above according to law. Before me,

\_\_\_\_\_  
Municipal Clerk

**This Certificate and the Certificate of Oath shall be returned  
to the Municipal Clerk for filing.**

# *Town of Wayne*

P.O. Box 400; 48 Pond Road  
Wayne, ME 04284

Phone: (207) 685-4983 Fax: (207) 685-3836

<http://www.waynemaine.org>

## **Town of Wayne Aging-At-Home Survey Outreach Coordinator**

The Town of Wayne is seeking an individual to seek out elder residents of Wayne and assist them in completing the town's Aging At Home needs assessment survey. This work will take place at the coordinator's convenience between October and February, and will involve telephone contact, home visiting, and survey data entry.

**Qualifications:** Thorough knowledge of the Wayne community and extensive experience in home visiting, and skills in establishing rapport with a wide range of people, tactful listening, and information gathering. The person will work under the direction of Wayne's Aging At Home committee.

**Compensation:** \$15/hour for a maximum of 150 hours.

The position will be filled when a suitable candidate is found. Please contact Aaron Chrostowsky, Wayne Town Manager to apply or for more information.

## Town News – November 2016

This month the **Board of Selectmen** will be meeting on **November 1, November 15 and November 29 at 6:30 PM** at the **Wayne Elementary School Gymnasium**.

**Election Day** will be held this **Tuesday November 8, 2016** at the Ladd Recreation Center; the polls will be open from 8:00 AM to 8:00 PM for a variety of State general referenda questions. Absentee ballots will be available at the Town Office, please call or stop in.

In observation of **Veterans Day, Friday November 11, 2016**, the Town Office and the Transfer Station will be closed. The Transfer Station will re-open on Saturday November 12, 2016, during our regularly scheduled hours. The Town Office will re-open on Monday November 14, 2016, during our regularly scheduled hours.

### Attention Dog Owners

State law (Title 7 M.R.S.A Ch. 721) requires that all dogs over 6 months of age to be licensed annually by December 31<sup>st</sup>. You can always visit the friendly staff at the Wayne Town Office to license your dogs. For busy residents who cannot make it to the Town Office to register your dog. You may go online to register your dog. Go to our website: [www.waynemaine.org](http://www.waynemaine.org), click on: "Online Services", then click on: dog image with caption "Online Dog Licensing."

The Town will be holding our first annual **Rabies Clinic on Saturday November 12, 2016 from 8:00 AM to 11:00 AM** at North Wayne Fire Station on Kents Hill Road. Mary Sheridan, DVM, from Winthrop Veterinary Hospital will be on hand to vaccinate your dog or cat for \$15.00 for the vaccination. **Cash only will be accepted**. Please bring proof of vaccination to get a three year vaccination. Aaron Chrostowsky, Wayne Town Manager will be on hand to register your dog. The license fee for neutered/ spayed dogs is \$6.00. Non-neutered/ non-spayed dogs are \$11.00. **Cash and Check only** will be accepted. Also, meet our new Animal Control Officer.

In observation of **Thanksgiving Day**, the following closures will take place. The Transfer Station will be closed on **Wednesday November 23, 2016**. The Town Office and Transfer Station will be closed on **Thursday November 24, 2016 and Friday November 25, 2016**. The Transfer Station will re-open on Saturday November 26, 2016, during our regularly scheduled hours. The Town Office will re-open on Monday November 28, 2016, during our regularly scheduled hours.

The Town's **Assessor Agent** Matt Caldwell from RJD Appraisal will be available by appointment on **Monday November 28, 2016** to answer any questions you might have about your assessment or tax bill. Please contact, the Town Office to schedule an appointment.

# Rabies Clinic

## & Register Your Dog, too

Date: Saturday November 12, 2016  
Time: 8:00 AM – 11:00 AM  
Location: North Wayne Fire Station, Kents Hill Road

### **Rabies Clinic**

Mary Sheridan, DVM, from Winthrop Veterinary Hospital will be on hand to vaccinate your dog or cat.

Cost: \$15.00 for vaccination **"Cash Only"**

Please bring proof of vaccination to get a three year vaccination.

### **Register Your Dog**

Aaron Chrostowsky, Wayne Town Manager will be on hand to register your dog.

Cost: Fixed: \$6.00  
Non-fixed: \$11.00

**"Cash and Check only"**

Meet our new Animal Control Officer.....



# Expense Summary Report

Fund: 1  
ALL Months

Account	Budget Net	YTD Net	Unexpended Balance	Percent Spent
<b>100 - General Admin</b>	<b>234,985.00</b>	<b>234,996.23</b>	<b>149,988.77</b>	<b>36.17</b>
<b>01 - Salaries</b>	<b>156,169.00</b>	<b>49,408.87</b>	<b>106,760.13</b>	<b>31.64</b>
01 - Selectmen	7,162.00	0.00	7,162.00	0.00
05 - Town Manager	50,000.00	17,301.60	32,698.40	34.60
10 - Bookkeeper	0.00	170.00	-170.00	----
15 - Treasurer	3,000.00	0.00	3,000.00	0.00
20 - Tax Collector	22,241.00	8,190.07	14,050.93	36.82
25 - Town Clerk	23,071.00	8,321.82	14,749.18	36.07
35 - Meeting Clerk	1,282.00	49.29	1,232.71	3.84
70 - Med/Fica	8,167.00	2,582.52	5,584.48	31.62
75 - Health Insurance	35,396.00	11,777.52	23,618.48	33.27
80 - Retirement	4,830.00	828.05	4,001.95	17.14
81 - Income Protection plan	1,020.00	188.00	832.00	18.43
<b>02 - Operating Expense</b>	<b>27,260.00</b>	<b>17,570.89</b>	<b>9,689.11</b>	<b>64.46</b>
01 - Office Expense	4,000.00	3,164.31	835.69	79.11
05 - Travel expenses	2,000.00	700.23	1,299.77	35.01
10 - Training Expense	2,000.00	527.53	1,472.47	26.38
20 - MMA Dues	2,310.00	0.00	2,310.00	0.00
25 - Computer Repairs	1,500.00	275.00	1,225.00	18.33
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	2,545.68	1,454.32	63.64
<b>03 - Contractual</b>	<b>48,956.00</b>	<b>17,180.79</b>	<b>31,775.21</b>	<b>35.09</b>
01 - Legal Services	15,000.00	2,412.04	12,587.96	16.08
05 - Audit Services	5,300.00	4,940.00	360.00	93.21
15 - Insurance	18,000.00	7,881.00	10,119.00	43.78
20 - Rent	6,656.00	0.00	6,656.00	0.00
25 - Copier lease	4,000.00	1,947.75	2,052.25	48.69
<b>05 - Utilities</b>	<b>2,600.00</b>	<b>835.68</b>	<b>1,764.32</b>	<b>32.14</b>
01 - Telephone	2,600.00	835.68	1,764.32	32.14
<b>101 - Debt Service</b>	<b>167,580.00</b>	<b>168,272.43</b>	<b>-692.43</b>	<b>100.41</b>
<b>15 - Debt Service</b>	<b>167,580.00</b>	<b>168,272.43</b>	<b>-692.43</b>	<b>100.41</b>
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
<b>102 - Elections &amp; Hearings</b>	<b>1,750.00</b>	<b>759.21</b>	<b>990.79</b>	<b>43.38</b>
<b>01 - Salaries</b>	<b>1,250.00</b>	<b>0.00</b>	<b>1,250.00</b>	<b>0.00</b>
41 - Elections clerk	1,250.00	0.00	1,250.00	0.00
<b>02 - Operating Expense</b>	<b>500.00</b>	<b>759.21</b>	<b>-259.21</b>	<b>151.84</b>
01 - Office Expense	500.00	759.21	-259.21	151.84
<b>103 - General Assistance</b>	<b>3,000.00</b>	<b>0.00</b>	<b>3,000.00</b>	<b>0.00</b>
<b>10 - Social Services/Community Serv</b>	<b>3,000.00</b>	<b>0.00</b>	<b>3,000.00</b>	<b>0.00</b>
85 - General Assistance	2,500.00	0.00	2,500.00	0.00
87 - Ladd Alternative GA	500.00	0.00	500.00	0.00
<b>104 - Fire Department</b>	<b>53,995.00</b>	<b>7,978.73</b>	<b>46,016.27</b>	<b>14.78</b>
<b>01 - Salaries</b>	<b>13,995.00</b>	<b>0.00</b>	<b>13,995.00</b>	<b>0.00</b>

## Expense Summary Report

Fund: 1  
ALL Months

Account	Budget Net	YTD Net	Unexpended Balance	Percent Spent
<b>104 - Fire Department CONT'D</b>				
50 - Chief Officers stipends	6,000.00	0.00	6,000.00	0.00
52 - Firefighter stipends	7,000.00	0.00	7,000.00	0.00
70 - Med/Fica	995.00	0.00	995.00	0.00
<b>02 - Operating Expense</b>	<b>40,000.00</b>	<b>7,978.73</b>	<b>32,021.27</b>	<b>19.95</b>
60 - Fire Operations	22,000.00	3,144.86	18,855.14	14.29
61 - Fire Communications	4,000.00	833.92	3,166.08	20.85
62 - Fire Equipment	14,000.00	3,999.95	10,000.05	28.57
<b>105 - Assessing</b>	<b>22,350.00</b>	<b>6,600.00</b>	<b>15,750.00</b>	<b>29.53</b>
<b>02 - Operating Expense</b>	<b>1,800.00</b>	<b>1,800.00</b>	<b>0.00</b>	<b>100.00</b>
75 - GIS Maps	1,800.00	1,800.00	0.00	100.00
<b>03 - Contractual</b>	<b>20,550.00</b>	<b>4,800.00</b>	<b>15,750.00</b>	<b>23.36</b>
30 - Assessing/Mapping	14,750.00	4,800.00	9,950.00	32.54
35 - Quarterly review	5,800.00	0.00	5,800.00	0.00
<b>106 - Animal Control</b>	<b>5,230.00</b>	<b>945.26</b>	<b>4,284.74</b>	<b>18.07</b>
<b>01 - Salaries</b>	<b>3,230.00</b>	<b>0.00</b>	<b>3,230.00</b>	<b>0.00</b>
55 - Animal control officer	3,000.00	0.00	3,000.00	0.00
70 - Med/Fica	230.00	0.00	230.00	0.00
<b>10 - Social Services/Community Serv</b>	<b>2,000.00</b>	<b>945.26</b>	<b>1,054.74</b>	<b>47.26</b>
90 - Humane Society	2,000.00	945.26	1,054.74	47.26
<b>107 - Code Enforcement</b>	<b>16,214.00</b>	<b>7,133.72</b>	<b>9,080.28</b>	<b>44.00</b>
<b>-0 - UNKNOWN</b>	<b>0.00</b>	<b>21.22</b>	<b>-21.22</b>	<b>----</b>
-7 - UNKNOWN	0.00	21.22	-21.22	----
<b>01 - Salaries</b>	<b>12,514.00</b>	<b>4,406.95</b>	<b>8,107.05</b>	<b>35.22</b>
56 - Code Enforcement Officer	11,625.00	4,093.74	7,531.26	35.21
70 - Med/Fica	889.00	313.21	575.79	35.23
<b>02 - Operating Expense</b>	<b>2,700.00</b>	<b>2,583.00</b>	<b>117.00</b>	<b>95.67</b>
21 - KVCOG Dues	2,700.00	2,583.00	117.00	95.67
<b>65 - Unclassified</b>	<b>1,000.00</b>	<b>122.55</b>	<b>877.45</b>	<b>12.26</b>
10 - Planning Board	0.00	122.55	-122.55	----
30 - Ordinance & Mapping	1,000.00	0.00	1,000.00	0.00
<b>108 - Public Safety</b>	<b>35,202.00</b>	<b>18,781.72</b>	<b>16,420.28</b>	<b>53.35</b>
<b>03 - Contractual</b>	<b>28,302.00</b>	<b>16,558.23</b>	<b>11,743.77</b>	<b>58.51</b>
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	7,047.73	4,554.27	60.75
<b>05 - Utilities</b>	<b>6,900.00</b>	<b>2,223.49</b>	<b>4,676.51</b>	<b>32.22</b>
20 - Street lights	6,900.00	2,223.49	4,676.51	32.22
<b>109 - Roads</b>	<b>305,763.00</b>	<b>123,589.25</b>	<b>182,173.75</b>	<b>40.42</b>
<b>03 - Contractual</b>	<b>167,263.00</b>	<b>19,596.25</b>	<b>147,666.75</b>	<b>11.72</b>
55 - Parking Lot Plowing	3,800.00	450.00	3,350.00	11.84
60 - Road Plowing	158,463.00	15,846.25	142,616.75	10.00
75 - Roadside mowing	5,000.00	3,300.00	1,700.00	66.00
<b>05 - Utilities</b>	<b>500.00</b>	<b>91.17</b>	<b>408.83</b>	<b>18.23</b>
05 - Electricity	500.00	91.17	408.83	18.23
<b>25 - Roads</b>	<b>138,000.00</b>	<b>103,901.83</b>	<b>34,098.17</b>	<b>75.29</b>

# Expense Summary Report

Fund: 1  
ALL Months

Account	Budget Net	YTD Net	Unexpended Balance	Percent Spent
<b>109 - Roads CONT'D</b>				
01 - Roads Administration	2,000.00	764.75	1,235.25	38.24
05 - Brush/Tree removal	16,000.00	8,027.00	7,973.00	50.17
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	3,511.85	488.15	87.80
30 - Signs	3,000.00	4,739.05	-1,739.05	157.97
35 - Painting	1,000.00	0.00	1,000.00	0.00
40 - Culverts	10,000.00	8,563.37	1,436.63	85.63
45 - Gravel	26,000.00	24,556.25	1,443.75	94.45
46 - Winter salt	15,000.00	0.00	15,000.00	0.00
70 - Grading	9,000.00	2,217.50	6,782.50	24.64
75 - Ditching	40,000.00	48,824.56	-8,824.56	122.06
<b>110 - Transfer Station</b>	<b>112,908.00</b>	<b>38,693.33</b>	<b>74,214.67</b>	<b>34.27</b>
<b>02 - Operating Expense</b>	<b>3,800.00</b>	<b>810.00</b>	<b>2,990.00</b>	<b>21.32</b>
80 - Hazardous waste	1,500.00	0.00	1,500.00	0.00
85 - TS Backhoe Rental	2,300.00	810.00	1,490.00	35.22
<b>03 - Contractual</b>	<b>109,108.00</b>	<b>37,883.33</b>	<b>71,224.67</b>	<b>34.72</b>
65 - Transfer Station Operations	108,108.00	37,883.33	70,224.67	35.04
80 - Landfill mowing	1,000.00	0.00	1,000.00	0.00
<b>111 - Outside Agencies</b>	<b>24,116.00</b>	<b>23,615.50</b>	<b>500.50</b>	<b>97.92</b>
<b>10 - Social Services/Community Serv</b>	<b>24,116.00</b>	<b>23,615.50</b>	<b>500.50</b>	<b>97.92</b>
01 - Library	6,000.00	6,000.00	0.00	100.00
10 - Archival board	500.00	0.00	500.00	0.00
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
<b>112 - Recreation</b>	<b>23,303.00</b>	<b>14,540.68</b>	<b>8,762.32</b>	<b>62.40</b>
<b>01 - Salaries</b>	<b>2,153.00</b>	<b>0.00</b>	<b>2,153.00</b>	<b>0.00</b>
67 - Recreation Coordinator	2,000.00	0.00	2,000.00	0.00
70 - Med/Fica	153.00	0.00	153.00	0.00
<b>02 - Operating Expense</b>	<b>4,300.00</b>	<b>0.00</b>	<b>4,300.00</b>	<b>0.00</b>
90 - Ladd Operational expenses	4,300.00	0.00	4,300.00	0.00
<b>03 - Contractual</b>	<b>5,850.00</b>	<b>4,243.44</b>	<b>1,606.56</b>	<b>72.54</b>
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
<b>10 - Social Services/Community Serv</b>	<b>11,000.00</b>	<b>10,297.24</b>	<b>702.76</b>	<b>93.61</b>
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
<b>112 - Recreation CONT'D</b>				
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
<b>113 - Land and Buildings</b>	<b>2,600.00</b>	<b>2,402.54</b>	<b>197.46</b>	<b>92.41</b>
<b>02 - Operating Expense</b>	<b>1,600.00</b>	<b>1,856.82</b>	<b>-256.82</b>	<b>116.05</b>
15 - Maintenance and Repairs	1,000.00	1,679.58	-679.58	167.96
95 - NW Schoolhouse	200.00	54.27	145.73	27.14
96 - NW Building	200.00	62.10	137.90	31.05
97 - Town House	200.00	60.87	139.13	30.44
<b>03 - Contractual</b>	<b>1,000.00</b>	<b>545.72</b>	<b>454.28</b>	<b>54.57</b>
72 - Historic Property Mowing	1,000.00	545.72	454.28	54.57
<b>114 - Capital Reserves transfers</b>	<b>147,000.00</b>	<b>150,021.54</b>	<b>-3,021.54</b>	<b>102.06</b>
<b>52 - Capital Reserve Funds</b>	<b>147,000.00</b>	<b>150,021.54</b>	<b>-3,021.54</b>	<b>102.06</b>
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	----
<b>115 - School RSU #38</b>	<b>2,033,394.00</b>	<b>847,247.50</b>	<b>1,186,146.50</b>	<b>41.67</b>
<b>60 - Intergovernment</b>	<b>2,033,394.00</b>	<b>847,247.50</b>	<b>1,186,146.50</b>	<b>41.67</b>
15 - RSU #38	2,033,394.00	847,247.50	1,186,146.50	41.67
<b>116 - County Tax</b>	<b>187,625.00</b>	<b>187,624.68</b>	<b>0.32</b>	<b>100.00</b>
<b>60 - Intergovernment</b>	<b>187,625.00</b>	<b>187,624.68</b>	<b>0.32</b>	<b>100.00</b>
20 - Kennebec County Tax	187,625.00	187,624.68	0.32	100.00
<b>117 - Cobbossee Watershed District</b>	<b>2,462.00</b>	<b>820.67</b>	<b>1,641.33</b>	<b>33.33</b>
<b>60 - Intergovernment</b>	<b>2,462.00</b>	<b>820.67</b>	<b>1,641.33</b>	<b>33.33</b>
25 - Cobbossee Watershed District	2,462.00	820.67	1,641.33	33.33
<b>118 - Overlay</b>	<b>10,000.00</b>	<b>97.88</b>	<b>9,902.12</b>	<b>0.98</b>
<b>60 - Intergovernment</b>	<b>10,000.00</b>	<b>97.88</b>	<b>9,902.12</b>	<b>0.98</b>
30 - Overlay	10,000.00	97.88	9,902.12	0.98
<b>120 - Selectboard Contingency</b>	<b>5,000.00</b>	<b>350.00</b>	<b>4,650.00</b>	<b>7.00</b>
<b>65 - Unclassified</b>	<b>5,000.00</b>	<b>350.00</b>	<b>4,650.00</b>	<b>7.00</b>
01 - Contigent	5,000.00	350.00	4,650.00	7.00
<b>Final Totals</b>	<b>3,394,477.00</b>	<b>1,684,470.87</b>	<b>1,710,006.13</b>	<b>49.62</b>

# Revenue Summary Report

Fund: 1  
ALL

Account	Budget Net	YTD Net	Uncollected Balance	Percent Collected
<b>100 - General Admin</b>	<b>626,469.00</b>	<b>2,806,094.49</b>	<b>-2,179,625.49</b>	<b>447.92</b>
01 - Banking Interest	400.00	253.58	146.42	63.40
03 - Lien costs	5,000.00	1,552.70	3,447.30	31.05
04 - Interest on taxes	12,000.00	3,084.59	8,915.41	25.70
05 - MV Agent fees	4,250.00	1,568.00	2,682.00	36.89
06 - IFW Agent fees	500.00	134.00	366.00	26.80
07 - Motor Vehicle excise	232,000.00	94,355.85	137,644.15	40.67
08 - Boat Excise	2,000.00	918.70	1,081.30	45.94
09 - Vitals	600.00	219.80	380.20	36.63
10 - Cash Short/ Over	0.00	-10.58	10.58	----
13 - Cable TV Franchise	4,200.00	0.00	4,200.00	0.00
14 - Misc revenue	15,000.00	956.91	14,043.09	6.38
15 - Surplus	300,000.00	0.00	300,000.00	0.00
20 - Insurance Dividends/Reimbusem	0.00	1,130.00	-1,130.00	----
21 - State revenue sharing	45,519.00	16,156.86	29,362.14	35.49
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	----
<b>103 - General Assistance</b>	<b>1,250.00</b>	<b>1,081.60</b>	<b>168.40</b>	<b>86.53</b>
01 - GA Reimbursement	1,250.00	1,081.60	168.40	86.53
<b>105 - Assessing</b>	<b>31,541.00</b>	<b>35,636.00</b>	<b>-4,095.00</b>	<b>112.98</b>
01 - Tree Growth	4,000.00	0.00	4,000.00	0.00
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	0.00	41.00	0.00
<b>106 - Animal Control</b>	<b>800.00</b>	<b>74.00</b>	<b>726.00</b>	<b>9.25</b>
01 - Dog fees	750.00	74.00	676.00	9.87
02 - Dog late fees	50.00	0.00	50.00	0.00
<b>107 - Code Enforcement</b>	<b>2,000.00</b>	<b>1,043.00</b>	<b>957.00</b>	<b>52.15</b>
01 - Building permits	2,000.00	1,036.00	964.00	51.80
02 - Yard Sale Permit	0.00	7.00	-7.00	----
<b>109 - Roads</b>	<b>30,848.00</b>	<b>0.00</b>	<b>30,848.00</b>	<b>0.00</b>
01 - Local Road Assist Program	30,848.00	0.00	30,848.00	0.00
<b>119 - Snowmobile</b>	<b>650.00</b>	<b>0.00</b>	<b>650.00</b>	<b>0.00</b>
01 - State Reimbursement	650.00	0.00	650.00	0.00
<b>Final Totals</b>	<b>693,558.00</b>	<b>2,843,929.09</b>	<b>-2,150,371.09</b>	<b>410.05</b>

# General Ledger Summary Report

Fund(s): ALL  
ALL

Account	Beg Bal Net	----- Y T D -----			Pending Activity	Balance Net
		Debits	Credits	Net		
<b>General Fund</b>	0.00	16,505,169.98	16,505,169.98	0.00	2,719,200.00	1,885,969.98
<b>Assets</b>	<b>1,119,946.59</b>	<b>4,778,073.08</b>	<b>3,426,205.63</b>	<b>1,351,867.45</b>	<b>-4,799.84</b>	<b>2,467,014.20</b>
100-00 Cash / Checking	1,035,397.87	1,755,932.53	1,734,611.08	21,321.45	-6,664.88	1,050,054.44
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	77,585.71	-76,699.61	0.00	80.97
150-16 2016 Real Estate Taxes	-2,436.30	2,675,855.98	1,138,774.78	1,537,081.20	0.00	1,534,644.90
150-17 2017 Real Estate Taxes	0.00	0.00	4.56	-4.56	0.00	-4.56
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	473.15	-473.15	0.00	1,681.01
155-14 2014 pp Taxes	3,270.95	0.00	1,092.66	-1,092.66	0.00	2,178.28
155-15 2015 pp Taxes	6,528.10	0.00	3,746.71	-3,746.71	0.00	2,781.39
155-16 2016 pp Taxes	-0.02	11,950.02	2,088.01	9,862.01	0.00	9,862.00
155-17 2017 pp Taxes	0.00	0.00	0.03	-0.03	0.00	-0.03
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	0.00	0.00	0.00	0.00	5,875.95
160-14 2014 Liens	36,926.13	0.00	13,327.25	-13,327.25	0.00	23,598.88
160-15 2015 Liens	0.00	60,137.84	13,962.50	46,175.34	0.00	46,175.34
199-02 Due to/from Ladd Rec	-1,570.12	39,018.91	50,940.00	-11,921.09	1,865.04	-11,626.17
199-03 Due to/from Special Revenues	-15,363.53	4,017.91	3,825.00	192.91	0.00	-15,170.62
199-04 Due to/from Capital Projects	-303,165.79	226,942.71	383,341.38	-156,398.67	0.00	-459,564.46
199-05 Due to/from Trust Funds	0.00	2,219.90	1,375.00	844.90	0.00	844.90
<b>Liabilities</b>	<b>111,866.63</b>	<b>67,043.52</b>	<b>63,972.98</b>	<b>-3,070.54</b>	<b>-2,647.84</b>	<b>106,148.25</b>
309-00 Community Directory	0.00	0.00	5.00	5.00	0.00	5.00
310-01 BMV	1,591.25	37,274.65	40,477.21	3,202.56	-2,506.31	2,287.50
310-03 State Vital Fees	0.00	0.00	33.20	33.20	0.00	33.20
310-15 IPW	4,587.25	8,046.44	3,778.19	-4,268.25	0.00	319.00
310-30 Dog License State	0.00	6.00	92.00	86.00	0.00	86.00
310-35 State Plumbing Fee 25%	346.25	0.00	305.00	305.00	-92.50	558.75
310-36 DEP Plumbing Fee \$15.00	-282.50	0.00	75.00	75.00	-15.00	-222.50
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	0.00	1,220.00	1,220.00	-277.50	-71.25
330-10 Federal withholding	0.00	13,262.62	13,262.62	0.00	0.00	0.00
330-25 State withholding	0.00	1,390.81	1,390.81	0.00	0.00	0.00
330-40 Retirement withholding	0.00	1,194.99	1,194.99	0.00	0.00	0.00

# General Ledger Summary Report

Fund(s): ALL  
ALL

Account	Beg Bal Net	----- Y T D -----			Pending Activity	Balance Net
		Debits	Credits	Net		
<b>1 - General Fund CONT'D</b>						
330-50 MMEHT with holding	0.00	1,947.68	1,947.76	0.08	243.47	243.55
400-00 Deferred Tax Revenues	102,909.00	0.00	0.00	0.00	0.00	102,909.00
<b>Fund Balance</b>	<b>1,008,079.96</b>	<b>11,660,053.38</b>	<b>13,014,991.37</b>	<b>1,354,937.99</b>	<b>0.00</b>	<b>2,363,017.95</b>
500-00 Expense control	0.00	1,554,946.10	10,171,051.00	8,616,104.90	0.00	8,616,104.90
510-00 Revenue control	0.00	2,080,685.28	2,843,940.37	763,255.09	0.00	763,255.09
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
<b>2 - Ladd Rec Operations</b>						
<b>Assets</b>	<b>1,570.12</b>	<b>50,940.00</b>	<b>39,018.91</b>	<b>11,921.09</b>	<b>-1,865.04</b>	<b>11,626.17</b>
199-01 Due to/from	1,570.12	50,940.00	39,018.91	11,921.09	-1,865.04	11,626.17
<b>Liabilities</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>
<b>Fund Balance</b>	<b>1,570.12</b>	<b>39,018.91</b>	<b>50,940.00</b>	<b>11,921.09</b>	<b>0.00</b>	<b>13,491.21</b>
500-00 Expense Control	0.00	39,018.91	0.00	-39,018.91	0.00	-39,018.91
510-00 Revenue Control	0.00	0.00	50,940.00	50,940.00	0.00	50,940.00
520-00 Fund Balance	1,570.12	0.00	0.00	0.00	0.00	1,570.12
<b>3 - Special Revenues</b>						
<b>Assets</b>	<b>17,788.36</b>	<b>3,825.00</b>	<b>4,017.91</b>	<b>-192.91</b>	<b>0.00</b>	<b>17,595.45</b>
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	3,825.00	4,017.91	-192.91	0.00	15,170.62
<b>Liabilities</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>
<b>Fund Balance</b>	<b>17,788.36</b>	<b>21,806.27</b>	<b>21,613.36</b>	<b>-192.91</b>	<b>0.00</b>	<b>17,595.45</b>
500-00 Expense Control	0.00	4,017.91	0.00	-4,017.91	0.00	-4,017.91
510-00 Revenue Control	0.00	0.00	21,613.36	21,613.36	0.00	21,613.36
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
<b>4 - Capital Reserves</b>						
<b>Assets</b>	<b>321,119.58</b>	<b>383,341.38</b>	<b>226,942.71</b>	<b>156,398.67</b>	<b>0.00</b>	<b>477,518.25</b>
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	383,341.38	226,942.71	156,398.67	0.00	459,564.46

# General Ledger Summary Report

Fund(s): ALL  
ALL

Account	Beg Bal Net	----- Y T D -----			Pending Activity	Balance Net
		Debits	Credits	Net		
<b>Capital Reserves CONT'D</b>						
<b>Liabilities</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>
<b>Fund Balance</b>	<b>321,119.58</b>	<b>548,062.29</b>	<b>704,460.96</b>	<b>156,398.67</b>	<b>0.00</b>	<b>477,518.25</b>
500-00 Expense Control	0.00	226,942.71	0.00	-226,942.71	0.00	-226,942.71
510-00 Revenue Control	0.00	0.00	704,460.96	704,460.96	0.00	704,460.96
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 Equipment	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
<b>Trust Funds</b>						
<b>Assets</b>	<b>80,400.90</b>	<b>1,375.00</b>	<b>2,219.90</b>	<b>-844.90</b>	<b>0.00</b>	<b>79,556.00</b>
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 WAFUCU 25542-ID 00	25.04	0.00	0.00	0.00	0.00	25.04
106-00 Ladd WAFUCU 25542-ID 10 CD	14,862.67	0.00	0.00	0.00	0.00	14,862.67
107-00 Ladd WAFUCU 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	1,375.00	2,219.90	-844.90	0.00	-844.90
<b>Liabilities</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>
<b>Fund Balance</b>	<b>80,400.90</b>	<b>2,219.90</b>	<b>1,375.00</b>	<b>-844.90</b>	<b>0.00</b>	<b>79,556.00</b>
500-00 Expense Control	0.00	844.90	0.00	-844.90	0.00	-844.90
510-00 Revenue Control	0.00	1,375.00	1,375.00	0.00	0.00	0.00
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
<b>Final Totals</b>	<b>0.00</b>	<b>17,555,758.73</b>	<b>17,555,758.73</b>	<b>0.00</b>	<b>-4,017.04</b>	<b>-4,017.04</b>

## **CHAPTER 2 - Board of Municipal Officers**

### **Definition of “Municipal Officer”**

Title 30-A M.R.S.A. § 2001 defines “municipal officer” as the “selectmen or councilors of a town, or the mayor and alderman or councilors of a city.” That same section defines “municipal official” as “any elected or appointed member of a municipal government.” See “Municipal Officer v. Official,” “Legal Notes,” *Maine Townsman*, September/October 2014.

### **Basic Qualifications**

To serve as a municipal officer, you must be at least 18 years old, a resident of the State in addition to a U.S. citizen, and a registered voter in the municipality in which you serve (*30-A M.R.S.A. § 2526(3)*). Because a municipal officer must be a registered voter, he or she must be a legal resident of the municipality. There is no particular level of education or experience required to qualify as a municipal officer. A person who has a criminal record may serve as a municipal officer; his or her criminal history may be a political issue but is not a legal disqualification. Likewise, there is no State or federal law prohibiting a person from serving because he or she has sued or is suing the town or owes the town money. Additional qualifications may be established by charter.

### **Term of Office**

A municipal officer’s term of office is one year (*30-A M.R.S.A. § 2526(4)(A)(2)*) unless the town has by warrant article, ordinance or charter set longer terms. For elected positions, terms run until the annual town meeting when they are due to expire, rather than a full calendar year. Any change in the term or designation of office must be done by the town at a meeting held at least 90 days before the annual meeting at which it will be effective (*30-A M.R.S.A. § 2525(2), § 2528*). An article asking to increase or decrease the term usually accomplishes this. When terms are changed, the article usually establishes a system of staggered terms so that all terms do not expire at the same time.

### **Size of the Board**

The board of municipal officers consists of three members unless the town has established a five-member or seven-member board pursuant to *30-A M.R.S.A. § 2526(4)(A)*. As discussed below, it is possible for two municipal officers to operate as a legal body, but the full board is at least three members. Any change in the size of the board must be done by the town at a meeting held at least 90 days before the annual meeting at which it will be effective (*30-A*

*M.R.S.A. § 2525(2), § 2528*). This usually is accomplished by an article asking to increase or decrease the size of the board.

## **Compensation**

Compensation for the municipal officers is determined by the town when it votes on the budget. Typically, the municipal officers receive a stipend of several hundred to a few thousand dollars annually. State law does not set a maximum amount of pay for municipal officers. Many towns by tradition pay the chairperson or “first selectperson” more than the other members receive, but this is not required by law. If the town fails to set any compensation, it will be \$10 for every day actually employed in the service of the town (30-A *M.R.S.A. § 2526(4)(E)*). There is no State law which governs the basis on which compensation for the municipal officers is to be paid. In some communities it is covered in a charter or ordinance, in some by town meeting warrant article, and in some purely by tradition. Where there is no rule established by the town meeting or charter, it theoretically is possible for someone to receive his or her full stipend at the beginning of the year and then not do any more work. To avoid this problem, the legislative body should adopt a rule which says the stipend will be paid quarterly, monthly, lump sum at the end of the year, or on some other specific schedule. The stipend paid to the municipal officers is considered income paid to a municipal employee for federal income tax purposes.

## **Hold Over of Term**

Since annual meetings rarely occur exactly one year apart, a municipal officer may find that his or her term is up, but he or she hasn’t been re-elected and no new, replacement municipal officer has been elected or sworn in. In this situation, the courts have allowed the incumbent’s term to “hold over” until a new person is sworn. McQuillin, *Municipal Corporations* (3<sup>rd</sup> ed. rev.), §§ 12.102, 12.105, 12.106. This “holdover” rule also would apply in a case where the town changes its fiscal year and decides to hold its annual meeting later than in previous years.

## **Vacancy**

### **How a Vacancy Occurs.**

According to 30-A *M.R.S.A. § 2602*, a vacancy in municipal office may occur by the following means and others as established by local charter or ordinance:

- **Nonacceptance:** This occurs when a person refuses to accept the office after elected, or refuses to take the oath of office.

- **Resignation:** There is a good deal of misunderstanding about when a resignation is effective. A resignation of a municipal officer is not effective until it has been accepted by the remaining municipal officers at a regular or special board meeting, or they have taken action which indicates that the resignation is accepted, in the absence of a charter or ordinance provision to the contrary. *Dostie v. Board of Mayor and Aldermen of City of Lewiston*, 114 Me. 62 (1915); *Atty Gen. ex rel Chamberlain v. Nadeau*, 266 A.2d 118 (NH, 1970); *Warner v. Selectmen of Amherst*, 95 NE.2d 180 (Mass. 1950).
- For example, if a municipal officer leaves a letter of resignation with the clerk, that letter will not be effective until at least a majority of the remaining municipal officers vote to accept it or take some other act (such as scheduling a special election) implying acceptance. Until that time, the resigning officer may withdraw the letter of resignation and continue in office. When the resignation is oral, not written, the remaining municipal officers should ask for a written resignation. If none is provided, the municipal officers should accept the oral resignation at a properly-called meeting, and make sure the minutes show that the resignation was made orally. Even where a member resigns, the board generally may continue to operate when there is a quorum.

In some cases, the letter of resignation will state that the resignation is effective at some future date. For example, a letter of resignation is submitted on February 10 but not effective (by its own terms) until March 21. In this situation the remaining municipal officers can do one of two things:

1. they can refuse to accept the letter as written, or
2. they can accept it and let the resigning member serve until the date stated in the letter.

If the remaining municipal officers do accept it, the resigning member cannot withdraw it during the period between acceptance and effective date. In other words, the resigning member cannot keep the resignation “pending” by attaching a future effective date to it. If a person’s resignation becomes effective at some future date which is on or before the date of the annual town meeting, in a municipality which elects its municipal officers by secret ballot under 30-A M.R.S.A. § 2528, it is legal to begin making nomination papers available for that seat on the board before the effective date; the nomination paper deadlines are discussed more fully in MMA’s *Town Meeting and Elections Manual*.

- **Death:** Speaks for itself.

- **Removal from the municipality:** This occurs when the municipal officer has moved out of town and intends to reside elsewhere. A temporary relocation or extended vacation is not sufficient to create a vacancy, even if it hampers the remaining municipal officers' ability to function in office. The registrar of voters generally has the authority to determine when a person is no longer a legal resident and entitled to be registered, and this is how "removal from the municipality" usually is determined.
- **Permanent disability or incompetence:** Mental or physical disabilities preventing the person from exercising essential duties of office.
- **Failure to qualify for office within 10 days after demand:** This is when a person is elected but cannot prove that he or she is old enough, a registered voter of the town, or a U.S. citizen, or fails to take the oath of office after requested to do so.
- **Failure of the municipality to elect a person to the office:** This can happen in several ways. An election may be held but no one receives the required number of votes, or the office which is up for election may have been omitted entirely from the secret ballot or from the open town meeting voting and the meeting is finally adjourned without filling the office.
- **Subsequent election or appointment to an incompatible office:** For example, if a municipal officer is appointed and sworn to the Board of Appeals, this will result in his/her vacating the position of municipal officer. This is not stated in § 2602, but is a result of case law (court decisions). (See additional discussion of "Incompatibility of Offices" later in this Chapter.)

### **Filling a Vacancy**

When there is a vacancy on the board of municipal officers, it can be filled by election only. There is no way to appoint a temporary municipal officer, or use an "assistant" municipal officer. State law does not require that a vacancy be filled at all or within any particular time; this is left to the discretion of the remaining municipal officers. (See 1 M.R.S.A. § 71(3), which provides that a vacancy does not prohibit a municipal board from acting unless a statute, charter or ordinance expressly prohibits it.) In the event that vacancies leave the board with less than a quorum of members, the remaining officers may call a special town meeting for the purpose of electing new members to the board (*30-A M.R.S.A. § 2521(2)*). For further discussion regarding vacancies in other municipal offices, see Chapter 5 and "How Vacancies are Filled," "Legal Notes," *Maine Townsman*, August/September 2007.

In many towns, the municipal officers serve terms of more than one year. When a vacancy occurs during a multi-year term, the person elected to fill the vacancy serves for the remainder of the unexpired term.

A town may by charter or ordinance establish other rules concerning the existence and filling of vacancies, except for the school committee, which must be addressed in a charter provision (30-A M.R.S.A. § 2602(6)).

## **Recall or Firing of a Municipal Officer**

From time to time, a group of citizens or the other municipal officers ask how to recall or fire a municipal officer. According to 30-A M.R.S.A. § 2602(6), the municipality may establish a recall procedure by charter or ordinance which will control all municipal offices except the school committee; a recall procedure for school committee members must be established by charter.

In 2011, Title 30-A M.R.S.A. § 2505 was enacted to provide a recall procedure in the absence of a municipal ordinance or charter provision. This statutory process is applicable only if the official in question is convicted of a crime committed while in office and the victim of the crime is the municipality itself. This statutory recall process does not apply under any other circumstances. See “Recall of Local Officials: A Primer,” “Legal Note,” *Maine Townsman*, October 2013.

Without a locally established recall procedure, or a recall pursuant to 30-A M.R.S.A. § 2505, there is no way to fire a municipal officer before the natural expiration of his or her term of office. However, in cases of severe dereliction of duty, a municipal officer could be fined pursuant to 30-A M.R.S.A. § 2607. In particularly serious cases of neglect of duty, there may be grounds for removal by court order under some common law theory of malfeasance or nonfeasance. There are no recorded cases of this in Maine, so it is unknown what a court would require for proof.

## **Distinction Between First, Second and Third Municipal Officers**

Under State law, there is no difference between the first, second, and third selectperson. In fact, these terms are not used at all in State law. In most towns, the distinction results from tradition and custom, and is not written down anywhere. In those towns, the first selectperson does not have any inherent legal authority to draft the warrant, call meetings, or be the board’s chair. We recommend that tradition be followed if it works, but if problems arise, then an ordinance should be adopted which clearly specifies the rights and duties of each municipal officer and the manner in which each municipal officer is given his or her particular authority.

This also can be done by charter. In any case, unless a town-approved ordinance or a vote of the board has delegated power to one member to act for the board, that person has no power to take action on behalf of the board which would otherwise require a board vote.

## **Chair of the Board of Municipal Officers**

Regardless of how or whether the various seats on the board are distinguished, it is necessary to have a board chair. A charter or ordinance may designate how the board chair is selected. Otherwise, the municipal officers must choose among themselves who will be chair. Where the board of municipal officers cannot choose their own chair, the town clerk chooses the chair by lot 30-A M.R.S.A. § 2526(4)(D)(1). (“By lot” means by a random choice, or “lottery”—drawing straws or picking a name or number from a container.) State law does not discuss the powers and duties of the chair, so each board should either adopt rules which clarify the chair’s role or ask the voters to adopt an ordinance covering this issue.

## **Conflict of Interest**

In order to monitor their own behavior as well as the behavior of all the other officials in the municipality, the municipal officers should be aware of the provisions of law governing “conflict of interest.”

All municipal officials have been sworn into public office to serve the interests of the public as a whole, and in the municipal official there is vested a public trust. A betrayal of that trust occurs when any official acts in his or her own interest rather than in the public interest while performing his or her job.

Maine law encompasses four “conflict of interest” situations that can occur in municipal government:

- financial conflict of interest;
- incompatibility of office;
- prohibited appointments or employment; and
- bias.

Some of these legal standards, such as the incompatibility of office or quasi-judicial bias provisions, are designed primarily to ensure fairness in government and a healthy system of checks and balances within the governmental structure. The legal provisions governing conflict of interest or prohibited appointments/employment, on the other hand, are designed to prevent a municipal official from advancing his or her own self-interest at the expense of the broader public interest. (See MMA’s “Ethics and Conflicts of Interest” Information

Packet; "Ethics for Elected Officials," *Maine Townsman*, May 2007 and "A Code of Ethics," "Legal Note," *Maine Townsman*, August 2005) for additional information on this topic.

### **Conflict of Interest: Statute and Case Law**

In a sense, all issues regarding governmental ethics boil down to the situation of the municipal official being motivated by conflicting or competing interests. The legal concept of "conflict of interest" as defined by statute and case law, however, is narrower than the broad concept of conflict of interest in that it is limited to interests of a financial nature only.

Title 30-A M.R.S.A. § 2605 and case law define when an official will be presumed to be "self-interested" while performing a particular governmental action. There are three conflict rules:

- **Business Interest.** One of the rules addresses situations which involve a municipal officer's interest in a business, such as when awarding a contract. For this rule, § 2605(4) establishes a two-part test. It applies only to a board member who (1) is an "officer, director, partner, associate, employee, or stockholder of a private corporation, business or other economic entity" which is the subject of the issue before the board, and (2) is "directly or indirectly the owner of at least 10% of the stock of the private corporation or owns at least a 10% interest in the business or other economic entity." If a board member falls into one of the relationships listed in Category 1 but does not have the 10% interest covered by Category 2, then that board member does not have a legal conflict of interest under this statutory provision.
- **Personal Financial Interest.** The second test governs situations in which the municipal officer, and not his or her business, is the subject of the discussion or vote. For a board member whose conflict of interest is not governed by § 2605(4) (because the board member does not fall within both categories discussed in the preceding paragraph), there is a common law (case law) standard defining activity which may constitute a conflict of interest. That standard is "whether the municipal official by reason of his interest, is placed in a situation of temptation to serve his own personal pecuniary interest to the prejudice of the interests of those for whom the law authorized and required him to act." *Lesieur v. Inhabitants of Rumford*, 113 Me. 317 (1915), as cited in *Tuscan v. Smith*, 130 Me. 36 (1931).
- **Appearance of Impropriety.** The third test, which also appears in § 2605, is whether an appearance of a conflict of interest exists. Even if no legal conflict of interest exists, a board member should avoid even the appearance of a conflict (through disclosure and/or abstention) in order to maintain the public's confidence in the board's work. *Aldom v. Roseland*, 42 NJ Super. 495, 127 A.2d 190 (1956); 30-A M.R.S.A. § 2605(6).

## **How the Affected Member Should Handle the Conflict**

If a conflict arises that is addressed by § 2605, its procedures should be followed (full disclosure and abstention from participation and voting by the member, and formally noted in the record of the meeting). If a conflict arises that is not addressed by § 2605, and if the board has bylaws or rules of procedure which detail a process for dealing with conflicts of interest, the board member should follow those rules. If there are no such rules, the member should make full disclosure for the record of his or her financial interest in the matter which might prevent him or her from being impartial in the matter before the board and the other board members should vote on whether the member must abstain from acting on the matter. If the member must abstain under § 2605 or under board bylaws, or if the board otherwise votes that the board member must abstain from any further discussion and voting as a board member on that matter, this abstention and reason must be permanently recorded with the town or city clerk. After making these disclosures, the board member should leave his or her place at the decision-making table and take a seat in the audience if the board member wishes to participate as a member of the public.

## **Failure to Abstain**

If a board member who has a legal conflict of interest fails to abstain from the discussion and from the vote and fails to note the nature of his or her interest in the record of the meeting, a court could declare the vote void if someone challenged it.

## **Defined by Ordinance or Charter; Authority of Board to Determine**

A municipality may define what constitutes a conflict of interest by including such a provision in a local ordinance or charter. Even without such a local provision, the courts have recognized that a board has general authority to determine whether one of its members has a legal conflict. Such a decision can be made either at the request of the affected board member or on the initiative of the rest of the board.

## **Incompatibility of Office**

One person may simultaneously hold more than one position or office in municipal government. There are certain positions in municipal government, however, which are incompatible with other positions and cannot be held simultaneously by the same person.

Although the concept of “incompatible offices” often is described as a “conflict of interest,” these are not the same. As has been discussed, a statutory conflict of interest concerns a municipal official’s divided loyalty between his or her financial self-interest and the public interest.

The common law doctrine of incompatibility of office also is intended to assure uncompromising loyalty, but this time the tension exists between the legitimate duties of two separate offices which no single individual—no matter how capable or well-intentioned—can perform with undivided loyalty. It is the nature of the offices themselves, not the particular person involved, which creates the incompatibility. The municipal officers should be familiar with the doctrine of incompatible offices so that they will avoid entering into a position incompatible with their own office and avoid appointing other municipal officers to incompatible positions. Two offices are “incompatible” if the duties of each are so inconsistent or conflicting that one person holding both would not be able to perform the duties of both with undivided loyalty. *Howard v. Harrington*, 114 Me. 443, 446 (1916); *McQuillin, Municipal Corporations* (3rd ed. rev.) §12.67. Consequently, a determination of whether or not two positions are incompatible will usually require an in-depth analysis of the duties of the positions in question.

### **Statutory Incompatibility**

The common law (law based on court cases) exerts more influence on determinations of conflict of interest than do the statutes, but statutes do expressly define the following as “incompatible”:

- A town manager may not simultaneously serve as either the town moderator, selectperson, assessor or school committee member (*30-A M.R.S.A. § 2632(3)*), which MMA Legal Services Department attorneys also interpret to include RSU/SAD directors;
- A tax collector or treasurer may not simultaneously serve as either selectperson or assessor (*30-A M.R.S.A. § 2526(8)*);
- A County Commissioner may not simultaneously serve as either the mayor of a city, selectperson of a town, or assessor (*30-A M.R.S.A. § 52(1)*);
- Neither a municipal officer nor his or her spouse may simultaneously serve as a board of appeals member or associate member (*30-A M.R.S.A. § 2691(2)(B)*);
- A State Legislator may simultaneously serve as a selectperson but may not also serve as a local assessor; if the municipality has a single board of selectpersons and assessors, then a member may resign from the position of assessor in order to serve simultaneously as a selectperson and as a State Legislator. Also, if a person who is serving as a State Legislator or in another office that is incompatible with the position of assessor resigns from the assessor’s position before performing any

duties as tax assessor, that person will not have automatically forfeited the prior office of State Legislator or other incompatible office. (*Article IV, Part 3, Section 11, Maine Constitution* and several opinions of the Maine Attorney General dated January 2, 1991 and February 1, 1971; 30-A M.R.S.A. § 2526(5)(C));

- Finally, if the municipal planning board still is constituted under the “old” planning board law found in then-existing 30 M.R.S.A. § 4952, a municipal officer may not simultaneously serve as a planning board member. This statutory incompatibility does not pertain to planning boards created or recreated after September 23, 1971, although there may be an incompatibility between the two even for “new” boards if the municipal officers appoint planning board members.

### **Offices Which may be Incompatible under the Common Law Rule**

As can be seen, incompatibility generally can be held to exist where two municipal offices may have occasion to perform conflicting duties. The incompatible offices expressly defined in the statutes serve also to establish some criteria to determine other incompatibilities, which are not expressly defined in the law.

As examples, the law does not allow a treasurer to simultaneously serve as a municipal officer because the treasurer prepares the municipal disbursements while the municipal officers actually authorize the disbursements to be made. A town manager is not permitted by statute to serve simultaneously as a municipal officer because, among other reasons, the decisions made by the manager are reviewed regularly by the municipal officers, who in many cases are empowered to affirm, modify or reverse those decisions. Even in the absence of a specific incompatibility statute, a person could not simultaneously be the municipality’s Code Enforcement Officer (CEO) and a member of the planning board where the planning board is empowered to review and modify decisions of the CEO. If a municipality does not operate under a town manager form of government, the municipal officers are authorized to directly supervise the road commissioner, and those two positions therefore would be incompatible by the common law doctrine. The municipal officers can act as a board of road commissioners, but a single officer may not do so.

Other offices which a court probably would find incompatible based on conflicting duties are:

- municipal officer and school committee member or SAD or RSU director
- municipal officer and code enforcement officer
- municipal officer and building inspector
- municipal officer and local plumbing inspector
- municipal officer and health officer

- municipal officer and animal control officer
- municipal officer and civil emergency preparedness director
- municipal officer and municipal clerk or deputy clerk
- municipal officer and moderator or deputy moderator in a secret ballot election conducted under 30-A M.R.S.A. § 2528
- municipal officer and election warden
- municipal officer and registrar of voters
- municipal officer and ballot clerk in a secret ballot election
- municipal officer and fire chief and possibly assistant fire chief
- municipal officer and police officer or constable
- municipal officer and sanitary district trustee

Many of the possible incompatibilities suggested in the preceding list are based on an interpretation of statutory provisions which authorize the municipal officers to appoint and supervise the person holding the other office, appoint someone to fill a vacancy, set the other person's compensation, or have some other type of oversight authority over something that the other person does, such as approving regulations adopted by the other person. Where the municipality has adopted a town manager plan in which the manager steps into the shoes of the municipal officers regarding their appointment authority, some of the incompatibilities listed above may not exist. It also is best to err on the side of caution and avoid a possible incompatibility, since the holder of two incompatible offices will be deemed to have automatically vacated the first upon being sworn into the second office. See the discussion of "automatic vacancy" below.

It often is difficult to determine when an incompatibility exists. The duties and authorities of a particular office, as controlled by statute, local ordinance or charter, frequently differ from one municipality to the next. Therefore, it is important that prior to deciding on incompatibility there is a determination of the duties and authorities actually vested in the two separate offices to be filled by one person. If the duties of one office include the review, modification or supervision of another office or of decisions made by that office, then one person should not simultaneously hold the two offices.

It should be noted that under a 2008 Maine Superior Court decision, the Maine common law doctrine of incompatibility is limited to public "offices" for which one is sworn or takes an oath-it does not extend to employment positions. See *Inhabitants of Town of Harpswell v. Wallace*, CV-08-184 (Me. Super. Ct., Cum. Cty., May 16, 2008) (holding that positions of Town landfill employee and selectman of same Town are not incompatible offices). See also "Incompatibility Doctrine Limited to Public Offices," "Legal Notes," *Maine Townsman*, July 2008.

## **Incompatible Offices and Automatic Vacancy**

There exists a somewhat unforgiving result in common law when an individual has accepted the responsibilities of two incompatible offices. The result is that upon being sworn in to (or exercising the duties of) the second of the two incompatible offices, the municipal official is deemed to have automatically vacated the first.

For example, if a municipal officer is elected as a school committee member, at the moment he or she is sworn into that school committee office, a vacancy automatically has been created on the board of municipal officers. The municipal official does not have a choice in the matter. Even if no one is aware that the two offices are incompatible, the official legally has vacated the first office and the actions that the official continues to take in the vacated office might be voided by a court upon complaint. Therefore, it is important that the municipal officers take it upon themselves to review all situations where one person holds two or more offices, to ensure that there is no incompatibility.

## **Prohibited Appointments/Employment**

From the point of view of governmental ethics, the statute governing prohibited appointments or employment is a further restriction on financial self-interest. 30-A M.R.S.A. § 2606 prohibits a municipal officer from being appointed to or employed in any “civil office of profit” in the municipal government when that position was either created or its level of compensation was increased during the municipal officer’s term of office. The prohibition applies only when the creation of the position or its salary increase was accomplished by a vote of the municipal officers, and the prohibition extends throughout that municipal officer’s full term plus one calendar year thereafter.

Section 2606 applies regardless of how the particular municipal officer actually voted on the salary increase, or whether the officer is willing to accept the position at the original salary level. If the position was created or the position’s salary was increased by action of the board of municipal officers, then none of those municipal officers are eligible for that position for their term plus one-year. The basis of this prohibition is straightforward: the law dictates that people should not be tempted to create for themselves a position of employment by means of their elected office.

A common issue is whether a municipal officer may serve as interim town manager or may take the position of town manager when a vacancy occurs in that position. Because the offices of municipal officer and town manager are incompatible offices, a municipal officer cannot hold that office and simultaneously serve as interim town manager. Moreover, Section 2606 prohibits a municipal officer from resigning to serve as either the interim or permanent town manager “during the term for which that officer has been elected and one year thereafter” if

the position of town manager had been created or its compensation “increased by the action of the municipal officers during the officer’s term.”

## **Bias**

The issue of bias emerges in the area of the municipality’s quasi-judicial functions. This includes the issuance of permits or governmental approvals of any kind (such as land use, business, or concealed weapons permits), the award of bids or contracts, discipline and firing of employees, and appeals proceedings (see Chapter 4 under “Quasi-Judicial Role”). There are essentially two types of bias. One of these types is called familial bias, and other type is called prejudicial bias.

### **“Familial” Bias**

Title 1 M.R.S.A. § 71(6) is a disqualification statute which reads:

When a person is required to be disinterested or indifferent in a matter in which others are interested, a relationship by consanguinity or affinity within the 6<sup>th</sup> degree according to civil law, or within the degree of 2nd cousins inclusive, except by written consent of the parties, will disqualify.

What this means is that when a municipal officer sits as a quasi-judicial officer (e.g., one who makes licensing decisions, hears and decides personnel matters, hears appeals) to decide on a matter involving a relative by blood (consanguinity) or marriage (affinity) who is a second cousin or more closely related, the related municipal officer should either step down as a quasi-judicial officer or seek written permission from all parties to the proceeding to remain. See the chart in Appendix 2 showing degrees of relationships.

### **“Prejudicial” Bias**

Prejudicial bias, like familial bias, is a bias of degree, but it is impossible to quantify. It is human to harbor some degree of positive or negative feelings toward other people, and a mere like or dislike of an applicant or claimant does not require that a municipal officer step down as a quasi-judicial officer. On the other hand, a municipal official must abstain when the bias is so strong that the official cannot make an impartial decision, thereby depriving the applicant of his or her right to a fair and objective decision.

The intensity of a municipal officer’s bias cannot really be known unless that municipal officer has said or done things that make it clear. As a practical matter, the municipal officer should abstain from the quasi-judicial proceeding if there is in the public’s eye the appearance of strong bias. This does not mean that a municipal officer can never express his own personal

or political feelings, but when those feelings will control his ability to make a decision in a specific case, it is better to abstain.

Likewise, the municipal official might step down to avoid the appearance of making a biased quasi-judicial decision in order to remove one argument that could be used to subsequently challenge that decision in a court appeal. It is difficult to prove prejudicial bias unless the officer in question says or does something that shows the bias. Likewise, the degree or intensity of the bias can only be established if the officer has shown some outward sign (statement or action) of it.

### **Procedure for Handling Bias**

As with conflict of interest, an official who is legally biased must abstain from both the voting and the discussion as a board member on the issue before the board. For a discussion regarding the process to follow, see the earlier discussion in this Chapter regarding conflict of interest.

### **Ethics Policies**

Any municipality is free to strengthen by local code any of these guidelines found in the statutes and in common law governing conflict of interest, incompatible offices, prohibited appointments/employment, bias, or, for that matter, any other area of ethical concern. 30-A M.R.S.A. § 2605(7) authorizes the municipal officers to adopt, at their discretion, an ethics policy governing the conduct of both elected and appointed officials. MMA Legal Services has sample ethics policies from several communities. Also, see MMA's "Ethics and Conflicts of Interest" Information Packet; "A Code of Ethics?" "Legal Notes," *Maine Townsman*, August 2004; "Ethics for Elected Officials" and "Ethics for Quasi-Judicial Boards," "Legal Notes," *Maine Townsman*, May 2007.



## Ethics and Conflicts of Interest

*This packet is intended for general informational purposes only. It is not meant, nor should it be relied upon, as legal advice in any particular situation. Links to documents herein are provided as examples for informational purposes only and have not been reviewed by MMA Legal Services. Do not use any sample unless it has been reviewed by your legal counsel. The information herein is not a substitute for consultation with legal counsel and legal review or other specific guidance on the subject. The statutes and other information herein are only current as of the date of publication.*

Date of last revision: 7/2012

This packet includes the following attachments:

- [Title 30-A M.R.S.A. §§ 2604-2606](#); [Use the arrows to move through sections.]
- ["State Law and Ethics."](#) *Maine Townsman*, July 1990;
- ["Incompatible Offices."](#) *Maine Townsman*, August 1987;
- ["Ethics: More than Just a Set of Rules."](#) *Maine Townsman*, July 1990.

Sample Ethics Ordinances and Policies:

- [Bangor Code of Ethics](#)
- [Bar Harbor Code of Ethics](#)
- [Berwick Code of Ethics](#)
- [Bridgton Code of Ethics](#)
- [Ellsworth Code of Ethics](#)
- [Hampden Code of Ethics](#)
- [Kennebunk Code of Conduct](#)
- [Sanford Code of Conduct](#)
- [Skowhegan Code of Ethics](#)
- [Waterville Charter, including Code of Ethics](#)

Important issues and considerations include:

### I. Legal Distinctions

Maine law recognizes four kinds of ethical dilemmas in municipal government: conflict of interest, incompatibility of office, prohibited appointments or employment, and bias (see "State Law and Ethics," *Maine Townsman*, July 1990, [linked above](#)); conflict of interest is only one type of ethical dilemma, although the term "conflict of interest" is sometimes used generically (and incorrectly) to refer to all four. A conflict of interest, strictly speaking, exists where an official has a personal pecuniary (financial) interest in a matter of official business. Incompatibility of office is present where two public offices, by virtue of their respective and conflicting duties, cannot be held simultaneously by the same person no matter how dedicated or financially disinterested. Prohibited appointments or employment are paid positions which are barred to the municipal officers (selectmen or councilors) because they either created the positions or increased the positions' compensation. Bias occurs where an official, due to prejudice or a familial relationship with the applicant, is unable to make a fair and impartial decision in a matter requiring objectivity (i.e., a "quasi-judicial" proceeding). These distinctions are important because the circumstances under which an ethical problem may arise, and the legal consequences that may result if it is ignored or handled improperly, can vary widely depending on which type of problem it is.

### II. Appearances

The basic rationale for regulation of ethics among municipal officials is to foster and preserve public trust in the fundamental integrity of local government. Even where an official's conduct may not be legally proscribed, personal relationships or competing interests may create an appearance of impropriety sufficient to undermine public confidence in the fairness and honesty of local officials. State law (30-A M.R.S.A. § 2605(6)) therefore encourages officials to avoid the appearance of a conflict of interest by disclosure or by abstention in such cases.

### III. Local Ethics Policies

State law (30-A M.R.S.A. § 2605(7)) authorizes the municipal officers to adopt an ethics policy governing local officials. Some municipalities have found this to be an effective method for dealing with ethical dilemmas left unresolved by other law. (*For examples, see sample ordinances and policies, linked above.*) A municipality also may adopt a charter provision that authorizes the municipal officers to reprimand one of its own members for violating the municipal charter. (See *Monroe v. Town of Gray*, 1999 ME 190, 743 A2d 1257.)

### IV. Who Decides

Ultimately, of course, only a court can determine whether an official has violated an ethical restriction and, if so, what penalties or consequences may follow. However, the numerous statutes and cases can serve as a guide to local officials in resolving their own specific ethical dilemmas. In addition, certain moral principles may apply (*see "Ethics: More than Just a Set of Rules, Maine Townsman, July 1990, linked above*). In the absence of local charter, ordinance or bylaw provisions to the contrary, it is generally recognized that a majority of a board (not including the member whose participation is in question) may determine whether a member has a disqualifying ethical problem.