

TOWN OF SOUTH BERWICK, MAINE

ABATEMENT RECOMMENDATION FORM

Owner(s): Town of South Berwick
Mailing Address: 180 Main Street
South Berwick, ME 03908
Abatement # 1
Location: Liberty Street
Map/Lot: 025-005-1
Account #: T1980R
Tax Year: 2009/2010

Circumstances: The value of the Town dock was added to this account and due to a key punch error the exemption amount was not changed to reflect the value update. This abatement will correct the error.

Recommendation: Approve

Prior Land	\$ 6,800	Revised Land	\$ 6,800
Prior Bldg	\$ 20,000	Revised Bldg	\$ 20,000
Exemption	\$ <u>6,800</u>	Exemption	\$ <u>26,800</u>
Prior Total	\$ 20,000	Revised Total	\$ 0
Value Abated:	\$ 20,000	Tax Abatement:	\$ 304.00

ABATEMENT GRANTED / DENIED:

_____ Dated _____

2009/2010 PROPERTY TAX BILL
TOWN OF SOUTH BERWICK, MAINE

180 MAIN STREET
 SOUTH BERWICK, ME 03908-1535
 TEL.: 207-384-3300

MAP 25 LOT 5
 SUB 1 TYPE

Assessor ext 110 Tax Collector ext 106 or 102

BILL IS ONLY FOR THE CURRENT FISCAL YEAR

T1980R
LIBERTY STREET

SOUTH BERWICK TOWN OF
 180 MAIN STREET
 SOUTH BERWICK, ME 03908

CURRENT BILLING DISTRIBUTION		
SCHOOL	9.72	194.40
COUNTY	.56	11.20
MUNICIPAL	4.92	98.40
TOTAL	15.20	

CURRENT BILLING INFORMATION	
LAND VALUE	\$ 6,800
BUILDING VALUE	\$ 20,000
TOTAL VALUE	\$ 26,800
EXEMPTIONS	\$ 6,800
HOMESTEAD EX	\$ 0
TAX VALUE	\$ 20,000
	\$
	\$
	\$
	\$
	\$
	\$
TOTAL TAX	\$ 304.00

Book: 14083 Page: 615 Lot Size 3.00

DATE DUE	AMOUNT DUE
09/30/2009	152.00
03/31/2010	152.00

INTEREST AT 9% PER ANNUM CHARGED ON ALL TAXES NOT PAID WHEN DUE

TAXPAYER'S NOTICE

Without State Aid for Education, Homestead Exemption Reimbursement and State Revenue Sharing, your tax bill would have been 57% higher. Ownership and valuation of all real and personal property is fixed, by State law, as of April 1, 2009. By State law, requests for abatement must be made no later than February 11, 2010. Tax Club applications due by August 30. Current outstanding bonded indebtedness is \$1,243,660. Distribution of property taxes: School 63.9%, Town 32.4%, County 3.7%.

REMITTANCE INSTRUCTIONS

POST DATED CHECKS WILL BE PROCESSED WHEN RECEIVED.

If a bank, or some other person or institution, pays your taxes, please review this bill and forward a copy to them. Please make check payable to **TOWN OF SOUTH BERWICK** (include your account number on the check) and mail to:

TOWN OF SOUTH BERWICK, 180 MAIN STREET, SOUTH BERWICK, ME 03908-1535

TOWN OF SOUTH BERWICK, 180 MAIN STREET, SOUTH BERWICK, ME 03908-1535
 PROPERTY TAX PAYMENT

25 5 1

T1980R
 SOUTH BERWICK TOWN OF
 180 MAIN STREET
 SOUTH BERWICK, ME 03908

DATE DUE	AMOUNT DUE
03/31/2010	152.00

INTEREST AT 9% CHARGED BEGINNING APRIL 1, 2010	AMOUNT PAID \$
---	-------------------

TOWN OF SOUTH BERWICK, 180 MAIN STREET, SOUTH BERWICK, ME 03908-1535
 PROPERTY TAX PAYMENT

25 5 1

T1980R
 SOUTH BERWICK TOWN OF
 180 MAIN STREET
 SOUTH BERWICK, ME 03908

DATE DUE	AMOUNT DUE
09/30/2009	152.00

INTEREST AT 9% CHARGED BEGINNING OCTOBER 1, 2009	AMOUNT PAID \$
---	-------------------

TOWN OF SOUTH BERWICK, MAINE

ABATEMENT RECOMMENDATION FORM

Owner(s): Vine Street Cemetery
Mailing Address: 180 Main Street
South Berwick, ME 03908
Abatement # 2
Location: Vine Street
Map/Lot: 022-015
Account #: S9001R
Tax Year: 2009/2010

Circumstances: As part of the mapping project, accounts are being established in the assessing program in order to match parcels shown in the GIS parcel layer. The account created for the Vine Street Cemetery was not correctly coded as exempt and a tax bill was generated in error. This abatement will correct for that error.

Recommendation: Approve

Prior Land	\$ 7,600	Revised Land	\$ 7,600
Prior Bldg	\$ 0	Revised Bldg	\$ 0
Exemption	\$ <u>0</u>	Exemption	\$ <u>7,600</u>
Prior Total	\$ 7,600	Revised Total	\$ 0
Value Abated:	\$ 7,600	Tax Abatement:	\$ 115.52

ABATEMENT GRANTED / DENIED:

_____ Dated _____

2009/2010 PROPERTY TAX BILL
TOWN OF SOUTH BERWICK, MAINE

180 MAIN STREET
 SOUTH BERWICK, ME 03908-1535
 TEL.: 207-384-3300

Assessor ext 110 Tax Collector ext 106 or 102

BILL IS ONLY FOR THE CURRENT FISCAL YEAR

**S9001R
 VINE STREET**

**VINE STREET CEMETERY
 180 MAIN STREET
 SOUTH BERWICK, ME 03908**



Lot Size 1.68

MAP 22
 SUB

LOT 15
 TYPE

CURRENT BILLING DISTRIBUTION		
SCHOOL	9.72	73.87
COUNTY	.56	4.26
MUNICIPAL	4.92	37.39
TOTAL	15.20	

CURRENT BILLING INFORMATION		
LAND VALUE	\$	7,600
BUILDING VALUE	\$	0
TOTAL VALUE	\$	7,600
EXEMPTIONS	\$	0
HOMESTEAD EX	\$	0
TAX VALUE	\$	7,600
	\$	
	\$	
	\$	
	\$	
	\$	
TOTAL TAX	\$	115.52

DATE DUE	AMOUNT DUE
09/30/2009	57.76
03/31/2010	57.76

INTEREST AT 9% PER ANNUM CHARGED ON ALL TAXES NOT PAID WHEN DUE

TAXPAYER'S NOTICE

Without State Aid for Education, Homestead Exemption Reimbursement and State Revenue Sharing, your tax bill would have been 57% higher. Ownership and valuation of all real and personal property is fixed, by State law, as of April 1, 2009. By State law, requests for abatement must be made no later than February 11, 2010. Tax Club applications due by August 30. Current outstanding bonded indebtedness is \$1,243,660. Distribution of property taxes: School 63.9%, Town 32.4%, County 3.7%.

REMITTANCE INSTRUCTIONS

POST DATED CHECKS WILL BE PROCESSED WHEN RECEIVED.

If a bank, or some other person or institution, pays your taxes, please review this bill and forward a copy to them. Please make check payable to **TOWN OF SOUTH BERWICK** (include your account number on the check) and mail to:

TOWN OF SOUTH BERWICK, 180 MAIN STREET, SOUTH BERWICK, ME 03908-1535

TOWN OF SOUTH BERWICK, 180 MAIN STREET, SOUTH BERWICK, ME 03908-1535
 PROPERTY TAX PAYMENT

22 15

**S9001R
 VINE STREET CEMETERY
 180 MAIN STREET
 SOUTH BERWICK, ME 03908**

DATE DUE	AMOUNT DUE
03/31/2010	57.76

INTEREST AT 9% CHARGED BEGINNING APRIL 1, 2010	AMOUNT PAID \$
--	-------------------

TOWN OF SOUTH BERWICK, 180 MAIN STREET, SOUTH BERWICK, ME 03908-1535
 PROPERTY TAX PAYMENT

22 15

**S9001R
 VINE STREET CEMETERY
 180 MAIN STREET
 SOUTH BERWICK, ME 03908**

DATE DUE	AMOUNT DUE
09/30/2009	57.76

INTEREST AT 9% CHARGED BEGINNING OCTOBER 1, 2009	AMOUNT PAID \$
--	-------------------

PLEASE REMIT THIS PORTION WITH YOUR PAYMENT

TOWN OF SOUTH BERWICK, MAINE

ABATEMENT RECOMMENDATION FORM

Owner(s): Sunset Meadows, LLC

Mailing Address: 11 N. Main Street
Vergennes, VT 05491

Abatement # 3
Location: 29 Old County Road
Map/Lot: 005-031
Account #: G0980R

Tax Year: 2009/2010

Circumstances: This parcel was subdivided on March 17, 2009. The split in Assesspro was not processed in time for the FY2010 commitment. This abatement and following supplemental will assess the property to the correct owners and reflect the valuation for the individual properties as they should have been assessed on the State tax date, April 1, 2009.

Recommendation: Approve

Prior Land \$ 121,300
Prior Bldg \$ 88,700
Exemption \$ 0

Revised Land \$ 0
Revised Bldg \$ 0
Exemption \$ 0

Prior Total \$ 210,000

Revised Total \$ 0

Value Abated: \$ 210,000

Tax Abatement: \$ 3,192.00

ABATEMENT: GRANTED / DENIED

_____ Dated _____

Town of South Berwick
Application for Abatement of 2009/2010 Property Taxes
(under Section 841, Title 36, MRSA)

Separate application should be filed for each separately assessed parcel of real estate or personal property account claimed to be overvalued. (See other side for instructions).

1. Name of Applicant: Edwin R. Grant
2. Mailing Address: 11 N. MAIN ST., VERGENNES, VT 05491
3. Telephone #: 802-877-2094
4. Tax Map/Lot #: 5 31 Account #: G0980R
5. Property Address (location): 29 Old County Road
6. Assessed valuation of real estate: SAME
7. Assessed valuation of personal property: —
8. I/We have timely filed a current list of Estates Not Exempt from Taxation per MRSA Title 36, Section 706. Yes No ** N/A (** IF I have not already filed this required form, I realize I am barred from making an application for abatement or any appeal therefrom.)
9. Abatement amount requested: \$210,000
10. Reason for requesting abatement (please be specific, stating grounds for belief that property is overvalued for tax purposes).
Property was divided by deed prior to April 1st.
Abatement will correct for ownership and assessment.
11. Date property purchased: — Price: —

In accordance with the provisions of Section 841, Title 36, MRSA, I hereby make written application for abatement of property taxes as noted above. The above statements are correct to the best of my knowledge and belief.

Date: 10-5-09 Applicant's Signatures: Edwin R. Grant

THIS APPLICATION MUST BE SIGNED.

This application must be filed not later than February 11th, 2010, for 2009/2010 taxes.

FAX: 207-344-3303

Memo

To: Board of Assessors
From: Craig H. Skelton, Assessing Agent
Date: 10/13/2009
Re: Supplemental tax warrant

The supplemental tax warrant attached hereto includes three supplemental assessments.

The first assessment is to restore a personal property account that was deleted in error. The second and third supplemental assessments are for the subdivision of land owned by Edwin Grant that occurred on March 17th, 2009 and was not processed in time for the April 1st commitment.

SUPPLEMENTAL TAX WARRANT
36 M.R.S.A., Sections 713, 713-A, 713-B

County of YORK, ss. To John B. Schempf, Tax Collector of the municipality of SOUTH BERWICK, within said County of YORK.

GREETING:

Hereby are committed to you a true list of the assessments of estates of the persons hereinafter named. You are hereby directed to levy and collect of each of the several persons named in said lists his respective proportion, therein set down, of the sum of **four thousand seven hundred sixty six dollars and seventy two cents** (\$ 4,766.72), it being the amount of said list; and all powers of the previous warrant for the collection of taxes issued by us to you and dated **8/10/2009** are extended thereto; and we do hereby certify that the list of assessments of estates of the persons named in said list is a supplemental assessment laid:

(a)* by virtue of Title 36, M.R.S.A., Section 713, as amended, and that the estates and assessments thereon as set forth in said list were invalid or void or were omitted from the original list committed unto you under our warrant dated **8/10/2009**.

(b) *by virtue of Title 36, M.R.S.A., Section 713-A, due to an erroneous foreclosure; or

(c) * by virtue of Title 36, M.R.S.A., Section 713-B, as a penalty imposed under Section 581 or Section 1112 of Title 36.

- *Strike the inapplicable provisions.*

Given under the hands this 13th day of October, 2009.

Assessor (s) of
South Berwick

Note: - Assessors. Give this to the Collector with the Supplementary Tax List.

SUPPLEMENTAL TAX CERTIFICATE
36 M.R.S.A., Sections 713, 713-A, 713-B

We, the undersigned, Assessors of the Municipality of SOUTH BERWICK, hereby certify that:

(a) * The foregoing list of estates and assessments thereon, recorded in page **RE 1 to 374 and PP 1 to 26** are supplemental to the aforesaid original invoice, valuation and list of assessments of said **10th day of August, 2009**.

(b) * the foregoing list of estates and assessments thereon are supplemental assessments due to an erroneous foreclosure and are made pursuant to Title 36, M.R.S.A., Section 713-A, as amended; or

(c) * the foregoing are laid as a penalty pursuant to Title 36, M.R.S.A., Section 713-B, as amended.

** Strike the inapplicable provisions.*

Given under our hands this 13th day of October, 2009.

Assessor (s) of
South Berwick

Note: - Assessors, paste this in your Valuation Book after the last item assessed in your Supplementary Assessment.

Supplemental Summary

				Supplemental	Supplemental		Personal	Personal	Total	Supplemental	
Map/Lot	Account	Owner	Address	Land	Building	Exemptions	Property	Property	Supplemental	Supplemental	Reason
				Valuation	Valuation			Type	Valuation	Tax Amount	
N/A	L0009P	LAING dba MARYBETHS DAYCARE	AGAMENTICUS RD		\$ -	\$ -	\$ 2,700		\$ 2,700	\$ 41.04	ACCOUNT DELETED IN ERROR
005-031	G0980R	GRANT, EDWIN	29 OLD COUNTY RD	\$ 104,200	\$ 88,700	\$-	\$-		\$ 192,900	\$2,932.08	PROPERTY SUBDIVIDED
005-031-1	G0985R	SUNSET MEAD	0 OLD COUNTY RD	\$ 118,000	\$-	\$-	\$-		\$ 118,000	\$1,793.60	PROPERTY SUBDIVIDED
										\$ 4,766.72	

SOUTH BERWICK TOWN COUNCIL SEPTEMBER 28, 2009

Chairman Jean Demetracopoulos called the meeting to order at 6:30pm. Those present included Councilors Michelle Kareckas, David Burke, and Gerald W. MacPherson, Sr. Town Manager John B. Schempf was also in attendance.

APPROVAL OF MINUTES

1. Town Council 9-14-09: On a motion by Mrs. Kareckas, seconded by Mr. Burke, it was unanimously voted to adopt the minutes as written.
2. Special Council 9-21-09: On a motion by Mr. Burke, seconded by Mrs. Kareckas, it was unanimously voted to adopt the minutes as written.

Special Council 9-23-09: On a motion by Mrs. Kareckas, seconded by Mr. Burke, it was unanimously voted to adopt the minutes as written.

SIGNING OF TREASURER'S WARRANT – September 28, 2009

On a motion by Mr. MacPherson, seconded by Mr. Burke, it was unanimously voted to sign the warrant.

PUBLIC COMMENT

1. Cliff Cleary, Spillane's Hill Rd, asked if anyone had checked with MMA legal to see if the funds voted at town meeting for the Economic Development Committee revert to the general fund. *No*.
2. Richard Clough, Academy St, asked about the workshop for the Day property. Mrs. Demetracopoulos stated that it was scheduled for October 5th.
3. Audrey Fortier, Rodier Rd, asked several questions:
 - Status of Balancing Rock.
 - Will the rectory be open for viewing during the library open house at the Young Street property? Mrs. Demetracopoulos stated that it is not part of the library and will not be open.
 - Will the reduction in Zoning Board of Appeals membership be problematic?
 - Have charges been drafted for the new committees?
 - Will the EDC budget carry over to the new committee or will it go back to the general fund?

TOWN MANAGER'S REPORT

- Stated that the Portsmouth Herald has a one year contract with Bournival to subsidize a page on Thursdays for coverage in South Berwick.
- Calendar items:
 - Friday workshop with School Board to view traffic issue at Central School,
 - Sunday 2 open houses one at the Fire Dept. 10-2 and the Library 3-7,
 - Monday workshop on Day property and cemeteries.
- Informed everyone that the TULIP program is available through MMA for groups needing liability insurance when using town facilities.
- Received a letter from the Land Trust regarding Balancing Rock. Significant progress has been made and things should be wrapped up in a month.
- Mentioned the Silver Star Families Day program for injured vets. The day takes place in May.
- Mentioned 2 letters received commending employees. Dispatcher Sandra Clark was very helpful to a resident in a difficult situation. And the second congratulated the Public Works Dept. and Roberta Orsini for their work in seeing that the intersection at Liberty & Vine Street was completed.

UNFINISHED BUSINESS

- 1A. Mrs. Demetracopoulos stated that the Zoning Board of Appeals is a seven member board being reduced to 5 regular members with 2 alternates. This will reduce the required quorum for conducting meetings.

On a motion by Mr. MacPherson, seconded by Mrs. Kareckas, it was unanimously voted to hold a public hearing on Monday, October 26, 2009 to receive public comment on the proposed amendment to section 140-76 of the Zoning Ordinance regarding the Appeals Board membership.

NEW BUSINESS

1A. The Council briefly discussed the purchase of a new SUV for the Police Dept. Mr. Schempf explained that there are a limited number of models that are converted for police use.

On a motion by Mr. MacPherson, seconded by Mr. Burke, it was unanimously voted to authorize the purchase of a 2010 Ford Explorer from Irwin Motors of Laconia, NH in an amount not to exceed \$25,224. Note was made that this amount was lower than the state bid.

2A. On a motion by Mrs. Kareckas, seconded by Mr. Burke, it was unanimously voted to confirm the meeting date change from Monday, October 12th to Tuesday, October 13th because of Columbus Day.

2B. On a motion by Mrs. Kareckas, seconded by Mr. Burke, it was unanimously voted to appoint the following applicants to the new Recreation Committee: Tracy LaPointe June 2010, Michael Anderson June 2011, Bill Page June 2011, Len Bogh June 2012, and Gina Brackett June 2012.

2C. Mr. Burke made a motion to appoint Virginia Jennings June 2011, Brian Kunkel June 2011, Tony Lemmo June 2012, Paul Schumacher June 2012, and Smilie G. Rogers June 2013. Mr. MacPherson seconded the motion. The Council briefly discussed the term for Mr. Rogers and agreed that it should not go more than three years.

On a motion by Mrs. Kareckas, seconded by Mr. MacPherson, it was unanimously voted to amend the motion by changing the term for Smilie Rogers to June 2010.

The original motion, as amended, passed unanimously.

2D. On a motion by Mr. Burke, seconded by Mrs. Kareckas, it was unanimously voted to appoint John Klossner to the Conservation Commission with a term to expire June 30, 2011.

2E. The Council discussed the changes in the state law (2005) regarding Junkyard Permits and the required fees. Public hearings for renewals continue to be optional and it was found that they may now be issued for a 5 year period. The Code Enforcement Officer has confirmed that they are both currently in compliance.

Mr. MacPherson made a motion to amend Emery's Junkyard permit by adjusting the expiration date to September 30, 2013 pending receipt of an additional fee required if necessary. Mr. Burke seconded the motion. The state statute calls for a \$250 fee for a 5 year permit. The applicants have been paying \$100 per year therefore, additional fees may not be necessary. Motion and second were withdrawn.

On a motion by Mrs. Kareckas, seconded by Mr. Macpherson, it was unanimously voted to amend Emery's Junkyard permit to expire September 30, 2013, pending receipt of the additional fee if required.

Mrs. Demetracopoulos made note that Emery's has been out of compliance in the past. She also questioned whether the CEO would be conducting an annual inspection.

On a motion by Mr. MacPherson, seconded by Mrs. Kareckas, it was unanimously voted to amend Lynch's Junkyard permit to expire September 30, 2013, pending receipt of the additional fee if required.

2F. On a motion by Mr. MacPherson, seconded by Mrs. Kareckas, it was unanimously voted to sign the warrant calling the SAD #35 referendum election on November 3, 2009.

COUNCIL MEMBER COMMENTS

1. Mr. Burke:

-Attended a York County Advocacy Group meeting with the Manager. The group is comprised of municipal officials, various elected officials, and southern Maine state representatives. The group is working toward better representation at the State House for York County. Mr. Schempf explained that the current focus is on the Great Works School (a voc tech school in Sanford), petition to separate from the Southern Maine Economic Development District which includes Cumberland County, Lyme disease and the controversy over various treatments, DOT issues, and FEMA flood map changes.

2. Mrs. Demetracopoulos:

-Asked if there were any issues anyone wanted mentioned at her upcoming lunch with Eliot and SAD #35. *None*

3. Mrs. Kareckas:

-Stated that she would like to look into the Silver Star Families.

-Asked that there be no public comment at the end of the meeting.

ADJOURNMENT

On a motion by Mr. Burke, seconded by Mrs. Kareckas, it was unanimously voted to adjourn the meeting at 7:30pm.

Attest:

Barbara Bennett, CCM

**SOUTH BERWICK TOWN COUNCIL
SPECIAL MEETING
OCTOBER 5, 2009**

The following was reported to the Clerk by the Town Manager:

Chairman Jean Demetracopoulos called the meeting to order at 6:15pm. Those present included Councilors Michelle Kareckas, David Burke, and Gerald W. MacPherson, Sr. Town Manager John B. Schempf was also in attendance.

NEW BUSINESS

1. On a motion by Mrs. Kareckas, seconded by Mr. MacPherson, it was unanimously voted to enter executive session at 6:16pm pursuant to 1MRSA §405.6A to conduct an interview with a prospective committee applicant.

On a motion by Mrs. Kareckas, seconded by Mr. Burke, it was unanimously voted to end the executive session.

2. On a motion by Mr. MacPherson, seconded by Mrs. Kareckas, it was unanimously voted to appoint Victoria Desilets as the General Assistance Administrator.

On a motion by Mr. Burke, seconded by Mr. MacPherson, it was unanimously voted to appoint Beverly Hasty, Mona Stankovich, and Wanda Cannell to administer General Assistance in the absence of the General Assistance Administrator.

ADJOURNMENT

On a motion by Mrs. Kareckas, seconded by Mr. MacPherson, it was unanimously voted to adjourn the meeting at 6:25pm.

Attest:

Barbara Bennett, CCM

TOWN OF SO. BERWICK
CHECK REGISTER

Check Number	-----Account-----	Date Paid	Amount
00050446	133050 TREAS,STATE OF MAINE/IV-D	10/13/2009	70.00
00050447	189999 REFUNDS	10/13/2009	12.69
00050448	133050 TREAS,STATE OF MAINE/IV-D	10/13/2009	70.00
00050449	209999 TAX REFUNDS	10/13/2009	4,756.08
00050450	133115 TREASURER,STATE OF ME/LIC	10/13/2009	100.00
00050451	132500 SECRETARY OF STATE M/V	10/13/2009	23,992.03
00050452	010285 ADMIRAL FIRE & SAFETY INC	10/13/2009	596.75
00050453	010475 ALERT-ALL CORPORATION	10/13/2009	734.20
00050454	010490 ALGONQUIN PRODUCTS CO	10/13/2009	139.89
00050455	010740 AMERIFLEX CLAIMS ACCOUNT	10/13/2009	1,980.40
00050456	011250 TREASURER,STATE OF MAINE	10/13/2009	39.00
00050457	020225 BAKER & TAYLOR	10/13/2009	44.36
00050458	020230 BANGOR PUBLIC LIBRARY	10/13/2009	30.00
00050459	021200 BERGERON PROTECTIVE CLOTHING	10/13/2009	319.80
00050460	022850 BUSINESS EQUIPMENT UNLIMITED	10/13/2009	637.00
00050461	021668 BLOW BROS	10/13/2009	52.75
00050462	021800 BOB'S TROPHIES & AWARDS	10/13/2009	45.00
00050463	022150 BOSTON CO.	10/13/2009	1,500.00
00050464	022710 BROX INDUSTRIES INC	10/13/2009	94.86
00050465	030530 CENTRAL TIRE CO INC	10/13/2009	365.59
00050466	030510 CENTRAL MAINE POWER	10/13/2009	3,590.50
00050467	193300 CITIZENS BANK	10/13/2009	20.00
00050468	031430 COMCAST	10/13/2009	95.00
00050469	040140 DEB & DUKE MONOGRAMMERS	10/13/2009	112.00
00050470	040175 RAYMOND M DELCOURT	10/13/2009	133.68
00050471	040300 DEMCO	10/13/2009	62.21
00050472	040445 JEAN DEMETRACOPOULOS	10/13/2009	41.81
00050473	050785 ELIMINATOR INC	10/13/2009	7,456.00
00050474	050815 EMPLOYEE HEALTH & BENEFITS	10/13/2009	617.61
00050475	050965 ESRI	10/13/2009	400.00
00050476	060100 HOWARD P FAIRFIELD INC	10/13/2009	1,052.97
00050477	141000 FAIR POINT COMM	10/13/2009	129.54
00050478	060260 FASTENAL COMPANY	10/13/2009	44.79
00050479	060750 FIRE TECH & SAFETY	10/13/2009	78.68
00050480	061500 FOSTER'S DAILY DEMOCRAT	10/13/2009	32.20
00050481	070210 GALL'S INC	10/13/2009	472.43
00050482	180478 RICHARD GENEST INC	10/13/2009	535.00
00050483	070600 GEORGE GORMAN	10/13/2009	91.42
00050484	071307 GULF/FLEET FUNDING	10/13/2009	11.00
00050485	191330 HANNAFORD'S	10/13/2009	92.31
00050486	080248 HANSCOM'S TRUCK STOP INC	10/13/2009	6,155.60
00050487	080998 HOME DEPOT	10/13/2009	274.79
00050488	090120 INLAND FISHERIES & WILDLIFE	10/13/2009	258.00
00050489	090460 INTERSTATE BATTERY/MAINE	10/13/2009	174.52
00050490	100150 JANETOS MARKET	10/13/2009	37.90
00050491	100185 JENSEN BAIRD GARDNER & HENRY	10/13/2009	1,867.24
00050492	100200 JEWETT/EASTMAN MEMORIAL COM	10/13/2009	239.00
00050493	100380 JOHN DEERE LANDSCAPES	10/13/2009	142.00
00050494	100870 KENNEBUNK SAVINGS BANK	10/13/2009	40,000.00
00050495	120235 LA POLICE GEAR INC	10/13/2009	487.13
00050496	120350 NORMAND LAUZE	10/13/2009	676.00
00050497	120510 LAWSON PRODUCTS INC.	10/13/2009	280.39
00050498	120520 LAW ENFORCE OFFICERS ST REF	10/13/2009	70.40
00050499	125975 MAD SCIENCE OF MAINE	10/13/2009	777.60
00050500	127000 CORRINE J MAHONY	10/13/2009	770.00
00050501	132400 MAINE SAD #35	10/13/2009	513,819.94

TOWN OF SO. BERWICK
CHECK REGISTER

Check Number	-----Account-----	Date Paid	Amount
00050502	133375 MAINE ENERGY RECOVERY CO.	10/13/2009	2,561.06
00050503	133358 W.B.MASON	10/13/2009	245.12
00050504	133378 MB HOUSING PARTNERSHIP	10/13/2009	127.00
00050505	134200 MAINE MUNICIPAL ASSO (INS)	10/13/2009	10,981.10
00050506	140105 NAPA OF SOMERSWORTH	10/13/2009	111.27
00050507	140531 NATIONAL PEN CORPORATION	10/13/2009	110.90
00050508	140600 NEPTUNE INC	10/13/2009	381.95
00050509	141080 NEXTEL	10/13/2009	132.89
00050510	141300 NO.BERWICK LUMBER & HARDWARE	10/13/2009	177.36
00050511	141367 NORTHEAST ELEVATOR SERVICES	10/13/2009	168.00
00050512	150765 STEPHEN PANTER	10/13/2009	30.00
00050513	200700 PIKE INDUSTRIES INC	10/13/2009	1,588.03
00050514	160400 PITNEY BOWES	10/13/2009	86.25
00050515	160900 PORTLAND NORTH TRUCK CENTER	10/13/2009	68.76
00050516	161265 PORTSMOUTH FORD	10/13/2009	167.13
00050517	180400 RED'S SHOE BARN INC	10/13/2009	512.06
00050518	180477 RICE'S AUTOMOTIVE CENTER	10/13/2009	72.00
00050519	180900 ROBBINS AUTO PARTS INC	10/13/2009	25.96
00050520	181375 RONALD D HATHORNE	10/13/2009	1,788.93
00050521	022749 STATE TREASURER	10/13/2009	69.09
00050522	190094 SANEL AUTO PARTS CO	10/13/2009	1,731.00
00050523	190528 JOHN SCHEMPF	10/13/2009	85.80
00050524	191320 SHERWIN-WILLIAMS	10/13/2009	117.21
00050525	191533 CRAIG SKELTON	10/13/2009	55.55
00050526	193410 SO MAINE REGIONAL PLANNING CM	10/13/2009	2,099.23
00050527	193622 SPRINGER ELECTRICAL SERV INC	10/13/2009	627.19
00050528	193640 STAPLES	10/13/2009	99.50
00050529	194225 SULLIVAN TIRE INC	10/13/2009	2,377.58
00050530	200545 TERMINIX INTERNATIONAL	10/13/2009	68.00
00050531	200680 TIGER DIRECT	10/13/2009	106.98
00050532	201150 ANNMARIE TOWNSEND	10/13/2009	181.87
00050533	133105 TREASURER OF STATE/C.WPNS	10/13/2009	45.00
00050534	133113 TREASURER OF STATE/ATV	10/13/2009	311.00
00050535	201243 TRIPLE NICKEL TACTICAL SUPPLY	10/13/2009	386.30
00050536	193670 US BANK	10/13/2009	500.00
00050537	210500 UNITED STATES POST OFFICE	10/13/2009	44.00
00050538	230280 EDWARD WALENTA	10/13/2009	700.00
00050539	230515 WATCH GUARD VIDEO	10/13/2009	95.00
00050540	231320 WINDWARD PETROLEUM	10/13/2009	2,727.41
00050541	241109 YORK POLICE DEPARTMENT	10/13/2009	1,383.98
00050542	240450 TREASURER,YORK COUNTY	10/13/2009	353,553.48
Total Not Prepaid			974,380.20
Total Prepaid			29,000.80
Grand Total			1,003,381.00

10/08/2009

TOWN OF SO. BERWICK
CHECK REGISTER

Check Number -----Account----- Date Paid Amount

WARRANT NUMBER ----- \$ 1,003,381.00 ----- DATE 10/08/2009 -----

* * * TREASURER'S WARRANT * * *

THIS IS TO CERTIFY THAT THERE IS DUE AND CHARGEABLE TO THE APPROPRIATIONS LISTED
ABOVE THE SUM SET AGAINST EACH NAME AND YOU ARE DIRECTED TO PAY UNTO THE PARTIES
NAMED IN THIS SCHEDULE.

TOWN COUNCIL:

TOWN COUNCIL
Agenda Information Sheet

Meeting Date: October 13, 2009	Item # UB 1A
Agenda Item: Day Property	
Town Manager's Recommendation	
As discussed during the workshop on October 5, 2009, I request the Town Council authorize the removal of the building, including the abatement of asbestos, and restore site. The property will be retained until such time as the real estate market improves.	
Requested Action	
Motion to retain property until real estate market improves and to revisit this decision in one year. Motion to remove the building (funding of approximately \$3,000 to come from the Public Facilities Capital account) and restore site.	
Vote	

TOWN COUNCIL
Agenda Information Sheet

Meeting Date: October 13, 2009	Item # UB 1B
Agenda Item: Traffic	
Town Manager's Recommendation	
Following our workshop with the SAD Board of Directors, I recommend the Town move forward with a foot path from the Town's Young Street property to the SAD's property at Central School.	
Requested Action	
Motion to approve construction and lighting for pathway to Central School with funding of material costs (approximately \$11,000) to come from the Road Capital Budget.	
Vote	

TOWN COUNCIL
Agenda Information Sheet

Meeting Date: October 13, 2009	Item # UB 1C
Agenda Item: Town Forest	
Department Head Recommendation: Terry Oliver	
<p>Attached you will find the Forest Management report for the Town Forest. Following discussions with the Town Manager and the Forester I recommend we harvest 40% of the timber. This will result in estimated revenue of \$60,534.</p>	
Town Manager's Recommendation	
<p>I agree with this recommendation. This is a substantial amount of unanticipated revenue to the Town. I suggest the following for its disposition:</p> <p>\$50,000 to be deposited in the Library Capital Account (to repay a portion of the funds used to purchase the Day Property).</p> <p>Remainder to be deposited in the Road Capital Account.</p>	
Requested Action	
<p>Motion to accept the Forest Management Report and authorize sale of 40% of timber. Funds to be deposited...</p>	
Vote	

**Tract: Value, # of Trees and Volume, Total
By Product and Species**

9/23/2009

Total Sampled Area (acres): 90.0

Product Group			
Product	# Trees	Volume	Value
Species--Volume Table			
Pine sawlog			
Sawlog 1 3CF 12 8-16	#	MBF	\$
White pine--Inter 78	1,493.8	342.6	65,096.22
White pine cut--Inter 78	1,412.9	336.9	64,014.98
Pallet log SW 10/HW 08 Solid	#	MBF	\$
White pine cut--Inter 78	272.1	79.4	3,970.59
Total	3,178.8	758.9	133,081.79
Hemlock sawlog			
Sawlog 1 3CF 12 8-16	#	MBF	\$
Hemlock--Inter 78	44.2	10.2	508.20
Hemlock cut--Inter 78	12.4	2.6	130.79
Total	56.6	12.8	638.99
Hardwood Veneer			
AAA Veneer 4CF 18	#	MBF	\$
Red oak--Inter 78	8.2	2.7	3,323.28
Total	8.2	2.7	3,323.28
Hardwood sawlog			
Sawlog 1 3CF 12 8-16	#	MBF	\$
Red oak--Inter 78	332.9	54.4	19,056.21
Red oak cut--Inter 78	71.1	14.0	4,894.13
Total	404.0	68.4	23,950.35

**Tract: Value, # of Trees and Volume, Total
By Product and Species**

9/23/2009

Total Sampled Area (acres): 90.0

Product Group			
Product	# Trees	Volume	Value
<i>Species--Volume Table</i>			
Hardwood pulpwood			
Pulpwood	#	Tons	\$
Aspen cut--RGO HTons-Logs	50.1	66.2	264.67
Black oak--RGO HTons-Logs	23.4	27.6	110.56
Black oak cut--RGO HTons-Logs	26.7	27.7	110.91
Red maple--RGO HTons-Logs	4,640.3	1,346.7	5,386.81
Red maple cut--RGO HTons-Logs	2,609.6	1,215.9	4,863.45
Red oak--RGO HTons-Logs	162.6	74.6	298.52
Red oak cut--RGO HTons-Logs	54.3	93.3	373.13
White birch--RGO HTons-Logs	23.4	33.0	132.16
White oak--RGO HTons-Logs	189.5	97.0	387.84
White oak cut--RGO HTons-Logs	26.7	33.1	132.51
Pruner	#	Tons	\$
Red oak--RGO HTons-Logs	93.8	18.8	75.01
Pruned pulp	#	Tons	\$
Red oak--RGO HTons-Logs	409.2	108.3	433.34
Total	8,309.5	3,142.2	12,568.91
Softwood pulpwood			
Pulpwood	#	Tons	\$
Hemlock--RGO PTons-Logs	1,153.8	384.2	384.25
Hemlock cut--RGO PTons-Logs	375.7	201.7	201.71
White pine--RGO PTons-Logs	422.6	149.9	149.87
White pine cut--RGO PTons-Logs	2,142.5	1,539.8	1,539.77
Pruner	#	Tons	\$
White pine--RGO PTons-Logs	366.4	134.1	134.07
Total	4,461.1	2,409.7	2,409.67
Grand Total	16,418.3		175,973.00

0.40% .40
70,389

LESS 14% FORESTRY 9,855
FEE

EST. REV. = 60,534

TOWN COUNCIL
Agenda Information Sheet

Meeting Date: October 13, 2009	Item # NB 1A
Agenda Item: Tabor II/Excise Referendum	
Town Manager's Recommendation	
Provided are templates for resolutions urging our citizenry to become fully informed on these two proposals. I request the Council discuss these items and approve the resolutions.	
Requested Action	
Approve Excise/Tabor II resolutions.	
Vote	

RESOLUTION

IN OPPOSITION TO THE INITIATED BILL LD 974

AN ACT TO DECREASE THE AUTOMOBILE EXCISE TAX AND PROMOTE ENERGY EFFICIENCY

WHEREAS, the initiated bill LD 974, *An Act to Decrease the Automobile Excise Tax and Promote Energy Efficiency*, would cut over \$80 million of revenue each year to Maine's towns and cities that is used to plow, treat, construct, repair and maintain over 13,000 miles of local roads and over 800 local bridges; and

Whereas, LD 974 would cut approximately \$_____ in revenue this community uses every year to repair and maintain _____ miles of local roads and _____ bridges; and

Whereas, the motor vehicle excise tax revenue is vitally necessary to adequately maintain this infrastructure for reasons of public safety and welfare and economic development; and

Whereas, the adoption of the excise tax initiative would likely lead to a significantly deteriorated transportation system in this community or, in the alternative, increases to the municipality's property tax rate; and

Whereas, the excise tax initiative inappropriately increases the regressivity of the motor vehicle excise tax by providing substantial benefits to the owners of newer and specialized motor vehicles while providing no tax benefits to the owners of motor vehicles that are older than five years of age, which represent the majority of registered motor vehicles; and

Whereas, the excise tax initiative is falsely presented as a "green" initiative while at the same time seriously impairing the capacity of the towns and cities in Maine to construct and maintain road systems that appropriately protect Maine's water quality;

NOW, THEREFORE, BE IT RESOLVED that the Town Council of South Berwick hereby expresses its grave concern about the initiated bill LD 974, *An Act to Decrease the Automobile Excise Tax and Promote Energy Efficiency*; and further agrees to provide information to the voters of South Berwick regarding the potential negative impacts of this initiated legislation.

(TITLE.) Resolve, Indicating the Opposition of the Town of South Berwick to the November Ballot Question Seeking to Modify Current State Law on Tax and Expenditure Limitations on State and Local Government.

WHEREAS, since 2005, local governments in Maine have operated under a state law that limits the extent to which the property tax may increase in any given year and that requires the local governing body to vote on a separate article to exceed that limit; and

WHEREAS, this law also imposes expenditure limitations on State Government; and

WHEREAS, the purpose of this legislation was to limit state spending and the municipal property tax levy in an effort to reduce the tax burden on our citizens and reduce Maine's national ranking on tax burden; and

WHEREAS, since it was adopted, it has achieved its stated purpose, with current State spending and municipal property taxes both below targeted levels; and

WHEREAS, the Town of South Berwick's municipal tax commitment for Fiscal Year 2010 is over \$1.5 million below the state established limit; and

WHEREAS, this citizen initiative, also known as TABOR II, will make changes to the current spending and property taxation limits that apply to all levels of government in Maine; and

WHEREAS, it will impose growth limits on all state spending, including the State's Highway Fund, where the current law places limits only on the State's General Fund; and

WHEREAS, TABOR II will establish Fiscal Year 2010 as the baseline year for all future growth in State spending, a year where both the State General Fund and Highway Fund will experience significant revenue declines; thus, this proposal will lock in State spending at current depressed levels reflecting the impact of the current recession on State revenues; and

WHEREAS, current State spending limits are calculated on a cumulative basis allowing the amount spending is below the limit to be carried forward to future years thus allowing some flexibility in State spending and providing an incentive to spend below statutory levels; TABOR II will base the following year's spending level on that of the current year, thus creating a "use it or lose it incentive;" and

WHEREAS, TABOR II will require statewide voter approval for virtually all tax increases and expenditure increases above the growth limit, a requirement that entails significant additional state and local election expenditures and additional costs associated with its requirement that certain notices and financial information be mailed to every registered voter in the State at an estimated cost of \$800,000 for each mandated referendum; and

WHEREAS, at the municipal and county level, TABOR II also mandates referendum voting to approve any budget that exceeds the municipal or county property tax limit; and

WHEREAS, it also requires municipalities and counties to adopt a uniform budget format as developed by the State Planning Office; and

WHEREAS, both of these requirements will add costs that must be borne by local government and its citizens; and

WHEREAS, TABOR II, if approved, will dramatically move state and local government in Maine in the direction of budgeting by referendum, the results of which have become apparent in those States where this has already happened; and

WHEREAS, it will limit the flexibility of both the State and its local governments to react to changing conditions, community needs, and economic conditions and undermine the authority of elected officials to make budgetary and service decisions based on information and a depth of analysis unlikely to be undertaken by the average voter; and

WHEREAS, this measure will effectively override the following provision of the South Berwick Town Charter: "The right of initiative or referendum provided herein shall not apply to ordinances, orders or resolves providing for the appropriation of money, the municipal budget, the levy of taxes, or the wages or hours of Town Employees," a provision which explicitly recognizes the special responsibility of elected representatives to make such decisions.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF SOUTH BERWICK THAT

For the following reasons, the Town Council opposes the so-called TABOR II question that will appear on the November ballot and which would significantly modify current limits on State spending and on the municipal property tax levy:

The spending and levy limits established in current state law have been achieving their stated goal of reducing the tax burden on Maine citizens;

The requirement that state spending above the spending limit and most tax increases be subject to approval at a statewide referendum will increase both state and local expenses and move toward a system of budgeting by referendum which, as shown by experience elsewhere, is an ineffective way to make budgetary and service level decisions;

By establishing the current year as the basis from which future state spending increases are to be calculated, state spending, particularly for the highway fund, will be starting from a depressed level reflecting the impact of the current recession;

Tax policy, budgets, and service levels are best decided through the core processes of representative government where the people elect individuals and charge them with the responsibility of making decisions based on data, analysis, debate, and public opinion while balancing the need for services and expenditures that address the common good with the ability of citizens to pay for such services.

BE IT FURTHER RESOLVED THAT

We urge all citizens to become fully informed on this proposal prior to the November election by becoming familiar with the language of the proposal and reviewing materials provided by those supporting and opposing this measure.

TOWN COUNCIL

Agenda Information Sheet

Meeting Date: October 13, 2009	Agenda Item # NB 1B
Subject: 2009 Warrant for Municipal Election on November 3rd	
Information:	
See attached warrant.	
Staff Comments/Recommendation:	
Requested Action:	
Motion to sign warrant.	
Vote:	

**TOWN OF SOUTH BERWICK, MAINE
MUNICIPAL ELECTION WARRANT
NOVEMBER 3, 2009**

State of Maine

County of York, ss.

To: Joseph Rousselle, resident of South Berwick, County of York, State of Maine,

In the name of the Town of South Berwick, you are hereby required to notify the inhabitants of said Town, qualified to vote in Town affairs to assemble at the R. P. Gagnon Assembly Hall, third floor of the Town Hall at 180 Main Street, South Berwick, on Tuesday, the 3rd day of November 2009 at 6:00 o'clock in the forenoon, then and there, to act on the following articles:

ARTICLE 1: To elect a moderator to preside at said meeting.

ARTICLE 2: To elect two Town Council members, one for a two-year term and one for a three year term, AND one member of the Board of Directors of School Administrative District #35 for a three-year term.

ARTICLE 3: To vote on the following referendum questions:

QUESTION 1. "Shall the proposed Charter amendment shown below be adopted?"

Throughout the Charter:

The word "chairman" is replaced with the word "chair" and the word "councilmen" is replaced with the words "council members."

EXPLANATION

This amendment would substitute gender-neutral language for certain terms in the Charter.

QUESTION 2. "Shall the proposed Charter amendment shown below be adopted?"

Language in underscored type is added and language in strikeover type is deleted in the following section of the Charter:

Article IV, Sec. 8.

Sec. 8. Transfer of appropriations. At the request of the manager and within the last 3 months of the budget year, the council may, by resolution, transfer any unencumbered appropriation balance or portion thereof between general classification of expenditures within a budget warrant article, and such transfer shall not require town meeting approval under Article VII, section 2.

Deleted: department

EXPLANATION

This amendment would clarify the authority of the council to transfer appropriations during the last three months of the budget year.

QUESTION 3. "Shall the proposed Charter amendment shown below be adopted?"

Language in underscored type is added and language in strikeover type is deleted in the following section of the Charter:

Article II, Sec. 9.

Sec. 9. Chair. At its first meeting, or as soon thereafter as practicable, the council shall elect, by majority vote of the entire council, one of its members as chair for the ensuing year and the council may fill, for an unexpired term, any vacancy in the office of chair that may occur. The chair shall preside at the meetings of the council, and shall be recognized as head of the town government for all ceremonial purposes, and by the Governor for purposes of military law, but he shall have no regular administrative duties. He shall be entitled to vote, and his vote shall be counted upon all matters and things as a vote of other members of the council. At its first meeting, the council shall elect a vice chair, who shall serve as necessary during the temporary absence or disability of the chair and shall exercise the powers of the chair during such times.

Deleted: man

Deleted: man

Deleted: man

Deleted: man

Deleted: In the temporary absence or disability of the chairman,

Deleted: town

Deleted: may

Deleted: man pro tempore, from among its members, and he

Deleted: exercise the powers of chairman

Deleted: man

EXPLANATION

This amendment would create the position of vice chair of the council, who would carry out the duties of the chair in the chair's absence.

QUESTION 4. “Shall the proposed Charter amendments shown below be adopted?”

Language in underscored type is added and language in strikeover type is deleted in the following sections of the Charter:

Article II, Sec. 4.

Sec. 4. Compensation. Council members shall receive such compensation as may be voted by an article contained in the warrant for said purpose at the town meeting. The town council by order shall fix the salaries of officials appointed by the town council, including the salary of the town manager for his services as such and for all other services rendered by him. Salaries of the appointees of the town manager shall be fixed by the town manager, subject to approval of the council.

- Deleted: Councilmen
- Deleted: \$10 for each council meeting upon attendance not to exceed in the aggregate \$200 per year in full for their services.
- Deleted: changed by
- Deleted: on

Article II, Sec. 5.

Sec. 5. Induction of council into office. The town council shall meet at the usual place for holding meetings within 7 days following the regular town election, and at said meeting council members elect shall be sworn to the faithful discharge of their duties by a justice of the peace or by the town clerk.

- Deleted: 5
- Deleted: councilmen

Article III, Sec. 2.

Sec. 2. Removal. The town manager may be removed for cause by the council.

- Deleted: in accordance with the provisions of the statutes of the State of Maine relating to the removal of a town manager

Article IV, Sec. 7.

Sec. 7. Proposed budget; allotments. Before the beginning of the budget year, the head of each office, department or agency shall submit to the town manager a proposed budget for the year, which shall show the requested allotments of appropriations for such office, department or agency, by stated periods, for the entire budget year. The town manager shall review the requested allotments of appropriations for such office, department or agency, by stated periods, for the entire budget year. The town manager shall review the requested allotments in the light of the functions and duties of the office, department or agency concerned as described in the Administrative Code and the job descriptions of the employees within the office, department or agency, and may revise, alter or change such allotments before approving same. The aggregate of such allotments shall not exceed the total of appropriations available to said office, department or agency for the budget year.

- Deleted: Work program
- Deleted: work program
- Deleted: program
- Deleted: work program

Article V, Sec. 2.

Sec. 2. Board of Assessment Review: appointments and vacancies. There shall be a board of assessment review to consist of 5 members and 2 alternates who shall be appointed by the town council for a term of 3 years, staggered terms of the members having been established initially. Compensation, if any, to such members shall be determined by the town council. Vacancies in the membership of such board shall be filled by appointment by the town council for the unexpired term. Members of the town council shall not serve on the board of assessment review. Alternates may attend all meetings and participate in proceedings of the board of assessment review, but may vote only when designated by the chair of the board to act for a member who is unable to act because of interest, physical incapacity, absence or any other reason satisfactory to the chair.

- Deleted: except that of those first appointed, two shall be for a term of 3 years, two shall be for a term of 2 years and one shall be for a term of 1 year
- Deleted: Upon the effective date of this section, the terms of the office of all the then current members of the board of assessment review shall terminate, and new appointments shall be made in accordance with this section.

Article VI, Sec. 5.

Sec. 5. Election officials. The town clerk shall, 10 days before any election, appoint a warden and the regular ballot clerks, for each voting place.

- Deleted: council

Article IX, Sec. 4.

[Deleted November 3, 2009.]

- Deleted: Sec. 4. Removal of officers and employees. With the exception of the town manager, whose removal is provided for in accordance with the statutes of the State of Maine, any statutory officer, department head or employee may be removed by the appropriate appointing body or officer at any time.
- Formatted: Font: Bold

EXPLANATION

These amendments would address process and procedure, and would update and clarify various provisions, making the language consistent with settled practices and current State law.

The polls for voting on Articles 2 & 3 by secret ballot will be opened at 6am and will be closed at 8pm. Absentee ballots will be processed at 6am, 7am, 8am, 9am, 10am, 11am, noon, 1pm, 2pm, 3pm, 4pm, 5pm, 6pm, 7pm, and 8pm as necessary.

The Registrar of Voters will hold office hours while the polls are open to correct any errors on the voting list or change a name or address, and to accept new enrollments. A person not registered as a voter may not vote in any election.

Given under our hands this 13th day of October 2009.

Jean Demetracopoulos

Gerald W. MacPherson, Sr.

Michelle Kareckas

David Burke

STATE OF MAINE
OFFICER'S RETURN

I certify that I have notified the voters of the Town of South Berwick of the time and place of the municipal election by posting an attested copy of this notice at:

Community Center	Town Hall
Reo's Barber Shop	US Post Office
South Berwick Library	

All being conspicuous places within South Berwick on October 22, 2009.

/s/

Joseph Rousselle, Resident

Attest to be a true copy:

Barbara Bennett, CCM
Town Clerk

TOWN COUNCIL
Agenda Information Sheet

Meeting Date: October 13, 2009	Agenda Item # NB 1C
Subject	
Appointment of Election Clerks for November 3rd Elections.	
Information	
Pursuant to the Town Charter, Article VI §5, the following names are being submitted to be appointed as election warden and clerks for the November 3rd elections.	
Warden – Robert Wickstrom Election Clerks – Robert Doyle, Aime Duclos, Anita Gagne, Elita Galvin, Geraldine Hilton, David Stansfield, E. Rachel Stevens, Priscilla Warren, and Barbara Wickstrom.	
Not all clerks appointed may be used.	
Staff Comments/Recommendation	
Requested Action	
Motion to appoint warden and election clerks as recommended.	
Vote	

TOWN COUNCIL
Agenda Information Sheet

Meeting Date: October 13, 2009	Item # NB 2A
Agenda Item: Tax Maps	
Town Manager's Recommendation	
Attached you will find several documents relating to the current problems we are experiencing with our tax maps. The move to a GIS based system highlights the difficulties maintaining our data in two formats. The additional funding requested to correct these discrepancies is \$4,000.	
Requested Action	
Motion to fund \$4,000 for GIS update for Tax Maps from the undesignated fund.	
Vote	

Memo

To: Board of Assessors
From: Craig H. Skelton, Assessing Agent
Date: January 30, 2009
Re: Budget overview

There have been no changes to the Assessing budget this year with the exception of the amount budgeted for updating the paper tax maps. The Assessing Department uses a very comprehensive and somewhat complicated CAMA (Computer Aided Mass Appraisal System) system known as AssessPro from Patriot Properties, Inc. This software has not been updated for at least the past two years. Patriot Properties will, for the time being, support the old CAMA version we are using however does not support the version of software used for the public access terminal at Town Hall. Should issues arise with that service, public access to the assessing data through that terminal will be lost resulting in additional pressure on limited staff resources.

The expenditure for updating of the tax maps increased in the FY08 year. The amount budgeted was \$2,600 and the actual expenditure was \$4,000. For the FY09 year, the budgeted amount remained unchanged at \$2,600 however the billed amount for map changes was \$3,845. The FY2010 budget amount for tax map updating has been changed to \$4,000 to more accurately reflect actual expenditure for this service.

In 2005 the town tax maps were digitized and referenced in a geographic base with a label allowing the digitized parcel base map and other available digital data to be joined with the assessing data. The other layers of information available such as streams, shoreland zones, wetlands, zoning, contours and orthos (aerial photos) are extremely useful to Planning, Public Works, Code Enforcement, Assessing and other departments and can make the decision process more efficient. This is particularly important given limited staff resources and shrinking budgets.

However, the digitized parcel layer is not being updated, maintained and improved in the same manor as the paper tax maps. Maintenance of the digital parcel layer ensures the reliability of using all the available electronic data available to Town Departments. The State mandates each community maintain an official shoreland zoning map. This information should have an accurate relationship with the tax map however our paper maps do not have a common geographic basis with the published digital information. Future tax mapping budgets will need to include additional funds for converting the digital shoreland zoning data to match the paper tax map format. This process will require funding of outside professional services to accomplish the conversion and extra staff time associated with coordinating and translating this information for public use and consumption.

I am working with the Town Planner on reviewing other Towns with similar situations on a proposal to update the digital parcel layer from 2005 data to current 2009. Future updates would transition from the paper tax maps to the digital parcel layer thus eliminating the need to reverse engineer the now published shoreland zoning information and will phase out duplication of work and expenses required in maintaining a paper and digital set of tax maps and an official zoning map. The total cost of this proposal is more than the current expenditure for updating the paper tax maps which is inadequate for that service.

Roberta Orsini

From: Jim Fisk
Sent: Wednesday, October 07, 2009 10:17 AM
To: John B. Schempf
Cc: Craig Skelton; Roberta Orsini; Joe Rousselle; Kim Perry; Susie Scott
Subject: tax map updates
Attachments: Budget overview 013009 incl tax map proposal.doc

John~

Attached please find Craig's Budget overview memo from last winter. I think he does a good job explaining it all. The work we encountered this summer and fall includes errors in the existing tax maps that have not been corrected for years, have been compounded, having a "ripple effect" on other lots. Craig refers to this condition in his memo. Inserted below is another example that was discovered when updating the zoning map where some houses are not on their lots. There was no account number associated with a particular Map Lot number. Unfortunately, this parcel that was inserted into the tax map doesn't exist, and is there just to fill space on the map. We have a protocol and method for fixing these issues, which has been refined and adjusted with each circumstance.



If I can be of any further assistance, please don't hesitate to call.

James L. Fisk, RLA
Director of Planning and Economic Development
Town of South Berwick
180 Main Street
South Berwick, Maine 03908
207-384-3300 ext. 118
207-384-3303 fax
jfisk@sbmaine.us
<http://www.southberwickmaine.org/>

10/7/2009

TO: John Schempf
FROM: Jim Fisk, RLA, Director of Planning and Economic Development.
DATE: October 1, 2009
RE: GIS update and tax maps

Tax maps are not referenced to any geographical coordinate or feature, but are Computer Aided Drafted Drawing (CADD) files. In order to relate the information in the tax maps to any geographic data, coordinates must be assigned and digitized. This is a conversion from CADD to GIS that the Assessor and I have proposed.

Inserted is an example of the CADD drafting errors being compounded by “stretching” the drawing to fit a tax map.



Assessor records provide the basis for all town data management. This data provides answers to the most frequently asked questions, and is the source for parcel specific information. Owner, location, address, mailing address, Land Use Code, lot area, building area, and value are managed in these records and can be “joined” to the maps with the GIS. Each parcel has a unique identifier that must be identical to that in the database files. This spatial management of data eliminates multiple steps when researching the Assessor’s records. Large plans, street maps, tax maps, zoning maps, etc. that are currently in separate locations and must be cross referenced, can be combined in one database through the Geographical Information System. Below is an example of the update of parcel composite with on screen heads up display.

Current Spent

Shoreland Zoning: \$680 (professional services)

Parcel Updates: \$2,358.75

Total Current Spent: \$3,038.75

Estimate For Remaining 2005-2008 Edits

Total Lots Remaining: 108

Total Estimated Cost: \$2,150.00

Red Flags

Total Estimated Cost: \$1,500

\$3,650.00

Map Book

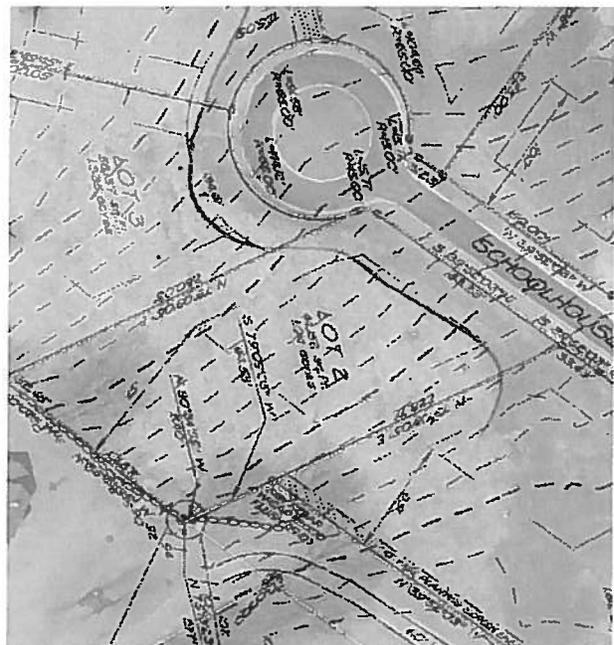
1 Full D-Sized Draft Set: \$400

1 Full D-Sized Final Set: \$400

Design, Data Creation, and 2009 Updates: \$3,200

Total Estimated Map Book Cost: \$4,000

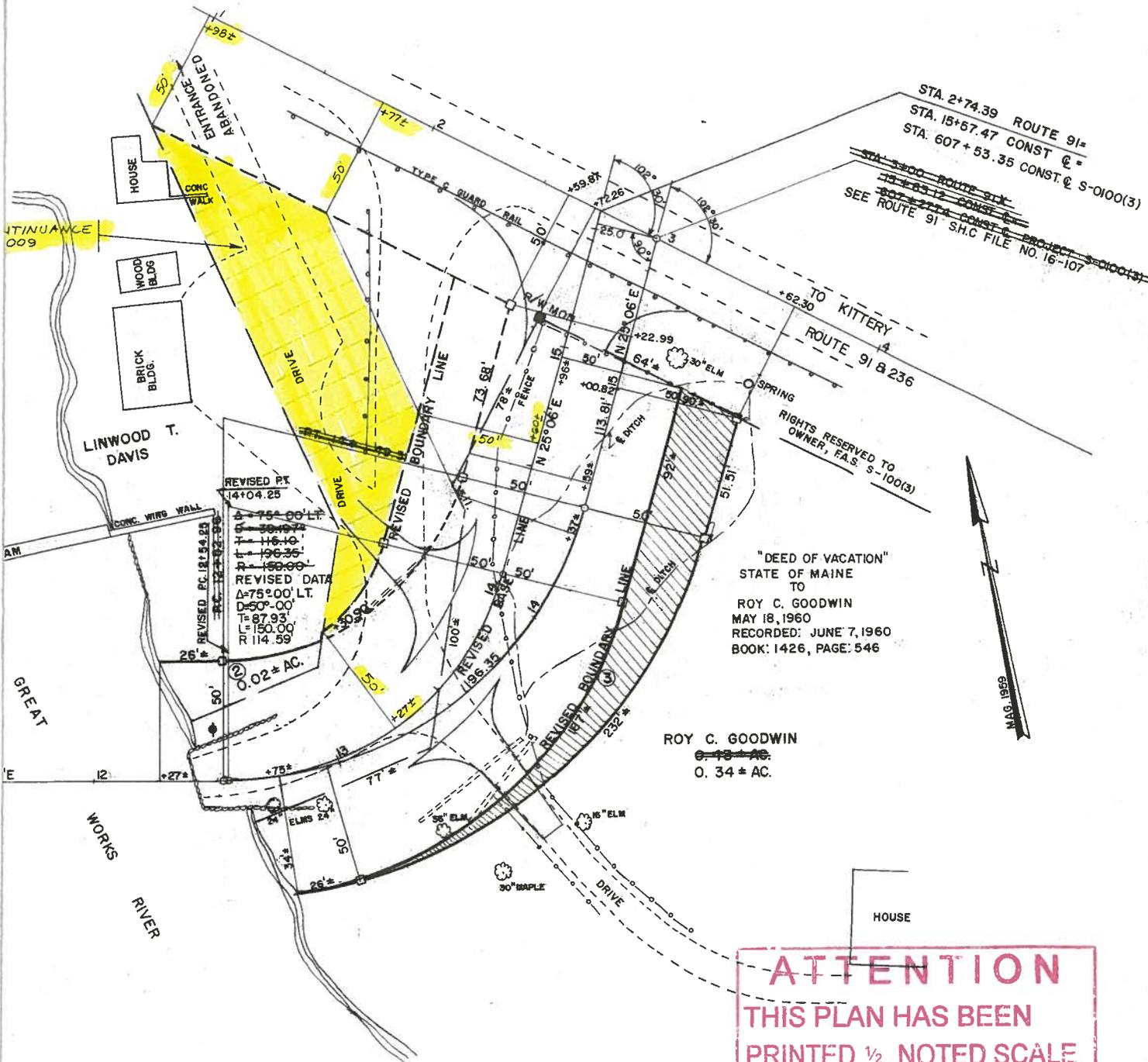
Overlay of survey and subdivision lines.



TOWN COUNCIL

Agenda Information Sheet

Meeting Date: October 13, 2009	Item # NB 2B
Agenda Item: Discontinuance Request	
Department Head Recommendation: Roberta Orsini	
<p>Resident Pat Durkin has requested the Town discontinue its interest in the property formerly owned by the State of Maine as part of Rt. 236. According to MDOT when the state changed the alignment of Rt. 236 the former roadway reverted to a town way. It is my understanding the Town has not used this section of road and it has been closed to traffic for some time. Ms. Durkin has requested the Town take the steps necessary to discontinue interest in the property and not retain a public easement. She has maintained the property during her ownership and received permission to build the berm at the Rt. 236 end to mitigate a water issue.</p> <p>After discussion with MDOT it has been determined the Town must proceed in accordance with the rules outlined in 23 MRSA § 3026. I have attached the documentation here for your review. The abutters list has been created and the first step will be to hold a public hearing and notify the Planning Board. It does not appear there are any damages owed to the abutters in this case, however a public hearing will provide a more definitive answer to that question.</p> <p>MDOT has also advised this process should be completed with the Town's Attorney to insure the proper steps have been taken and the proper language is used in the discontinuance.</p>	
Town Manager's Recommendation	
<p>Suggest scheduling a Public Hearing to determine if the abutters have any concerns with this request. Following the Public Hearing the Council may instruct staff to contact the Town's attorney. Further suggest all fees relating to the discontinuance be paid by Ms. Durkin.</p>	
Requested Action	
<p>Motion to set a Public Hearing on the Discontinuance of the Easement Retained at the corner of Brattle Street and Rt. 236. (Suggest 11/23 at 6:30 pm)</p>	



"DEED OF VACATION"
 STATE OF MAINE
 TO
 ROY C. GOODWIN
 MAY 18, 1960
 RECORDED: JUNE 7, 1960
 BOOK: 1426, PAGE: 546

ROY C. GOODWIN
 0.43 ± AC.
 0.34 ± AC.

ATTENTION
 THIS PLAN HAS BEEN
 PRINTED 1/2 NOTED SCALE

REVISED MAY 1960

— R/W CONTROL POINT R/W MON. R/W MONUMENT INSTALLED

PLAN FILED IN PLAN BOOK 39 PAGE 27

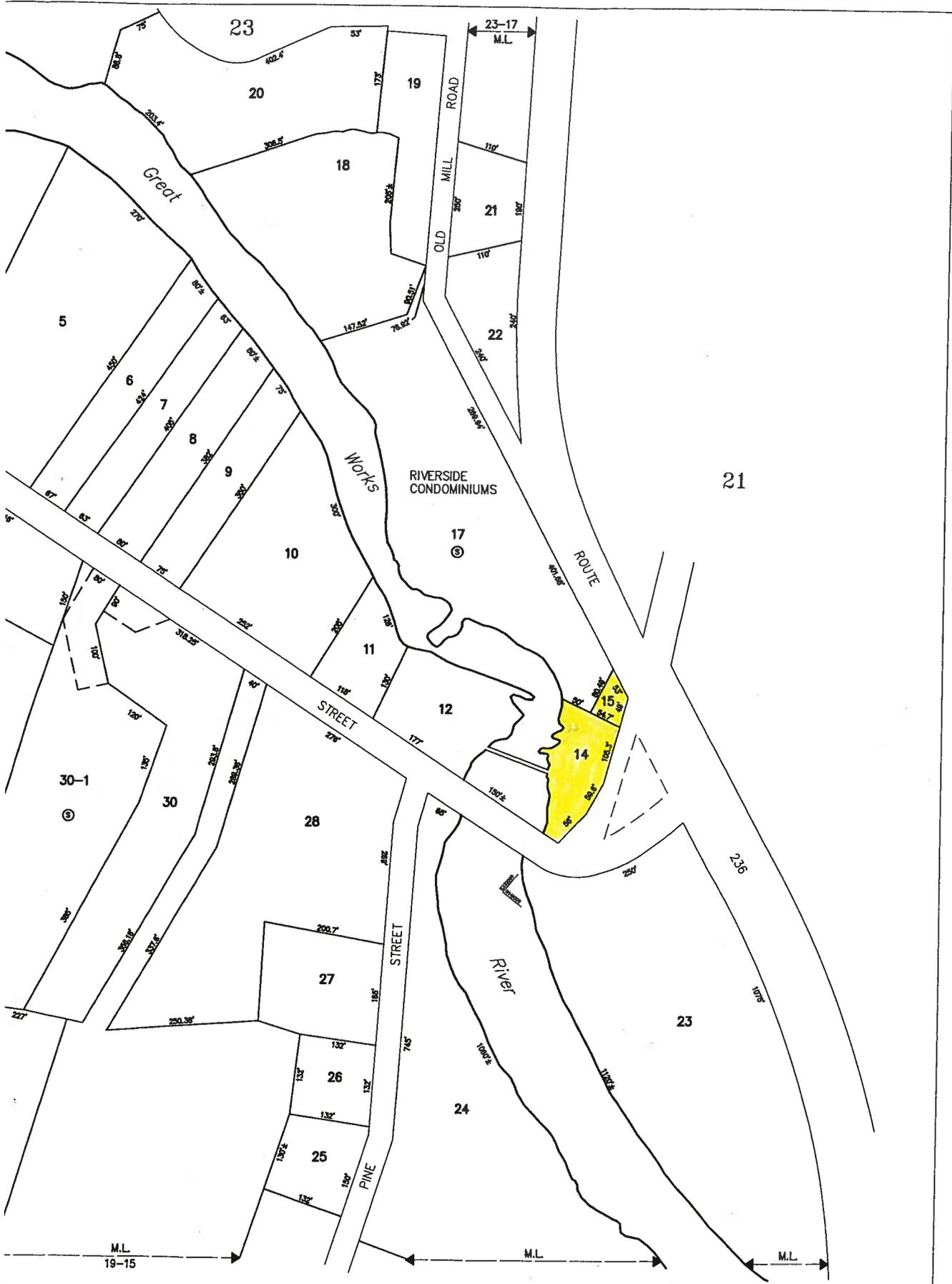
		COUNTY RECORD			
NO.	GRANTOR	INSTRUMENT	DATE	BOOK	PAGE
1	ROCKY GORGE PROCESSING Co. INC.	CONDEMNATION	7/31/59	1411	166
2	LINWOOD T. DAVIS	RECEIPT	12/14/60	1457	119
3	ROY C. GOODWIN	RECEIPT	11/14/60	1447	416
		WARRANTY	6/7/60	1431	285

**MAINE STATE HIGHWAY COMMISSION
 RIGHT OF WAY MAP**

STATE AID HIGHWAY "1A"
 SOUTH BERWICK YORK COUNTY
 GREAT WORKS BRIDGE OVER GREAT WORKS RIVER

APPROVED: DAVID H. STEVENS CHAIRMAN
PERRY S. FURBUSH
R. LEON WILLIAMS CHIEF ENGINEER

DATE: JULY 1959
 SCALE: 1 INCH = 30 FEET
 SHEET NO. 1 OF 1 SHEET
 S.H.C. FILE NO. 16-129



19

100' COMMON OWNERSHIP

± MATCH LINE

⊙ WETLANDS

SCALE 1" = 100'

FEET 0 100 200 300

METERS 0 25 50 75

REVISED TO : APRIL 1, 2008

PROPERTY MAPS

SOUTH BERWICK

YORK COUNTY, MAINE

MAP NO.

20

PETITION FOR DISCONTINUANCE

To the Municipal Officers of the Town of South Berwick: The undersigned respectfully represent that a section of the Town Way being the former location of Route 91 (between Route 236 and Brattle Street) is no longer of public use and necessity and it is requested that the same be discontinued as provided in Title 23 M.R.S.A. Section 3026 et sequ:

Dated this 3-20-09 day of March, 2009.

[Signature]
Witness

[Signature]
Pat Durkin

[Signature]
Witness

Description of that section requested to be discontinued:

That section of the way as shown on a Maine Department of Transportation Right of Way Map entitled State Aid Highway "1A", South Berwick, York County, Great Works Bridge over Great Works River, dated July 1959, on file in the Office of the Maine Department of Transportation, at its Office in Augusta, File No. 16-129, bounded and being more fully described as follows, to wit:

That section of the former location of Route 91 that lies between the present location of Route 236 and Brattle Street and lies between the following described limits:

Northerly Limit

A line fifty (50) feet southwesterly from the Route 236 Base Line and lies between Sta. 0+98 Rt. and Sta. 1+77 Rt.

Southerly Limit

A line fifty (50) feet northwesterly from and concentric and parallel with the revised State Aid Highway 1A Base Line and lies between Sta. 13+27 Lt. and Sta. 14+60 Lt.

Subject to any and all highway slopes and drainage structures of the State of Maine Department of Transportation that may be located upon or within the above described section.

It is requested that the Town of South Berwick not retain a public easement over the herein described discontinued area, as provided in Title 23 M.R.S.A. Section 3026.

Note: If this paragraph is not used, the public's right to travel over the way is retained.

Note to Municipal Officers: Upon completion of the procedure of discontinuance please forward to the Maine Department of Transportation, Property Office in Augusta, a copy of the Certificate of Discontinuance filed by the Municipal Clerk.

Note 1

§ 3026. Discontinuance of town ways

A municipality may terminate in whole or in part any interests held by it for highway purposes. A municipality may discontinue a town way or public easement after the municipal officers have given best practicable notice to all abutting property owners and the municipal planning board or office and have filed an order of discontinuance with the municipal clerk that specifies the location of the way, the names of abutting property owners and the amount of damages, if any, determined by the municipal officers to be paid to each abutter.

Upon approval of the discontinuance order by the legislative body, and unless otherwise stated in the order, a public easement shall, in the case of town ways, be retained and all remaining interests of the municipality shall pass to the abutting property owners to the center of the way. For purposes of this section, the words "public easement" shall include, without limitation, an easement for public utility facilities necessary to provide service.

1975, c. 711, § 8; 1977, c. 301, § 1.

Historical Note

The 1977 amendment added the second sentence of the second paragraph.

Derivation:

R.S.1954, c. 96, § 33.
Laws 1965, c. 270, § 1.

Laws 1973, c. 456.
Laws 1973, c. 625, § 133-A.
Former § 3004 of this title.

Cross References

Municipal officers defined, see title 30, § 1901.
Termination of right-of-way by adverse obstruction, see title 14, § 813.
Town meeting and warrants therefor, see title 30, § 2051 et seq.

Library References

Highways ⇨79(1).
Municipal Corporations ⇨657.

C.J.S. Highways §§ 130 to 135.
C.J.S. Municipal Corporations § 1665.

Notes of Decisions

In general 1	Town meetings 7
Acceptance of discontinuance 4	Use of discontinued way 6
Compensation 8	Validity of discontinuance 3
Discretion of municipal officers 2	
Hearing 10	
Jurisdiction 11	
Petition 9	1. In general
Right of access 5	Provisions of repealed § 3004 of this title that town, at meeting called

Chapter 3
Municipal Roads Manual
[Includes Supplement #1 April 2001 and Supplement #3 June 2004]

Disposing of Municipal Roads

Municipalities are required to maintain town ways in a safe and passable condition, and may be liable for injuries resulting from improper or insufficient maintenance (Chapter 5 contains a full discussion of municipal liability for roads). To escape the costs of maintenance and exposure to legal liability, a municipality may want to dispose of a road by terminating its interests in that road or a portion of the road.

There are three methods for terminating a town's interest in a town way: the statutory process of discontinuance, the statutory presumption of abandonment, and the common law doctrine of abandonment by public non-use. Public easements may be extinguished as well, although this is less critical from a liability standpoint since the municipality has no maintenance obligation or responsibility for defective conditions on a public easement. Each of these methods is discussed below. Please note that these methods are not mutually exclusive. For example, a town can commence a formal discontinuance procedure even though it also asserts that the way was abandoned by non-maintenance or non-use.

Discontinuance (23 M.R.S.A. § 3026)

Procedure. Discontinuance is a formal procedure established by State law for the purpose of terminating the town way status of roads, in whole or in part. Title 23 M.R.S.A. § 3026 outlines the process for discontinuing town ways. We recommend that the discontinuance follow six basic steps:

- (1) The municipal officers must determine whose property abuts the road in question and the amount of damages that should be paid to those abutters. The estimation and payment of damages may be a critical issue and is discussed below.
- (2) The municipal officers must give best practicable notice of the proposed discontinuance to all abutting property owners and to the planning board. "Best practicable notice" means, at a minimum, mailing the notice through the U.S. Postal Service, postage prepaid, first class mail to abutting property owners whose addresses appear in the assessment records of the municipality (23 M.R.S.A. § 3026(2)). The municipal officers may rely on an address used in tax assessment records, but if they have knowledge or information that the person has moved, it is advisable to seek a current address and to send the notice to *both* places. This will minimize the risk that someone will later seek to reopen the discontinuance on the basis that the person was not notified and that the town's assessment records were outdated. It is not necessary to send the notice by certified mail, return receipt requested, but it is certainly allowed and may be a prudent measure to defend against claims of failure of notice. The law requires only that the notice be *sent*, and the municipality need not prove that it was actually *received*. If a return receipt is not used, it may be useful to keep a logbook or other record showing when the notice was sent, to whom, to where, and by what type of mail (first class, certified, and so on). This record may be a useful piece of evidence if someone claims that notice never was sent. The notice should indicate the road (or portion of road) proposed for discontinuance, and the date, time and place of the meeting at which the municipal officers will discuss the matter. Appendix D contains a sample notice.

(3) The municipal officers should meet to determine whether to order the discontinuance. This should be done at the meeting indicated in the notice sent to the abutters. This can be done at a regular meeting of the selectmen or council, or it can be done at a special meeting. In either case, the meeting is a “public meeting” subject to 1 M.R.S.A. § 401 *et seq.* (the Freedom of Access or “Right to Know” Law), so public notice and meeting requirements of that law must be observed.

The form of the municipal officers’ vote should be on a motion to discontinue. For example, “I move that the Selectmen order the discontinuance of a portion of the Hankerson Road, said road being a town way approximately ___ feet wide including the right-of-way, from a point beginning at (identify a point) and extending in a generally northerly direction for a distance of approximately ___ miles (or yards or feet, as appropriate) and that the following damages be paid to abutting property owners as follows: John Bradley - \$300.00; Pete Coughlan - \$500.00.” (Note that this example refers to a portion of the road, not the entire road.) The actual order of discontinuance should have been prepared before the meeting, and the motion should track the language of the order.

If the motion passes, a second motion should be made as follows: “I move that the Selectmen issue and file with the Town Clerk an Order of Discontinuance that accurately reflects the action taken by the Selectmen to discontinue a portion of the Hankerson Road, and that the Selectmen send abutting property owners best practicable notice of this action without delay.” The order of discontinuance should be signed at this time.

(4) The order of discontinuance signed by the municipal officers must then be filed with the municipal clerk. At the same time, a notice of discontinuance should be mailed (regular or certified) to the abutting property owners, along with a copy of the order of discontinuance. Appendix D contains samples of each of these documents.

(5) The next step is for the legislative body (either the voters or the council, depending on the form of local government) to approve the order of discontinuance and the damage awards, and to appropriate the money to pay the damages. Until this critical step occurs, the discontinuance is incomplete; if the legislative body rejects the order, the discontinuance falls. Appendix D contains a sample warrant article for voting on the order of discontinuance at town meeting. As mentioned above, if the town meeting approves the order of discontinuance, it must also appropriate the necessary amount of money and designate the source of the funds. Appendix D also contains a sample warrant article for this purpose.

In a community where a council is the legislative body, the council votes on the order, on the amount of damages, and on the appropriation of money for damages.

(6) The final step, if the discontinuance is approved, is for the municipal clerk to record an attested certificate of road discontinuance in the registry of deeds. This certificate should describe the road and state the municipality’s final action with respect to the road. This certificate must be recorded for the discontinuance to be effective against owners of record or abutting landowners who have not received notice (23 M.R.S.A. § 3024). Appendix D contains a sample certificate.

Damages. One very important factor in the discontinuance process is determining the amount of damages. Damages generally must be paid to abutting property owners because of the reduction in the

fair market value of their property as a result of the loss of a municipally maintained road. (In some instances, discontinuing all public rights of access to a road might increase the value of the abutting land, but usually there is a reduction in its value.)

Damages for discontinuance are calculated pursuant to 23 M.R.S.A. § 3029 and 23 M.R.S.A. § 154E (*August Realty v. Town of York*, 431 A.2d 1289 (Me. 1981)). The municipal officers should obtain the services of an appraiser to assist in determining damages. At a minimum, we recommend a call to MDOT's Right of Way Division (624-3620). The municipality's determination of damages is not final, and may be increased by the Superior Court (there is a right to jury trial on this issue). Therefore, it is important that the municipal officers accurately calculate damages *before* the final vote to discontinue. Once the discontinuance is approved, the municipality is legally obligated to pay compensation, and there is no way to revoke the discontinuance if the Superior Court awards a higher amount of damages than the legislative body awarded.

Appeals. Any person aggrieved by the municipality's decision to discontinue (or by its failure to do so) may appeal to Superior Court within 30 days after the decision (23 M.R.S.A. § 3029 and Rule 80B, Maine Rules of Civil Procedure). Any person aggrieved by the municipality's measure of damages may appeal to Superior Court within 60 days after the legislative body approves the discontinuance order (23 M.R.S.A. § 3029).

Legal Status of a Discontinued Road. Depending upon when a road was discontinued and the language of the article of discontinuance, the municipality may retain a public easement over a discontinued road or portion of road and a utility easement may remain.

(1) Public Easement.

- **Discontinuance before September 3, 1965.** A discontinuance which occurred before September 3, 1965 (under 23 M.R.S.A. § 3004, the predecessor of § 3026) left no public easement, and case law dictated that ownership of the way reverted to the abutters on each side to the centerline of the road. The abutters may legally bar the public from using the road in this situation (*Frederick v. Consolidated Waste Services, Inc.* 573 A.2d 387 (Me. 1990)(1950 discontinuance resulted neither in public nor private easement); *Brooks v. Bess*, 135 Me. 290, 195 A. 361 (1938); *Burnham v. Burnham*, 132 Me. 113, 167 A. 693 (1933); and *Dyer v. Mudgett*, 118 Me. 267, 107 A. 831 (1919)). However, there is an exception to this rule: a public easement is retained in a pre-1965 discontinuance if the article authorizing the discontinuance specifically provided for the retention of one.
- **Discontinuance occurring on or after September 3, 1965.** By contrast, a discontinuance occurring *on or after* September 3, 1965 terminates the municipality's maintenance obligation, but leaves a public easement *automatically*, unless the article authorizing the discontinuance specifically rejects retention of a public easement. That is, abutters cannot legally bar public use of the road. The municipality has the right or option, but not the obligation, to maintain this public easement (23 M.R.S.A. § 3026(1)).

It is possible to extinguish the public easement that automatically is retained in a post-1965 discontinuance. This can be done at the time of the discontinuance by inserting the appropriate language in the discontinuance order and article (remember that the amount of

damages may differ depending on whether or not a public easement is retained). This also can be done later (even years later) by separate article, but damages would have to be calculated and paid again. Appendix D contains suggested warrant article language for extinguishing the public easement.

(2) **Utility Easement.** In 1977, the discontinuance law was amended to provide that the public easement retained after a discontinuance also includes an easement for public utility facilities necessary to provide service (23 M.R.S.A. § 3026(1)). This allows utilities to maintain and replace existing installations and to construct new installations, even if the town does not maintain the road. (Therefore, a public easement which resulted automatically from a discontinuance between September 3, 1965 and October 24, 1977 does not include an easement for public utility facilities. In such cases, the utility must obtain an easement from whomever holds title in fee simple (see Chapter 1 for discussion of title interests).) Similarly, in 1987, the Legislature enacted a new provision as part of the State's public utility laws which states that unless the order of discontinuance of a public way provides otherwise, the public easement automatically retained under 23 M.R.S.A. § 3026 "includes an easement for public utility facilities" (35-A M.R.S.A. § 2308). (Two years later, the Legislature enacted 33 M.R.S.A. § 458, which provides that for easements or rights of way established in writing after January 1, 1990, the owner has no easement by implication to install utilities on or under the easement or right of way unless the right to do so is expressly included in the written instrument.)

Defective Discontinuance. The municipality should comply strictly with all steps in the discontinuance procedure to ensure that the road is effectively discontinued. If an abutter (or anyone else, for that matter) can prove that a discontinuance was defective and that the road is still a town way, it could be very expensive for the municipality to resume maintenance and repair of the way.

The discontinuance law has changed over time, and did not always require the same steps as are now necessary. Therefore, when someone challenges the validity of a discontinuance, it is important to *identify with certainty the statutes in effect at the time of the discontinuance*. For example, the Law Court has upheld the validity of road discontinuances that did not state the amount of damages paid where the abutters' predecessors in title had a right of appeal but did not appeal the order of discontinuance (see *Whalen v. Town of Livermore*, 588 A.2d 319 (Me. 1991), *cert. den.* 112 S. Ct. 422; and *Town of Fayette v. Manter*, 528 A.2d 887 (Me. 1987), *cert. den.* 108 S.Ct. 1116, *app. dis.* 108 S. Ct.1285).

If a discontinuance is found to be defective, the municipality still may be able to treat the road as abandoned under 23 M.R.S.A. § 3028. For example, if a discontinuance was improperly done in 1933 but since that time the town has not maintained the road (mistakenly believing it to be discontinued), the road can be presumed abandoned on the basis that it has not been maintained at public expense for over 30 years (see, for example, *Lamb v. Town of New Sharon*, 606 A.2d 1042 (Me. 1992)). Abandonment is discussed below.

Statutory Abandonment (23 M.R.S.A. § 3028)

A municipality may be relieved of the obligation to maintain a town way by operation of 23 M.R.S.A. § 3028. Under this law, a town way which has not been kept passable for motor vehicles at public expense for a period of 30 or more consecutive years is *presumed* abandoned. This method of disposing of roads is "informal" in the sense that it requires no vote of the municipality, nor are any documents recorded or damages paid. Abandonment occurs by the passage of time coupled with lack of public maintenance. The Maine Supreme Court has upheld the validity of this law in *Lamb v. Town of New Sharon*. In that



The photo below illustrates some of the improvements Ms. Durkin has made to the property.



TOWN COUNCIL

Agenda Information Sheet

Meeting Date: October 13, 2009	Agenda Item # NB 2C
Subject	
Schedule a Public Hearing for the General Assistance Appendices	
Information	
The GA Appendices (attached) are updated annually by the State. The municipal officers must adopt the new appendices each year. A Public Hearing is required prior to adoption.	
Staff Comments/Recommendation	
Requested Action	
Motion to schedule a Public Hearing on October 26 th at 6:45 pm for the purposes of receiving public comment on the General Assistance Ordinance Appendices.	
Vote	

MAINE MUNICIPAL ASSOCIATION

Legal Services
60 Community Drive
Augusta, Maine 04330-9486
(207) 623-8428
Fax (207) 623-1287

WILLIAM W. LIVENGOOD
REBECCA WARREN SEEL
RICHARD P. FLEWELLING
MICHAEL L. STULTZ
KRISTIN M. COLLINS
SUSANNE F. PILGRIM

JOSEPH J. WATHEN
(1957-1997)

To: Municipal Officials/Welfare Directors/General Assistance Administrators

From: Kristin Collins, Staff Attorney

Re: 2009-2010 General Assistance Ordinance Appendices A, B and C

Date: September 21, 2009

Enclosed please find the following items:

- MMA's new (October 1, 2009–October 1, 2010) “**General Assistance Ordinance Appendices**” (A, B and C).
- “**GA Maximums Summary Sheet**” which consolidates GA maximums into one document. Municipalities do have to insert individual locality maximums from Appendix A and C in the summary sheet where indicated in order to complete the information. The “summary” does not have to be adopted, as it is not an Appendix but a tool for municipal officials administering GA.
- “**GA maximums adoption form**” which was developed so that municipalities may easily send DHHS proof of GA maximums adoption. Once the selectpersons adopt the new maximums, the enclosed form should be signed and submitted to DHHS in the self-addressed envelope provided with this packet (*see “Filing of GA Ordinance and/or Appendices” below for further information*).

Appendices A, B & C

The enclosed Appendices A, B and C have been revised for your municipality’s General Assistance Ordinance. These new Appendices, **once adopted**, should replace the existing Appendices dated October 1, 2008–October 1, 2009. Even if you have already adopted MMA's model General Assistance Ordinance, **the municipal officers must approve/adopt the new Appendices A-C yearly**. The various maximum levels of General Assistance set forth in Appendices A-C are established as a matter of state law based on certain federal values that are made effective on the first day of October each year.

Appendix A

Appendix A is a listing of the overall maximum levels of assistance pertaining to all municipalities in Maine. These new overall maximum levels of assistance have been calculated on the basis of the 2009-2010 HUD Fair Market Rent (FMR) values that will become effective on October 1, 2009. These maximum levels of assistance are established by Maine General Assistance law (22 *MRSA (4305(3-B))*) and **cannot** be altered by action of the municipal officers.

Because HUD has reorganized certain localities, municipalities should first check to see in which locality they have been placed.

The following abbreviations may assist in your review of the maximums:

Abbreviations:

Department of Housing and Urban Development (HUD)

Fair Market Rent (FMR)

HUD Metro FMR (HMFA)

Metropolitan Statistical Area (MSA)

Appendix B

Appendix B is a listing of the maximum levels of assistance for food. These maximum levels are the same as the USDA 2009-2010 Thrifty Food Plan, which are presumed to be reasonable by regulation of the Department of Health and Human Services (DHHS). Note that the Appendix B maximums in this packet remain unchanged from the mid-year increase that was made in March 2009, due to the federal economic stimulus package. If the municipal officers wish to amend these maximum levels of food assistance, a local survey must be developed and provided to DHHS to justify the proposed alterations.

Appendix C

Appendix C is a listing of the maximum levels of assistance for housing (both heated and unheated). These maximum levels were developed by MMA using 2009-2010 HUD Fair Market Rent values that include utility costs. Because the FMR numbers include utility and heating costs, the applicable average utility and heating allowances, as developed by the Maine State Housing Authority (MSHA), are subtracted from the FMR to obtain a pure “housing” cost.

What should your municipality do if the housing maximums contained in this packet are unreasonably low (or high) given the rental rates in your area? First, the preferred option is to conduct a local rental survey. A local rental survey can be developed fairly easily, and municipalities should explore this option by contacting DHHS for guidance on conducting such a survey.

Another option is to forego adopting housing maximums (the law does not actually require housing maximums—the other two maximums, i.e., Appendix A and B, are required). If you are a municipality that has to perform “emergency analysis” each and every time an applicant requests housing assistance and you are not planning to perform a market survey (although you probably should), then perhaps working without housing maximums is an option.

Emergency analysis should be an exception, not “the rule.” If it has become the rule in your municipality, then the adoption of artificially low housing maximums is of no service to you (or

your clients) and you might be better off with no housing maximums. Municipalities choosing to forego housing maximums must still adhere to the overall maximum and work an applicant's budget accordingly. Such municipalities might choose to utilize the actual FMR provided by the federal government as a guide.

The Adoption Process

The **municipal officers (i.e., selectpersons/council)** adopt the local **General Assistance Ordinance and yearly Appendices**, even in town meeting communities. The law requires that the municipal officers adopt the ordinance and/or Appendices ***after notice and hearing***. Seven days posted notice is recommended, unless local law (or practice) provides otherwise.

At the hearing, the municipal officers should:

- 1) Allow all interested members of the public an opportunity to comment on the proposed ordinance;
- 2) End public discussion, close the hearing; and
- 3) Move and vote to adopt the ordinance either in its posted form or as amended in light of public discussion.

Filing of GA Ordinance and/or Appendices

Please remember that General Assistance law requires each municipality to send DHHS a copy of its ordinance once adopted. *(For a copy of the GA model ordinance, please call MMA's Publication Department, or visit our web site www.memun.org).* In addition, any changes or amendments, such as new Appendices, must also be submitted to DHHS. DHHS has made it easier by enclosing a self-addressed envelope for your use. DHHS will accept the enclosed "adoption sheet" as proof that a municipality has adopted the current GA maximums.

Finally, all general assistance forms and notices that the municipality intends to use must also be submitted to DHHS. If it is your intention to use MMA forms, and you have not already done so, simply state that intention to the Department when you submit your ordinance for DHHS filing. Remember, if you intend to use locally developed forms or notices, those forms should be submitted with your adopted ordinance. DHHS's GA Unit address is:

The Department of Health and Human Services
General Assistance Unit
#11 State House Station (442 Civic Center Drive)
Augusta, Maine 04333

By way of a reminder, municipalities that have not already seen or used MMA's "interactive" GA forms on MMA's web site are strongly encouraged to visit our site. GA forms (including MMA's model GA ordinance) and other materials are all available online at www.memun.org.

**GENERAL ASSISTANCE ORDINANCE
APPENDICES A-C
2009-2010**

The Municipality of _____ adopts the MMA Model Ordinance GA Appendices (A-C) for the period of Oct. 1, 2009—Oct. 1, 2010. These appendices are filed with the Department of Health and Human Services (DHHS) in compliance with Title 22 M.R.S.A. §4305(4).

Signed the _____ (day) of _____ (month) _____ (year)
by the municipal officers:

(Print Name)

(Signature)

GA Overall Maximums

Metropolitan Areas

Persons in Household

COUNTY	1	2	3	4	5*
Bangor HMFA: Bangor, Brewer, Eddington, Glenburn, Hampden, Hermon, Holden, Kenduskeag, Milford, Old Town, Orono, Orrington, Penobscot Indian Island Reservation, Veazie	596	695	887	1126	1273
Penobscot County HMFA: Alton, Argyle UT, Bradford, Bradley, Burlington, Carmel, Carroll plantation, Charleston, Chester, Clifton, Corinna, Corinth, Dexter, Dixmont, Drew plantation, East Central Penobscot UT, East Millinocket, Edinburg, Enfield, Etna, Exeter, Garland, Greenbush, Howland, Hudson, Kingman UT, Lagrange, Lakeville, Lee, Levant, Lincoln, Lowell town, Mattawamkeag, Maxfield, Medway, Millinocket, Mount Chase, Newburgh Newport, North Penobscot UT, Passadumkeag, Patten, Plymouth, Prentiss UT, Seboeis plantation, Springfield, Stacyville, Stetson, Twombly UT, Webster plantation, Whitney UT, Winn, Woodville	609	611	734	917	1125
Lewiston/Auburn MSA: Auburn, Durham, Greene, Leeds, Lewiston, Lisbon, Livermore, Livermore Falls, Mechanic Falls, Minot, Poland, Sabattus, Turner, Wales	492	616	752	954	1056
Portland HMFA: Cape Elizabeth, Casco, Cumberland, Falmouth, Freeport, Frye Island, Gorham, Gray, North Yarmouth, Portland, Raymond, Scarborough, South Portland, Standish, Westbrook, Windham, Yarmouth; Buxton, Hollis, Limington, Old Orchard Beach	793	942	1220	1537	1647
York/Kittery/S.Berwick HMFA: Berwick, Eliot, Kittery, South Berwick, York	1000	1007	1206	1758	1915
Cumberland County HMFA: Baldwin, Bridgton, Harpswell, Harrison, Naples, New Gloucester, Pownal, Sebago	665	776	1000	1194	1530
Brunswick	667	798	1030	1305	1565

Appendix A
Effective: 10/01/09-10/01/10

COUNTY	1	2	3	4	5*
Sagadahoc HMFA: Arrowsic, Bath, Bowdoin, Bowdoinham, Georgetown, Perkins UT, Phippsburg, Richmond, Topsham, West Bath, Woolwich	785	787	943	1201	1632
York County HMFA: Acton, Alfred, Arundel, Cornish, Dayton, Kennebunk, Kennebunkport, Lebanon, Limerick, Lyman, Newfield, North Berwick, Ogunquit, Parsonsfield, Shapleigh, Waterboro, Wells Biddeford, Saco, Sanford	718	746	948	1134	1239
	732	816	1029	1305	1543

*Note: Add \$75 for each additional person.

Non-Metropolitan Areas

Persons in Household

COUNTY	1	2	3	4	5*
Aroostook County	464	572	685	894	1000
Franklin County	575	621	756	902	1172
Hancock County	628	724	901	1187	1221
Kennebec County	497	596	743	1013	1082
Knox County	569	751	858	1162	1340
Lincoln County	688	738	890	1075	1226
Oxford County	480	638	735	979	1228
Piscataquis County	596	680	842	1068	1143
Somerset County	479	593	703	992	1053
Waldo County	669	717	866	1062	1129
Washington County	575	622	742	919	1002

* Please Note: Add \$75 for each additional person.

Appendix B

Effective: 10/01/09 to 09/30/10

Food Maximums

Please Note: The maximum amounts allowed for food are established in accordance with the U.S.D.A. Thrifty Food Plan. Through October 1, 2010, those amounts are:

Number in Household	Weekly Maximum	Monthly Maximum
1	46.51	200
2	85.35	367
3	122.33	526
4	155.35	668
5	184.42	793
6	221.40	952
7	244.65	1,052
8	279.53	1,202

Note: For each additional person add \$150 per month.

GA Housing Maximums (Heated & Unheated Rents)

NOTE: NOT ALL MUNICIPALITIES SHOULD ADOPT THESE SUGGESTED HOUSING MAXIMUMS! Municipalities should **ONLY consider** adopting the following numbers, if these figures are consistent with local rent values. If not, a market survey should be conducted and the figures should be altered accordingly. The results of any such survey must be presented to DHHS prior to adoption. **Or**, no housing maximums should be adopted and eligibility should be analyzed in terms of the Overall Maximum—Appendix A. (*See Instruction Memo for further guidance.*)

Non-Metropolitan FMR Areas

<u>Aroostook County</u>		<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly	Monthly
0	66	284	83	359	
1	80	343	103	441	
2	90	385	121	521	
3	120	517	160	686	
4	120	517	172	738	
<hr/>					
<u>Franklin County</u>		<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly	Monthly
0	94	405	108	463	
1	97	415	114	489	
2	114	489	138	592	
3	134	576	164	704	
4	170	732	214	921	
<hr/>					
<u>Hancock County</u>		<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly	Monthly
0	104	449	118	506	
1	117	503	134	578	
2	130	557	154	663	
3	190	819	221	952	
4	190	819	221	952	
<hr/>					
<u>Kennebec County</u>		<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly	Monthly
0	79	339	91	392	
1	93	399	109	468	
2	113	484	135	580	
3	186	801	187	805	
4	186	801	195	840	

Appendix C
Effective: 10/01/09-10/01/10

Non-Metropolitan FMR Areas

<u>Knox County</u>		<u>Unheated</u>		<u>Heated</u>	
Bedrooms		Weekly	Monthly	Weekly	Monthly
0		94	404	103	457
1		126	540	142	609
2		137	589	159	685
3		191	820	219	940
4		209	899	250	1074
<u>Lincoln County</u>					
Bedrooms		Weekly	Monthly	Weekly	Monthly
0		119	512	131	565
1		123	528	139	597
2		144	618	166	714
3		172	741	200	861
4		172	741	201	863
<u>Oxford County</u>					
Bedrooms		Weekly	Monthly	Weekly	Monthly
0		74	318	87	376
1		100	431	117	501
2		109	470	133	573
3		150	646	180	774
4		182	783	226	972
<u>Piscataquis County</u>					
Bedrooms		Weekly	Monthly	Weekly	Monthly
0		95	409	111	479
1		103	441	125	539
2		123	527	154	663
3		157	675	196	844
4		157	675	205	881
<u>Somerset County</u>					
Bedrooms		Weekly	Monthly	Weekly	Monthly
0		74	317	87	375
1		91	390	108	465
2		103	441	127	544
3		153	658	183	786
4		153	658	189	813

Non-Metropolitan FMR Areas

<u>Waldo County</u>		<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly	Monthly
0	115	495	127	548	
1	118	509	134	577	
2	139	596	161	692	
3	170	729	197	849	
4	170	729	205	882	

<u>Washington County</u>		<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly	Monthly
0	93	401	107	458	
1	95	410	113	485	
2	108	465	133	571	
3	134	575	165	708	
4	134	575	175	751	

Metropolitan FMR Areas

<u>Bangor HMFA</u>		<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly	Monthly
0	93	409	110	471	
1	106	454	126	542	
2	132	568	161	691	
3	169	728	205	882	
4	176	756	228	980	

<u>Penobscot County HMFA</u>		<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly	Monthly
0	98	421	114	491	
1	98	421	114	491	
2	100	429	131	565	
3	125	538	164	707	
4	145	622	201	865	

<u>Lewiston/Auburn MSA</u>		<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly	Monthly
0	78	334	90	387	
1	97	417	113	486	
2	115	493	137	589	
3	147	631	175	751	
4	149	641	190	816	

Appendix C
Effective: 10/01/09-10/01/10

Metropolitan FMR Areas

<u>Portland HMFA</u>			<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly	Weekly	Monthly
0	141	608	154	661		
1	165	713	182	782		
2	213	918	234	1014		
3	270	1161	298	1281		
4	274	1178	314	1352		
<u>York/Kittery/S. Berwick HMFA</u>			<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly	Weekly	Monthly
0	169	725	181	778		
1	169	725	181	778		
2	191	820	213	916		
3	287	1236	315	1356		
4	299	1285	400	1460		
<u>Cumberland County HMFA</u>			<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly	Weekly	Monthly
0	111	478	123	531		
1	131	562	147	631		
2	167	718	189	814		
3	197	849	225	969		
4	249	1072	290	1247		
<u>Sagadahoc County HMFA</u>			<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly	Weekly	Monthly
0	140	601	152	654		
1	140	601	152	654		
2	155	666	177	762		
3	186	798	213	918		
4	270	1165	312	1340		
<u>York County HMFA</u>			<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly	Weekly	Monthly
0	126	540	138	593		
1	126	540	140	604		
2	156	671	178	767		
3	185	795	213	915		
4	188	807	228	982		

UTILITIES (Appendix D)

ELECTRIC

NOTE: For an electrically heated dwelling also see “Heating Fuel” maximums below. But remember, an applicant is *not automatically* entitled to the “maximums” established—applicants must demonstrate need.

1) **Electricity Maximums for Households Without Electric Hot Water:** The maximum amounts allowed for utilities, for lights, cooking and other electric uses *excluding* electric hot water and heat:

<u>Number in Household</u>	<u>Weekly</u>	<u>Monthly</u>
1	\$14.00	\$60.00
2	\$15.70	\$67.50
3	\$17.45	\$75.00
4	\$19.20	\$82.50
5	\$21.00	\$90.00
6	\$22.70	\$97.50

NOTE: For each additional person add \$7.50 per month.

2) **Electricity Maximums for Households With Electrically Heated Hot Water:** The maximum amounts allowed for utilities, hot water, for lights, cooking and other electric uses *excluding* heat:

<u>Number in Household</u>	<u>Weekly</u>	<u>Monthly</u>
1	\$16.30	\$70.00
2	\$18.60	\$80.00
3	\$21.00	\$90.00
4	\$23.30	\$100.00
5	\$25.60	\$110.00
6	\$27.90	\$120.00

NOTE: For each additional person add \$10.00 per month.

NOTE: For electrically heated households, the maximum amount allowed for electrical utilities per month shall be the sum of the appropriate maximum amount under this subsection and the appropriate maximum for heating fuel as provided below.

HEATING FUEL (Appendix E)

<u>Month</u>	<u>Gallons</u>	<u>Month</u>	<u>Gallons</u>
September	50	January	225
October	100	February	225
November	200	March	125
December	200	April	125
		May	50

FOR MUNICIPAL USE ONLY

NOTE: When the dwelling unit is heated electrically, the maximum amount allowed for heating purposes will be calculated by multiplying the number of gallons of fuel allowed for that month by the current price per gallon. When fuels such as wood, coal and/or natural gas are used for heating purposes, they will be budgeted at actual rates, if they are reasonable. No eligible applicant shall be considered to need more than 7 tons of coal per year, 8 cords of wood per year, 126,000 cubic feet of natural gas per year, or 1000 gallons of propane.

PERSONAL CARE & HOUSEHOLD SUPPLIES
(Appendix F)

<u>Number in Household</u>	<u>Weekly Amount</u>	<u>Monthly Amount</u>
1-2	\$10.50	\$45.00
3-4	\$11.60	\$50.00
5-6	\$12.80	\$55.00
7-8	\$14.00	\$60.00

NOTE: For each additional person add \$1.25 per week or \$5.00 per month.

SUPPLEMENT FOR HOUSEHOLDS WITH CHILDREN UNDER 5

When an applicant can verify expenditures for the following items, a special supplement will be budgeted as necessary for households with children under 5 years of age for items such as cloth or disposable diapers, laundry powder, oil, shampoo, and ointment up to the following amounts:

<u>Number of Children</u>	<u>Weekly Amount</u>	<u>Monthly Amount</u>
1	\$12.80	\$55.00
2	\$17.40	\$75.00
3	\$23.30	\$100.00
4	\$27.90	\$120.00

FOR MUNICIPAL USE ONLY

TOWN COUNCIL
Agenda Information Sheet

Meeting Date: October 13, 2009	Item # NB 2D
Agenda Item: Committee Appointments	
Town Manager's Recommendation	
<p>Following recent interviews the following appointments are recommended.</p> <p>Maya Bogh to Conservation Commission: Term to expire 2010</p> <p>Virginia Jennings to Historic District Commission: Term to expire 2010</p> <p>Tim Benoit to Library Advisory Board: Term to expire 2010</p> <p>The following appointments to be made providing they do not vote until the appropriate changes to governing regulations have been made.</p> <p>Smilie G. Rogers as an alternate to the Board of Assessment Review: Term to expire 2011.</p> <p>Brian Kunkle as an alternate to the Board of Assessment Review: Term to expire 2010</p> <p>John Klossner as an alternate to the Zoning Board of Appeals: Term to expire 2011</p>	
Requested Action	
Motion to appoint.	
Vote	