

**Readfield Select Board  
Regular Meeting  
Agenda**

**September 8, 2014**

**Location: Town Office**

**Meeting Starts: 6:30 PM**

**Pledge of Allegiance**

1. **Minutes:** Select Board meeting minutes of July 28, August 25 and 27, 2014
2. **Warrant: 5 – 5 minutes**

**Communications – 40 minutes**

3. Select Board communications
4. Town Manager
5. Boards, Committees, Commissions & Departments
  - a. Trails Committee minutes

**Appointments/Reappointments – 5 minutes**

6. Recreation Association Board candidate: Carrie Knight

**Unfinished Business:**

7. Select Board Liaison Policy – 2nd reading – 10 minutes

**New Business:**

8. Maranacook Lake Outlet Dam hydrology RFP – 10 minutes
9. DAR Proclamation: Bonnie Wilder – 10 minutes
10. Petition for Town budget referendum vote – 15 minutes
11. Winthrop Ambulance Service contract renewal – 5 minutes
12. Select Board retreat report – 10 minutes
13. David Linton: Bear resolution – 10 minutes
14. Other (if needed)

**Public Communications – 15 minutes**

15. Members of the public may address the Select Board on any topic.

**Executive Sessions**

16. Labor negotiations update (if needed)
17. Personnel issues

**Adjournment**

**Readfield Select Board**  
**Regular Meeting Minutes August 25, 2014 - Unapproved**

**Select Board members present:** Sue Reay, Valarie Pomerleau, Greg Durgin, Thomas Dunham and Allen Curtis.

**Others attending:** Shannon Gould (PEG TV), Stefan Pakulski (Town Manager), Gene Carbona, Nancy Buker, David Buker, Pamela Glidden, David Glidden, John Cushing, Ray Renner, Lenny Reay and Peter Davis.

Mrs. Reay called the meeting to order at 6:17 pm.

**(1) Executive session: Motion** by Mrs. Reay to enter into executive session pursuant to 1 MRSA Sec. 405(6)(C) concerning disposition of public property and invite the town manager to attend, **second** Mr. Durgin; **vote** 5-0-0.

Mrs. Reay reconvened the meeting at 6:35 pm. The pledge of allegiance was made.

**(2) Minutes: Motion** by Mr. Durgin to approve the minutes of 07/28/2014 as amended, **second** Ms. Pomerleau; **vote** 4-0-1 (Mr. Curtis abstained due to absence).

**Motion** by Ms. Pomerleau to approve the minutes of 08/11/2014 as amended, **second** Mr. Curtis; **vote** 5-0-0.

**Motion** by Mr. Durgin to approve the minutes of 08/14/2014 as written, **second** Ms. Pomerleau; **vote** 5-0-0.

**(3) Warrant:** Mr. Curtis reviewed warrant #4, which was in the amount of \$43,699.13. There was a discussion about the emergency road washout bill and which account to pay it out of. The vote on the warrant was tabled until further in the meeting.

Mrs. Reay led a discussion in regard to unlimited texting for the town manager's cell phone account for \$10 instead of a 'per text' charge. The consensus of the board was to have the town manager make this change.

**(4) Select Board Communications:**

- Mrs. Reay gave an audit workshop reminder for 08/27/2014 at 4:30 pm.
- A workshop date was established for 09/10/2014 at 4:30 pm to continue work on the town manager review format.
- The budget committee will meet with the select board on 10/16/2014 at 5:30 pm.
- The final retreat report has been received but has not been reviewed by the board; this will be placed on the next agenda.
- There was a discussion about attendance at the upcoming MMA convention on 10/1-2/2014. Ms. Pomerleau and Mr. Curtis will attend. The town manager will check with staff in regard to attendance in October. The entire board will attend a December 2014 workshop.
- Mr. Dunham reviewed his inspection of the library work he feels needs to be done prior to painting. He estimated the cost of repairs to be between \$2,000 and \$3,000. He will work with the town manager to determine the details.

**(5) Town Manager:** Mr. Pakulski reviewed his report.

- He thanked John Cushing for his storm repair work.
- Deb Peale may have some valuable library items to put out to bid.
- There was a discussion about the letter to the board from Richard Barton regarding a public easement for building a trail. Rebecca Seel from MMA agreed that the town can legally improve that easement without any further action if the board should choose to do so. There was continued discussion regarding public input and safety of crossing the road to access the trail. Mr. Pakulski gave further clarification as to the public easement retained by the town, of which the public has the unobstructed right to use. Lenny Reay commented the easement was kept because CMP needs to get to the pole. He also said if a trail is installed parking will need to be provided.

**(6) Boards, Committees, Commissions & Departments:**

- Mr. Durgin reviewed the minutes of the fields committee meeting which were included in the packet. He said Greg Leimbach has been mowing the field as a volunteer and will continue to do so. The field will be reseeded after new drainage is installed. There is no timeline for the field to be turned over to

the rec association but they would like to have it ready for the next baseball season. Mrs. Reay said the drain has now been installed and the slopes have been mowed. She also said everything that has happened at the fairgrounds area has been donated and if it gets turned over to the rec board, they want to charge a fee to anyone using it other than the rec association. Mr. Durgin said he was not aware of this. Lenny Reay said there will be ongoing fees to maintain the field. John Cushing asked about the town retaining ownership after giving oversight to the rec board. There was continued discussion.

**(7) Appointments/Reappointments:** Applicant Carrie Knight was not in attendance.

**(8) Road maintenance and crack sealing quotes:** Pete Davis reported the road committee met earlier today, reviewed the bid information, and made motions to accept Cushing's bid as outlined by the town manager and Grip Wet's crack sealing bid, both passing unanimously. In regard to the Old Kents Hill Road, the committee recommended to shim and overlay a portion of the road from the town office to the dam; this should save enough money to do the additional requested work, plus painting and striping. Mr. Pakulski described the condition of the Old Kents Hill Road and agreed the shim and overlay could be split into two phases, which would probably save enough in the current budget to do maintenance work originally budgeted to be done. These figures have not been worked out in detail yet. There was a continued discussion. The board was not in favor of overspending on the road budget. Mr. Dunham requested more detail in order to make an informed decision. Mrs. Reay suggested using road budget carry forward funding and not to increase tax revenue if the road budget is overspent. Lenny Reay suggested fixing only the bad spots on the portions of Cushing's bid and to cut the rest. John Cushing agreed. John Cushing said he would repave the whole Old Kents Hill Road, but that the ditching could make it another year if just the bad spots and culverts were done. Gene Carbona said the town has great schools and great roads and he would like to keep it this way. There was a discussion about using the road carry forward account to fund the road projects. Lenny Reay asked why this was not decided at town meeting two months ago. Mrs. Reay explained the reason. Mr. Pakulski said costs are not known until bids are received. The discussion continued. Pam Glidden asked if there was a disaster fund for emergencies, and Mrs. Reay informed her about the \$50,000 select board contingency fund. The board discussed why they felt it would be better to use road carry forward funds instead of the contingency fund.

**Motion** by Mr. Curtis to award the crack sealing work to Grip Wet Sealing Company per the cost of \$13 per gallon and to install up to \$10,000, **second** Ms. Pomerleau; **vote** 5-0-0.

**Motion** by Mr. Curtis to award the Plains, Gay, Chase, P Ridge and South Road work to Cushing Construction with the understanding that some work might be put on hold or with the understanding if the road budget goes over that an article will be placed on next year's warrant asking for these funds to be covered by the road carry forward account, **second** Ms. Pomerleau; there was a discussion. Lenny Reay commented when the upcoming budgets are put together that the quoted prices should be guaranteed for 30 or 60 days. There was a discussion about what might happen at next year's town meeting. Pete Davis said the road committee would rather use a rate sheet than RFPs because the process would be done sooner. Mrs. Reay disagreed. Mr. Curtis said the bidding process needs to be done later in the year. Pete Davis said whatever the board wants the road committee will agree to.

Mrs. Reay called the vote but then she amended the motion to remove the Plains Road work of \$13,808, **second** by Mr. Durgin; there was a discussion. Mr. Pakulski recommended awarding to Cushing all the work that was specified and to consider cutting the shim and overlay work on the upper section of the Old Kents Hill Road which is also what the road committee recommended. Mrs. Reay called the vote on the amendment; **vote** 1-4-0 (Mrs. Reay in favor); **vote** on original motion 4-1-0 (Mrs. Reay opposed).

**Continued warrant discussion:** **Motion** by Mr. Curtis to accept warrant #4 as presented in the amount of \$43,699.13, **second** Mr. Durgin; **vote** 4-1-0 (Mrs. Reay opposed).

**(9) Select Board retreat draft report (if available):** Discussion at next meeting.

**(10) Bid for roto-phase power converters:** Mrs. Reay said the bidder wrote a brief letter; she apologized she did not have it but will read it at the next meeting. The bid from Gerry Mason was opened. It was in the amount of \$500 for both. Mr. Durgin said the value is considerably more than that. Mrs. Reay said it has been in surplus for while, but the board said the amount they want to get for these is not what was bid. Gene Carbona asked if the new business would be a tax base for the town. Mrs. Reay said hopefully. She also said

they have been sitting there now for 6 years, unused. John Cushing said they should be put back out to bid if the amount was not what was wanted. Mr. Durgin suggested negotiating with the one bidder. The board consensus is to re-negotiate with the one bidder and would like the town manager to pursue this in accordance with what was previously discussed in executive session.

**(11) Select Board Liaison Policy:** First reading – edits were made. There was a discussion whether or not to allow members of the public to also serve as liaison. A second reading will be scheduled for the next meeting.

**(12) Other (if needed):** None.

**(13) Public Communication:** Mrs. Reay read the policy.

- Ms. Pomerleau answered questions from previous meetings: Lenny Reay asked if the board can freeze the use of employee overtime. Ms. Pomerleau checked with MMA and was told this probably falls within the authority of the board to make such a decision. Ms. Pomerleau then addressed a letter from Deb Doten and Grace Keene about a resident questioning the duties of an employee. She read a lengthy written letter she had prepared. Mr. Curtis said he did not feel the board was targeting one specific group or committee, rather the goal was to keep the mil rate down. Ms. Pomerleau said perception is important regarding the possible harassment of employees and commented this does not need to be discussed at meetings because there are more important things to address.

**Motion** by Mr. Dunham for the town manager to authorize no overtime without select board approval except for emergencies, **second** by Mr. Curtis; there was a discussion. Mr. Durgin said this is micro-managing the town manager. Mrs. Reay said there is no reason to mow on the weekends. Ms. Pomerleau commented the town should get others certified to work at the transfer station and it is necessary to think outside of the box to save money.

**Motion** by Mrs. Reay to extend the meeting to 9:30 pm, **second** Mr. Durgin; **vote** 5-0-0.

Gene Carbona said micro managing is a good thing because the mil rate is too high.

Mrs. Reay called the vote. **Vote** 4-1-0 (Mr. Durgin opposed).

- Ray Renner asked about responsibility for the committees. He said the board needs a liaison for every committee and all minutes should be submitted to the select board. He asked if the road committee has a list of roads in spreadsheet form. Mrs. Reay referred him to the road commissioner.
- Mr. Durgin said he observed people using the trails but not using the parking lot, so the number of parked cars is not an indication of trails being used.
- Lenny Reay thanked Ms. Pomerleau for answering the letter. He suggested all board members ride to see the East Readfield cemetery as it looks terrible.
- Deb Nichols asked about the legality of the overtime motion.
- Gerry Mason commented on trying to start a business in town. He said it is vital he gets three phase power for his machines. He explained the letter he wrote. Lenny Reay said he hopes Gerry gets the converters and Gene Carbona agreed.

**Motion** by Mrs. Reay to reopen the motion by Mr. Dunham regarding authorizing no overtime, **seconded** by Mr. Dunham; there was a discussion. **Vote:** 3-2-0 (Mr. Curtis, Mr. Dunham opposed). **Vote** reconsidering original motion: 2-3-0 (Mr. Curtis, Mr. Dunham in favor). Ms. Pomerleau said she will check with the legality of this with MMA.

#### **(14) & (15) Executive Sessions:**

**Motion** by Mrs. Reay to enter into executive session pursuant to 1 MRSA Sec. 405(6)(F) to consider a poverty abatement request and invite the town manager to attend, **second** Mr. Durgin; **vote** 5-0-0. The board entered executive session at 9:30 pm.

Recorded by Deborah Nichols

**Motion** by Mrs. Reay, **second** by Mr. Durgin to exit executive session; **vote** 5-0-0. The board exited executive session at 10:08 pm and entered public session.

**Motion** by Mr. Curtis, **second** by Mr. Durgin to grant the poverty abatement pursuant to 36 MRSA Sec. 841(2); there was a discussion. Mr. Curtis called the vote. There was continued discussion. Mr. Curtis withdrew the motion.

**Motion** by Mr. Durgin, **second** by Mr. Dunham to postpone a decision on the application until the next select board meeting on 08/27/2014; **vote** 5-0-0. Mrs. Reay noted the board will make a vote after the audit workshop at 6:00 pm.

Seeing no further business before the board, Mrs. Reay adjourned the meeting at 11:05 pm.

Recorded by Stefan Pakulski

**Readfield Select Board**  
**Special Meeting – Workshop Minutes August 27, 2014 - Unapproved**

**Select Board members present:** Sue Reay, Valarie Pomerleau, Greg Durgin, Thomas Dunham and Allen Curtis.

**Others attending:** Chris Backman (RHR Smith – auditor), Teresa Shaw (Finance Officer) Stefan Pakulski (Town Manager), and a Poverty Abatement applicant.

Mrs. Reay called the meeting to order at 4:35 pm.

**(1) Audit workshop:**

Chris Backman from the auditing firm RHR Smith & Company led the Select Board in a workshop to review the audit process for the Town. There were many questions and answers plus much discussion on the different facets and procedures of the annual financial audit.

**(2) Poverty Abatement application decision:**

**Motion** by Mr. Dunham to grant an abatement according to a submitted application for reasons of poverty as of this date 08/27/2014 in the amount of \$1651.32 plus any additional accrued interest, **second** by Mr. Durgin.

Discussion followed on criteria to use in making this decision. Mr. Dunham withdrew his motion.

**Motion** by Mr. Dunham to grant an abatement in the amount of \$1,651.32 plus interest accrued as of 08/27/2014 pursuant to MRSA Title 36 Section 841, **second** by Mr. Durgin.

Discussion followed. **Vote:** 2 – 3 (Reay, Pomerleau, Curtis) motion failed.

The Select Board discussed with the applicant the reasons for denying the poverty abatement application. The Board directed the Town Manager to include the reasons in a written notification to the applicant, along with information about the applicant's right to appeal the decision and the procedures for doing so.

**(3) Other:**

Ms. Pomerleau noted actions that afternoon in the East Readfield Cemetery regarding a hole and piece of a broken post.

Seeing no further business, Mrs. Reay adjourned the meeting at 7:26 PM.

Recorded by Stefan Pakulski

### **3. Select Board communications**

Val Pomerleau will provide update on MMA's response to possible freeze on overtime during union negotiations.

Dan Meyer has been invited to attend to help set a date for the Board to tour Town Farm with the Conservation Commission.

The Board could consider setting a date for an RSMS workshop: see attached RSMS information examples.

KCEMA tour: Allen Curtis and Tom Dunham will attend this session on Tuesday evening, September 9<sup>th</sup>

The Select Board will hold a workshop at 4:30 PM on Wednesday, September 10, 2014 to continue work on the Town Manager's performance evaluation format.

Tom Dunham will give an update on his NIMS certification course. All Board members are requested to read the EOP and understand their roles in preparation for the September 17<sup>th</sup> event at the high school.

Allen Curtis will provide an update on his work on a road project spreadsheet, if available.

Note attached items:

Sue Reay's responses and letters received, from prior meetings.

# Chapter 1 — Introduction

## 1.1 Overview

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RSMS 11 is a simple yet powerful tool to assist town managers, road commissioners, public works directors, road committees, and budget committees develop a maintenance plan for their paved and gravel road network. The software is tailored specifically for municipalities with less than 100 miles of roads.

## 1.2 History

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RSMS 11 is a major enhancement to the RSMS 10 product, which was released in the fall of 2010. Both products have drawn heavily upon the design and implementation of the "original" RSMS, developed in the 1990s.

Some of the major new features introduced in RSMS 11 include:

- **Gravel Roads**—Full support for gravel roads. All program features available for paved roads are now fully supported for gravel roads.
- **Budget Development**—This powerful feature facilitates the rapid development of separate capital and maintenance (expense) network budgets for periods of up to 15 years. This module offers some unique features that make it virtually impossible to overlook any road in need of work during the budget development process.
- **Prioritization**—An algorithm has been developed and implemented that prioritizes roads for repair **within maintenance category**. We believe that only human intelligence can perform global prioritization, but the software greatly simplifies this task by prioritizing within category. Priority has been added essentially everywhere (all screens and reports) that a road's maintenance category appears.
- **Road Condition Decline Curve**—A graphical representation of this curve is embedded within the software for presentation and educational purposes.
- **Maintenance Category Descriptions**—These descriptions are available on a "mouse over" of the network condition overview charts, to help explain the meaning of the category titles.

- **Jurisdiction**—RSMS 10 supported only a single jurisdiction: "municipality." RSMS 11 broadens support to include a full range of jurisdictions, ranging from state highways to private roads. The user can establish a unique jurisdictional context each time the program is run.
- **Autocomplete**—Autocomplete has been added to road names and from/to road names, enhancing user productivity, improving the accuracy and consistency of road names, and opening the door for a possible future enhancement whereby road names—and potentially a partial rendition of network topology—can be pre-loaded for new users of the software, further simplifying the data entry process.
- **Create New Dataset**—A vital capability for road managers responsible for maintaining networks for multiple towns/entities, and who therefore require multiple new (empty) datasets.
- **Notes**—Plain text comments and notes can now be associated with a road/section.
- **Pictures and Documents**—An unlimited number of photos and other images, videos, Microsoft Office documents, Adobe pdfs, and files in other designated formats can now be associated with each road section.
- **Importance and Traffic Comparison Reports**—These key reports allow direct comparison of ratings assigned among all road sections.
- **Inventory Reports by Jurisdiction and Road Surface**—These are a key component of RSMS 11's expanded support for gravel roads and full range of jurisdictions.
- **Analysis Grid Quick Report**—A report can now be generated via a single click on the analysis grid where the content, layout, record selection, and sort sequence mirror the user's selections within the grid.
- **Repairs Authority**—Flags have been added to the repairs table to enable ownership of each repair by either local or state authority. Structured rules are embedded in the repairs maintenance program to enforce strictures, such as a local manager can delete or change the unit cost of a state repair but cannot add new state repairs or change an existing state repair. Repairs owned by the local authority, of course, can be modified as desired.

### **1.3 Design Goals**

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RSMS 11 builds on the same design goals as RSMS 10:

- Simple to learn, simple to use, simple to understand the outputs.
- Usable by all levels of municipal management and committees.
- Does not require—or for that matter allow—program users to make changes to underlying system data tables that may compromise the integrity of the software.



# Road Network Inventory

by Jurisdiction  
2013

Last  
Survey  
Date

<u>Road/Section Name</u>	<u>Sec</u>	<u>From Road/Section</u>	<u>To Road/Section</u>	<u>Length</u>	<u>Width</u>	<u>Import</u>	<u>Traffic</u>	<u>Surface</u>	<u>Last Survey Date</u>	
<b>Townway</b>										
Plains Rd.	1	Rt. 17	RR tracks	1.10	21.00	medium	med-high	Paved	07/12/201C	
Plains Rd.	2	RR Tracks	Luce Rd.	0.60	21.00	medium	med-high	Paved	07/12/201C	
Plains Rd.	3	Luce Rd.	Mount Vernon T/L	1.47	21.00	medium	med-high	Paved	08/25/2014	
Ratt Mill Hill Rd		Pole # 7	Plains Rd.	0.30	18.00	low-med	low-med	Gravel		
Recycle Rd.		North Rd.	end	0.25	24.00	low	low	Paved	01/23/2008	
Russell St.		Sturtevant Hill Rd	End	0.35	22.00	low	low	Paved	08/27/2014	
Sadie Dunn Rd.		Fogg Rd.	Mount Vernon TL	0.14	22.00	low-med	low-med	Paved	07/12/201C	
Scribner Hill Rd.		Rt.135 Gordon Rd	Manchester T/L	0.80	21.00	low-med	low-med	Paved	07/12/201C	
South Rd.	1	Rt.17	h# 221	1.00	23.00	high	med-high	Paved	07/12/201C	
South Rd.	2	#221	Beaver Dam Rd.	0.70	23.00	high	medium	Paved	07/12/201C	
Sturtevant Hill Rd.	1	Rt.17	#50	0.40	22.00	medium	med-high	Paved	07/12/201C	
Sturtevant Hill Rd.	2	#50	Russell St.	0.85	22.00	medium	med-high	Paved	07/12/201C	
Sturtevant Hill Rd.	3	Russel St.	Huntoon Rd.	1.00	22.00	medium	med-high	Paved	07/12/201C	
Sturtevant Hill Rd.	4	Huntoon Rd.	Winthrop T/L	0.28	22.00	medium	med-high	Paved	07/12/201C	
Tallwood	2	#78	end	0.30	16.00	low	low	Gravel		
Tallwood Rd.		South Rd.	#78	0.30	16.00	low	low	Paved	01/24/2012	
Thunder Castle Rd.	1	Old Kents Hill Rd.	Torsey Shores Rd.	0.60	21.00	low-med	low-med	Paved	08/25/2014	
Thunder Castle Rd.	2	Torsey Shores Rd.	Chase Rd.	0.50	22.00	low-med	low-med	Paved	07/12/201C	
Walker Rd.		Fogg Rd.	End	0.70	24.00	low	low	Gravel		
Wings Mills Rd.		North Rd.	Mount Vernon T/L	0.61	20.00	low-med	low-med	Paved	08/25/2014	
				<u>28.32</u>						
				<u>28.32</u>						





# Capital Financial Plan

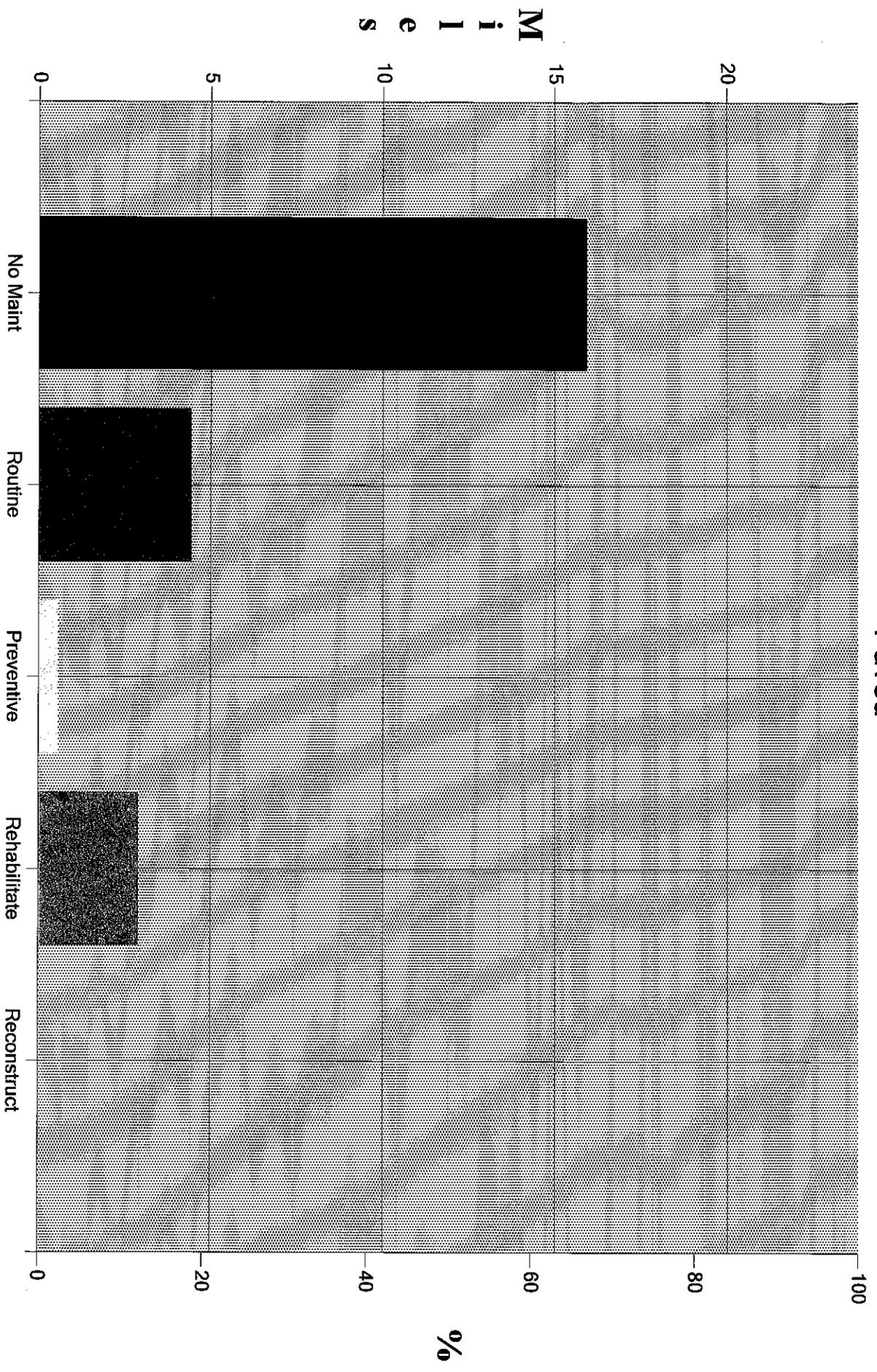
## 2013

2015													
<u>Road/Section Name</u>	<u>#</u>	<u>From</u>	<u>To</u>	<u>Length</u>	<u>Recommended Repair</u>	<u>Other</u>	<u>Budget</u>	<u>Actual</u>					
<b>Paved</b>													
Adell Rd.		Rt.17	Rt.17	0.25	1" OVERLAY @84.00 per ton		12,500	0					
Lakeview Dr.		Winthrop Roa	End	0.36	1" OVERLAY @84.00 per ton		16,200	0					
Nickerson Hill Rd.		Rt. 17	P Ridge Rd.	1.14	SHIM WITH 1" OVERLAY		85,500	0					
Thunder Castle Rd.	1	Old Kents Hill	Torsey Shores f	0.60	1" OVERLAY @84.00 per ton		37,500	0					
Wings Mills Rd.		North Rd.	Mount Vernon T	0.61	1" OVERLAY @84.00 per ton		45,750	0					
<b>Total Paved</b>							<b>197,450</b>	<b>0</b>					
<b>Total 2015</b>							<b>197,450</b>	<b>0</b>					

2016													
<u>Road/Section Name</u>	<u>#</u>	<u>From</u>	<u>To</u>	<u>Length</u>	<u>Recommended Repair</u>	<u>Other</u>	<u>Budget</u>	<u>Actual</u>					
<b>Paved</b>													
Harmony Hills Rd.		Rt. 17	End	0.33	1" OVERLAY @ 84.00 per ton		16,500	0					
Memorial Dr.		Beaver Dam f	Winthrop T/L	0.23	1" OVERLAY @ 84.00 per ton		12,650	0					
P Ridge Rd.		Nickerson Hill	Rt.17	1.20	1" OVERLAY @ 84.00 per ton		66,000	0					
Russell St.		Sturtevant Hill	End	0.35	1" OVERLAY @ 84.00 per ton		19,250	0					
<b>Total Paved</b>							<b>114,400</b>	<b>0</b>					
<b>Total 2016</b>							<b>114,400</b>	<b>0</b>					
							<b>1,498,450</b>	<b>1,110,350</b>					

# 2013 Network Overview

Paved



Maintenance Category

# Road Survey Form

- example: to use for surveys

Name: Adell Rd. Sec: \_\_\_\_\_  
 From: Rt.17 MP: 0.00  
 To: Rt.17 MP: 0.25

Surface: Paved Importance (1-5): 1  
 Length: 0.25mi. Traffic (1-5): 1  
 Width: 16.00ft. Speed: 0  
 Shoulder: Natural  
 Sh Width: 1.00ft.  
 Jurisdiction: Townway

## Alligator Cracking

		Extent		
		<10%	10-30%	>30%
Severity	none	low	med	
	low			
	med			

## Long/Tran Cracking

		Extent		
		<10%	10-30%	>30%
Severity	none	low	med	
	low			
	med			

## Edge Cracking

		Extent		
		<10%	10-30%	>30%
Severity	none	low	med	
	low			
	med			

## Patches/Potholes

		Extent		
		<10%	10-30%	>30%
Severity	none	low	med	
	low			
	med			

## Roughness

		Extent		
		<10%	10-30%	>30%
Severity	none	low	med	
	low			
	med			

## Rutting

		Extent		
		<10%	10-30%	>30%
Severity	none	low	med	
	low			
	med			

## Roadside Drainage

		Extent		
		<10%	10-30%	>30%
Severity	none	low	med	
	low			
	med			

From: Sue Reay [mailto:selectboard.sr@ne.twcbc.com]  
Sent: Monday, August 11, 2014 10:33 AM  
To: selectboard.td@ne.twcbc.com; lawrence\_dunn@aol.com  
Cc: readfield.tmgr@roadrunner.com; Robin Lint  
Subject: Re: Fwd: Rising mil rate

Larry,

Tom forwarded your e-mail to me and I would like to respond to it. In your letter to Tom you stated that you caught the end of our last meeting and wanted to encourage us to pursue the increasing mil rate. This was a very high priority by all at the retreat. Each board member actually listed it on Dana's forms. We have multiple ideas moving forward and if your assistance is needed, we will definitely call you.

I'm not sure what was said or by whom that you think this would be an uphill battle because one board member is unwilling to accept responsibilities for the actions of the board. I believe that all current members do take responsibility for our actions.

You were a sitting board member that approved the current years budget as presented at Town Meeting, and we all knew that the school would have an impact on it along with a small amount from the town. What we didn't expect was an unforeseen and unexpected error that caused the mil rate to go even higher.

I hope that this helps to know we are seriously addressing the mil rate issue as we move forward.

Thanks

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Sue Reay

This electronic mail message and any attachments hereto, as well as any electronic mail message(s) that may be sent in response to it, may be considered public records, and may therefore be subject to public record requests for review and copying under Maine's Right to Know Law (Title 1, §401-§521 of the Maine Revised Statutes).

> To: selectboard.td@ne.twcbc.com  
> Subject: Rising mil rate  
> From: lawrence\_dunn@aol.com  
> Date: Wed, 6 Aug 2014 20:25:12 -0400 (EDT)

Tom

Just caught the end of last weeks SB meeting and wanted to send a note to encourage you to persur the issue of constant rising mil rate.

I agree we can not keep increasing taxes every year. I would hope you might bring to retreat as a priority for the coming year.

I believe you may have an uphill battle tho after hearing comment from board member who is unwilling to accept responsability for the actions of the board. I would be willing to help move this issue forward if given the chance. I believe the first step is to open a dialog and create a common goal. Good luck Larry  
Dunn

Sue Reay  
Select Board Chairperson  
Readfield Town Office  
8 Old Kents Hill Rd.  
Readfield, Maine 04355

August 20, 2014

Dear Sue,

We have spent time reviewing the recording from the Select Board Meeting of July 28<sup>th</sup> in which you responded to our July 22, 2014 letter publically.

At the meeting, you prefaced your public response to us with a memo to the Public. This memo discussed the importance of showing respect to one another. Prior to the reading of this memo, you state that "I have witnessed comments from all listed above that I myself find disrespectful and uncalled for". As the first hour of the meeting was not recorded and there are no minutes to the meeting as yet, we do not know who you were referring to by those "listed above". We sincerely hope that you did not find our letter to be disrespectful. In the second paragraph of our letter, we supported and thanked you for your response as being accurate and not "lame" as was stated by a resident during public comment. We feel that we were presenting our views honestly and as accurately. We agree with your written statement that states "to demean others is disturbing". We agree with you that varying opinions should be taken into consideration. We will refer to your July 28<sup>th</sup> memo to the Public often, and we will continue work to meet these expectations without intentionally demeaning anyone.

To address your July 28, 2014 response to our letter of concern we do offer the following comments.

You state that the "budget line for overtime is not the question. The question was whether this money was spent in the best interest of the town". We reviewed both recordings again. The question from the resident was about the overtime spent on the mowing of the cemeteries and was specific to a full time employee. He did state his concern as to whether this money spent on overtime was in the best interest of the town, but it was a concern specific to the cemetery mowing.

We agree with your statements about looking for "better more efficient ways to spend the town's money ". We also agree with your statement that this should be "the responsibility of every employee, every board/committee and resident of this town". It is our opinion, that every aspect of saving money in the Cemeteries was discussed and explored for the 2015 budget. There was a mowing RFP issued, and there were multiple meetings of Cemetery Committee to develop the budget and to accurately separate the mowing costs. The Budget Committee approved the Cemetery budget as presented. Then, three members of the Select Board voted to not to approve the Cemetery budget as presented by the Budget Committee, and presented separate articles at the Town Meeting. It is a fact that this, small by comparison, budget of \$31,003 has been one of the most scrutinized budgets presented this past year and this fact is frustrating to us. In an effort to start the year off with a positive note, we would like to know what we need to do to prove to certain residents and Select Board members that we do care deeply about fiscal responsibility. We do care about every penny that is spent in this town and for this town.

You state in your response that we should have factual information and review the tapes of the meetings. We take issue with this statement, and adamantly state that we would not submit our letter without facts. We submitted an FOAA for a copy of the Select Board meeting of September 8, 2013. This tape documents the Sexton leaving the meeting, and documents the resident making a public comment asking the Sexton to stay at the meeting. This resident stated that he had comments about the East Readfield Cemetery that she should hear. The Sexton came back and he told her he would be positive in his remarks and then complained about how awful the East Readfield Cemetery looks. The recording documents the employee quietly leaving as he began his detailed complaint. He again asked her to stay to hear what he had to say. The Sexton left the meeting, as is her right, without speaking one word. The next day, an email was sent to the Select Board from this resident demanding a public apology from the Sexton for the treatment he received from the employee at the meeting. In February 2012, there was another formal complaint filed by this resident regarding the road at the Kent's Hill Cemetery. Lastly, at the 2013 Town Meeting one year ago, this resident confronted the Cemetery Committee Chair and stated that "the Sexton has to go. She is costing the Town too much money". When the Chair responded that she has never worked with a better Sexton, the resident said "she still has to go". We feel that we do have our facts. Perhaps this documentation does not rise to "demeaning comments" to you or others, but it is our opinion that it does. Now this resident is persisting in his concern about overtime in mowing. It is our understanding that these issues should be brought to the Town Manager's attention and not to the floor of a public meeting. We are simply asking for your support to limit this type of interaction.

Thank you for your explanation of the Select Board Responsibilities. We will certainly pay close attention to the tasks you describe. We viewed Select Person Dunham's July 28<sup>th</sup> response about his inquiry into the Sexton overtime in which he stated "we do what is needed to get the job done" after talking with Town Manager. We agree that he, as did you, provided the appropriate answer to the resident who is questioning the overtime issue. We also agree with you that the Cemetery's look great, and that the Sexton does a great job.

While we continue to write in the spirit of cooperation, as residents of Readfield we stand by our concerns. We do not understand why the Cemetery Budget, the Cemetery Committee, and employee who supports that work are regularly under scrutiny.

Again, we look forward to working with you in cooperation this coming year, and hope that this letter has served as clarification of our views for you, other Select Board Members, the public and whomever is interested in these issues.

Sincerely,



Grace Keene



Debora Doten

August 11, 2014

Response to Milt Wright's letter dated August 3, 2014

The below was read publicly at the select board meeting by Chair, Sue Reay.

On another note, more correspondence has been received from the public which I would like to address and will have copies of originals that I read along with the residents included in the next packet.

Milt Wright sent a letter to me stating he had second hand information concerning a comment to the board at our last meeting. Our policy states you need factual information for us to respond. This is not the case in the beginning of your letter so I will make no comment on it. If any other board member wishes to do so, they may, although you received a copy, none of you were this cc on this letter.

Secondly, concerning the money being spent on the union. The employees have every right to bargain collectively. The previous board, along with the current board, felt it was in the best interest of the Readfield residents to proceed as we have on this issue. The town does not have unlimited resources available, but needs to do what's in the best interest of all the residents.

*Sue Reay Chair*

PO Box 16  
Readfield, ME 04355  
August 3, 2014

Sue Reay, Chair  
Readfield Select Board  
Town of Readfield  
8 Old Kents Hill Road  
Readfield, ME 04355

Dear Sue:

Since your article "Select Board Corner" in the August *Readfield Messenger* "welcomes your [the public's] input with any concerns or issues you may have with the town", I thought that you and the Select Board might be interested in my take on a recent comment made during a Select Board meeting at which public comment was allowed. I was not at this Select Board meeting so the information I have is second hand. I understand that the spouse of the Chair of the Select Board made public comments about the Cemetery Sexton observed and working in a cemetery on a Saturday and his concern was about the cost of such time (at time and a half) being charged to the town and being the cost being borne by the taxpayers. Without knowing why the cemetery sexton was working on that Saturday, I think that another perspective is needed.

It occurs to me that the Select Board has charged the legal account of the town at last count \$8,000 according to your comment in the June 30, 2014 Select Board Minutes and at least \$9,300 according to the comment of former Select Board member and citizen Pete Davis on matters pertaining to the right of Readfield public employees to bargain collectively on wages, hours, working conditions and contract grievance arbitration. Any bargaining unit of Town employees would contain at a maximum seven full-time public employees. In the event that the \$8,000 figure you cited is accurate, then the cost of the Select

Sue Reay, Chair  
Page 2  
August 3, 2014

Board's effort to curtail/prevent the public employees from unionizing is a whopping \$1,142.85 per employee. If Mr. Davis' figure of \$9,300 is more accurate, the figure is \$1,328.50. These figures do not include the legal counsel's time at the Maine Labor Relations Board's unit determination hearing. Much can be said about what \$8,000 or \$9,300 could purchase in wages or benefits for Town employees instead of being expensed to property taxes with no benefit to the employees.

The intent of this letter is to share my thoughts on the dichotomy between the spouse of the Chair of the Readfield Select Board's comments about the cemetery sexton working on a Saturday and what that cost may be, and the significant expenditure of the Select Board in attempting to thwart the unionization of Town employees.

I note that the present Personnel Policies provide that the Select Board "may delete, amend, modify or change any or all of the provisions contained in these policies...." Yes, the Town's public employees need to exercise their right under the Municipal Public Employees Labor Relations Act to negotiate their wages, hours, working conditions and contract grievance arbitration provisions. The Town apparently has unlimited resources to attempt to defeat this right; I for one hope the Select Board fails in this endeavor.

Very truly yours,



Milton R. Wright

Town Manager  
Town Clerk  
Readfield Public Employees

July 28, 2014

Re: Public

From: Sue Reay, Select Board Chair

What I am about to speak about is all public information, and Stefan I will turn this document into you for it to become public record.

Whether we are elected, appointed or a resident of this community each and every one of us deserves to show respect to the other. Lately, I have witnessed different comments, from all of the listed above that I myself find disrespectful and uncalled for. We all may have different views, but that doesn't call for disrespect. Everyone has there own thoughts on what might be helpful and what is not. To demean others just because you can't see their view point or what they hope to accomplish is very disturbing to me.

As a board member, I was elected to represent the residents of this town in the best possible way. I've never worked so hard at something to do what is best for all and yet I continue to be called on my decisions. As anyone knows, we all have different opinions, but you can also respond to them in a much more respectful manner. Past boards made decisions they felt were in the best interest of the town and this board has that same goal.

What makes boards and committees work is the varying of opinions. If we all felt the same way, nothing would get accomplished.

*Sue Reay*

July 28, 2014

Re: Response to Deb Doten, Grace Keene letter dated 7/23/2014

From : Sue Reay, Select Board Chair

I have decided that I will respond in public to letters or e-mails that I receive as a public document.

I am first going to respond to one of the letters that I received this week. I received a letter along with the other board members from Grace Keene and Deb Doten. I will start with the second paragraph that states this salary line has never been over budget because of overtime. The budget line for overtime is not what was questioned. The question was whether this was money spent in the best interest of the town.

Your third paragraph states that it is the select boards job to make policy and not to administer day to day operations. The select board does make policy, but all boards, committees and commissioners have guidelines and procedures to follow as clearly stated in the Appointments and Procedures Policy. No one on this board has given any directives to the Town Manager on how he schedule's the time of his employees. Whether the costs fall within the budgeted amount or not, this will always be an issue for the select board on a monthly basis ,as we are to over see the financial budget per our roles and responsibilities. The day to day operations are up to the Town Manager to oversee, however, if any one sees a more cost efficient way of doing something than they should bring it forth for discussion. The budget has many safe guards in it to make sure the money is available to cover the expected and unexpected costs through the next fiscal year and is passed by the majority of the residents that attend the Town Meeting. This does not mean that we should stop trying to find more efficient and cost

effective ways to spend this money and try to save anywhere and everywhere we can. This should be the responsibility of every employee, board/committee and resident of this town. This is a responsibility that the select board takes very seriously. We have been and will continue to look at the towns expenses to ensure that the hard earned tax dollars being paid are being used responsibly everywhere and anywhere.

Your fourth paragraph questions a select board member looking into a question asked by a resident within the first month of the fiscal year. Nothing is ever premature to look at when it comes to spending taxpayer money. Whether it is the first month or the last of the fiscal year, they are all important and we would not be fulfilling our role if we ignored anything residents ask about.

Lastly, you speak about a resident that has demonstrated a pattern of questioning. Every resident of this town has the right to attend or not attend our meetings and bring forth questions they have. I think that it might be helpful for you to review previous tapes concerning your comment about a resident that demeans the sexton. Personally, I recall that the sexton has always been praised for the work she has done and never been demeaned. If you wish to make comments like this please have factual information to back it up. The sexton has not been targeted in my opinion.

Residents may question the role that board members have, but it is clearly spelled out in our roles and responsibilities as listed here:

Responsibilities of the Select Board fall into 4 general categories:

1. Oversight of Town finances;
2. Protection of health, safety and welfare of Town residents;
3. Management of Town property and personnel
4. Management of relations with contractors, with external agencies, and with the public.

While most of the tasks associated with these responsibilities will be delegated to others (typically the Town Manager), the ultimate responsibility remains with the Select Board.

*Steve Key*

July 28, 2014

Re: Response to Karen Peterson letter dated July 23, 2014

From : Sue Reay, Select Board Chair

Now I wish to respond to a letter I received from Karen Peterson. I watched the meeting again and I will say that Mr. Moran did state that during a meeting you told him to shut up and when this happened I stopped that from continuing. Mr. Moran stated he was sorry if said something he shouldn't and would keep the conversation respectful. Mr. Moran made the following statements during his interview:

1. The cemeteries have really come along way in the last few years.
2. Cemetery Committee has a lot of work to do.
3. Guaranteed taxpayers have been generous but there is still much work to be done.
4. I was in a couple of cemeteries today and noted that there are improvements that can be made in both East Readfield and Church Road.
5. He will persist in trying to upgrade, fences need mending other than that we keep doing what we have been doing over the past years.
6. Some of the cemeteries have been neglected and some have received more attention than others.

The last comment you took away the feeling he stated some cemeteries had not been maintained at all. In the above sentence he states neglected but also that some cemeteries received more attention than others. I do not see this statement as being something that was a statement of lack of attention to all but two.



July 28, 2014

Re: Response to Pete Davis question at June 30, 2014 select board meeting and e-mail on 7/23/2014

From : Sue Reay, Select Board Chair

Third, I wish to respond to an e-mail I received from Pete Davis. As you are well aware, we do not have to produce documents or information that doesn't currently exist per our FOAA policy. As a previous board member I am sure that you have seen past legal bills and know that they do not have the details you are looking for.

I share your concern regarding the amount of dollars being spent on legal fees and have requested that the invoicing going forward be more detailed. Since we all have the same concern and do not want to spend money on more legal fees if it can be avoided we would have to have a better understanding of why you feel this should be done.

A handwritten signature in cursive script, appearing to read "Sue Reay".



## TOWN OF READFIELD

8 OLD KENTS HILL ROAD • READFIELD, MAINE 04355  
Tel. (207) 685-4939 • Fax (207) 685-3420  
Email: [Readfieldfdcem@roadrunner.com](mailto:Readfieldfdcem@roadrunner.com)

Sue Reay,  
Chairman  
Readfield Select Board

July 23, 2014

Dear Sue:

This letter is in response to comments made by John Moran regarding the Town of Readfield cemeteries during the Select Board meeting of June 16, 2014.

Much of Mr. Moran's statement included incorrect accusations about my performance as the Cemetery Sexton. The negative accusations were corrected by me during the meeting and so will not be addressed again in this letter.

Instead, I will address Mr. Moran's assertion that all but two of Readfield's cemeteries, the Corner and East Readfield, have received any attention. This statement is completely false. Since becoming Cemetery Sexton in 2006, every one of Readfield's seven cemeteries has had restoration efforts conducted.

Here is a brief overview: Kents Hill Cemetery had a number of headstones repaired from vandalism and every stone in the older section was straightened and cleaned; Case Cemetery has had cleaning and straightening restoration done; dangerous trees have been removed from Case, East Readfield, Whittier, Dudley Plains and the Corner cemeteries; Readfield Corner Cemetery has had three smaller-scale restoration efforts; The mausoleum doors were replaced at both East Readfield and the Corner cemeteries; two crypts in the Corner Cemetery were repaired; the crypt in Huntoon Cemetery and some headstones there had extensive restoration done; Whittier Cemetery has had stones straightened; a new gravel road was built in Kents Hill Cemetery; new signs were installed in each cemetery; Dudley Plains Cemetery has had a new picket fence installed and every stone was repaired or straightened. The marble stones in this cemetery were also cleaned.

Cemetery maintenance has a lot in common with home maintenance. Both require ongoing and sometimes repetitive work. The house that was painted five years ago may need re-painting just like headstones straightened a few years ago may need it again. Other stones that looked straight and level one year may not be so level years later. As your Cemetery Sexton, I am fortunate most people in Readfield recognize this through the budget approval process, and continue to support the efforts year to year.

Thank you for this opportunity to clarify the public record.

Respectfully submitted,

Karen Peterson,  
Cemetery Sexton

Cc Grace Keene, Cemetery Committee Chair  
Robin Lint, Town Clerk

**Date:** Wednesday, July 23, 2014 4:24 PM  
**From:** Sue Reay <selectboard.sr@ne.twcbc.com>  
**To:** Pete Davis <vetpete@aol.com>  
**Cc:** Robin Lint <readfield.clerk@roadrunner.com>, readfield.tmgr@roadrunner.com  
 <readfield.tmgr@roadrunner.com>, Greg Durgin <selectboard.pgd@ne.twcbc.com>  
**Subject:** Re: Legal Fees

Pete,

After looking over the FOAA request materials that you received, that is what we have in full for invoices pertaining to legal fees. The only invoice we have not received is the one for June. When we get that, I will make sure you get a copy. We do not have anything more itemized than what you have already received.

Thanks

Sue Reay

This electronic mail message and any attachments hereto, as well as any electronic mail message(s) that may be sent in response to it, may be considered public records, and may therefore be subject to public record requests for review and copying under Maine's Right to Know Law (Title 1, §401-§521 of the Maine Revised Statutes).

----- Pete Davis <vetpete@aol.com> wrote:

Dear Sue

Thank for your letter.

Please itemize the total for the legal cost that you gave me (\$8096.34) and separately include any new legal costs incurred to June 30, 2014 for the Union non-fighting response and the total of legal expenses for 2013. Also I am waiting for the itemization of the legal costs for the Reay Construction suit against the town or the town employee(s).

Thank you  
Pete Davis

-----Original Message-----

**From:** Sue Reay <selectboard.sr@ne.twcbc.com>  
**To:** vetpete <vetpete@aol.com>  
**Cc:** readfield.tmgr <readfield.tmgr@roadrunner.com>; Robin Lint <readfield.clerk@roadrunner.com>  
**Sent:** Mon, Jul 7, 2014 10:41 am  
**Subject:** Legal Fees

Pete,

Concerning your question about the total spent on legal fees, this is the breakdown that Stefan gave to me from Lee Bragg's office on all accounts from July 1, 2013 thru 6/10/2014, so that I had this information for town meeting.

Bond-Which is under road reconstruction not legal	\$ 3012.50	
Legislation		\$
672.50		
ACO		\$
5211.26		
Maine Human Rights complaint		\$
Union	\$ 5822.66	
8096.34		\$

General-Which includes complaint about our company that you asked about, plus various other

issues/complaints, etc.  
5403.50

§

Legal budget for the year was \$ 17,500.00  
Overdrawn right now at \$ 7,706.26

I received a copy of your FOAA request dated June 5th which was prior to the numbers I received on June 10. Yours included a May invoice that had not been approved and paid yet, my numbers for June 10 did not include this invoice.

I have placed copies of all totals of what I received on June 10th in your mail box.

Hope this clarifies the numbers I stated. There are still a few corrections I found in your FOAA request that I will bring to the attention of Stefan.

Thanks--  
Sue Reay

This electronic mail message and any attachments hereto, as well as any electronic mail message(s) that may be sent in response to it, may be considered public records, and may therefore be subject to public record requests for review and copying under Maine's Right to Know Law (Title 1, §401-§521 of the Maine Revised Statutes).

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Sue Reay  
Select Board Chairperson  
Readfield Town Office  
8 Old Kents Hill Rd.  
Readfield, Maine 04355

RECEIVED  
JUL 23 2014

July 23, 2014

Dear Sue,

Although we are members of the Cemetery Committee, we write this joint letter as Readfield residents. At the July 15th Select Board Meeting, a resident spoke during Public Communication concerning the full time employee who may have been mowing the cemeteries on a weekend. He was concerned that the full time status of this employee was costing too much overtime which was not a good use of tax payer dollars.

First, we thank you for your answer of working with the Town Manager to determine if overtime expenses were appropriate. To us, your answer should have been the end of the matter and was certainly not "lame". The system for mowing has been in place for several years and the salary line has never been over budget because of employee overtime. There is precious little room for expensive overtime costs in the approved 2015 budget either.

Second, it is our understanding that it is the Select Board's role to establish policy, and to not administer day to day operations. We believe that employee work schedules fall into the category of day to day operations which falls under the role of the Town Manager. If the costs are within the budget approved at the Town Meeting, it would seem that this is not an issue for the Select Board at this time.

Third, the first month of the fiscal year has not ended, and yet this resident's concern rises to a level of importance that a Select Board member will be "looking into it" as stated by Select Person Dunham. We know that the Select Board can do this, but given that the first month of the budget season has not ended, it does seem premature to explore the issue.

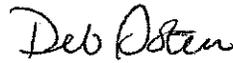
Lastly, over the years, the resident who spoke last week has demonstrated a pattern of questioning, and publicly demeaning, the employee who serves as Sexton. It is our sincere hope that this pattern targeted to one hard working, well respected employee in the role of Sexton, or other job duties related to this person's employment, will not emerge this year.

Thank you for your consideration to our thoughts. We will look forward to working in cooperation with you over the next year.

Sincerely,



Grace Keene



Debora A. Doten

Cc: Greg Durgin, Val Pomerleau, Tom Dunham, Allen Curtis, Robin Lint, Stefan Pakulski

#### 4. Town Manager

Phase Converters sold: Gerry Mason paid the Town \$800 for both units, which was a price the Select Board indicated would be acceptable in negotiations.

Library repairs: Tom Dunham and the Town Manager will provide an update on proposed repairs for the library that could be the basis for an RFQ for services and deciding if some work could be done by Town employees.

Roadwork updates: McGee Construction delivered gravel for the road shoulders project. D.R. Caron Excavation tentatively will start installing this material on four roads on September 22<sup>nd</sup>. Cushing Construction will begin maintenance on several roads this week. Pike's paving of Chase, Mooer, and Old Kents Hill Roads will follow the maintenance work. Grip-Wet Sealcoating also will apply crack sealing on several roads in the next few weeks.

Transfer Station gate: The main gate reportedly was left unlocked and partially open for some period over the Labor Day weekend. No one notified any Town employees though until after the weekend. No evidence of any theft or damage was found, but reportedly several vehicles entered the site presumably to dispose of different materials. Investigation so far has not revealed who might have opened the site. This could be another instance supporting the merit of security cameras on site.

Town truck interest: Despite no calls about the Transfer Station gate over the Labor Day weekend, there were several calls to Town employees and much searching by some residents regarding the location of a Town truck. The truck was safe and secure on Town property where it had been parked at the end of work prior to the weekend.

EOP meeting: The EOP Committee will meet at 3:00 PM on Wednesday, September 10, 2014 to review preparations for the major training event with KCEMA on the evening of September 17, 2014 at Maranacook High School.

# AndroscogginBank

RECEIVED  
SEP 02 2014

September 1, 2014

Stefan Pakulski  
Town of Readfield  
8 Old Kents Hill Rd  
Readfield, ME 04355-4126

Dear Stefan,

It is with mixed emotions that I write to inform you that I am retiring from Androscoggin Bank on October 3<sup>rd</sup>.

I have been active in financial services since July 1, 1970. As you can imagine, over the past five decades, I've had the opportunity to witness incredible change in the business of banking. I have been fortunate to be a change agent for most of my banking career and have worked for a series of outstanding banks, with outstanding people, both customers and colleagues.

I will miss them, and you. But it is time.

As a Lewiston native, I am proud to be finishing my career with a great bank that went into business, in my home town, 100 years before I joined the banking industry. Androscoggin Bank is truly the best bank I have worked for. You are in great hands with the people of Androscoggin Bank.

You'll be pleased to know that the team that serves you is well trained, very capable and offers great service, innovation and the safety of your assets as their top priorities. You will be hearing from your new account officer shortly.

Thank you for your business over the years. You have meant so much to me.

Sincerely,

*Bob*

Robert D. Stone



## **5. Boards, Committees, Commissions & Departments**

- a. Trails Committee minutes  
Please see the attached sets of minutes.

Also, note that the Trails Committee Chair, Milt Wright will attend the Select Board meeting on September 22, 2014 to discuss several items:

- a new trail naming request,
- a possible date for the Trails Committee and Select Board to review the proposed Morrill Rd trail, and
- an initial review of the Trails Committee's request for a Town Meeting warrant article to authorize trails easements.

Background materials on these items will be sent to the Select Board in advance.

May 27, 2014 Trails Committee Meeting Minutes

Present: Milt Wright, Romaine Turyn, Henry Laidlaw, Nancy Buker, Rob Peale, Lydia Adelson, Gary Keilty, Jeannie Harris, Robert Harris, Karen Peterson  
Excused Absent: Ann Keilty  
Visitor: Andrews Tolman

Meeting called to order at 6:30 PM by Milt Wright, Chair.

Update on Luce Farm History Walk: The Luce family had been there for six generations. Mr. Tolman described how his property borders the Luce Farm area and his interest in creating a trail between them, probably near a swampy area on the Tolman property.

Possible Tolman property Trail: Andrews Tolman has between 85 and 100 acres and has developed trails there for his family's personal use. He wants to formalize the trails now and allow public use. The existing personal trails are near a swampy area and are better in winter because less wet. Mr. Tolman wants to determine if the Trails Committee has an interest before he approaches his neighbors with the proposal. A site visit will be held June 5, 2014, beginning at 6:00 pm. The Tolman house is at 183 North Road.

Update on the Library/Union Meeting House Trail: The five stumps present after the recent tree removals were ground out by Dave Linton, who did the work for no charge. The family that bought the former Tedrick house has put up a fence for their dogs. The family also expressed gratitude for the removal of branches from some of the UMH's hemlocks that hung over their property. The branches were cut by a UMH Board member and removed. Some discussion on a general use liability indemnification between the Readfield Recreation Trustees and Mr. Al Parks, owner of the former Lion's Club ball field used by the Town. Milt has asked the Town Manager for the exact language but not yet received it. The Trail Agreement will be for a ten year period, if it proceeds.

Update on Fairgrounds granite bench and other issues: The donated bench will be installed on Thursday, May 29, 2014 on the Lower Fairgrounds Trail. The Trails Committee will need to add some blue stone for a small path between the bench location and the main trail.

Some flagging has appeared near Kris Olson's house. It is unknown who put it there and why. Perhaps the flagging was done by Maranacook students?

The Conservation Commission planted some buffer trees beside the McDougald Trail to prevent people cutting across the private property of the current McDougald house owner.

The Conservation Commission also planted some buffer trees by Kris Olson's property to deafen sound and discourage trespassing.

The Fairgrounds parking area will soon be built by John Cushing who has already begun staging some of his equipment there. The Planning Board may approve a larger size parking area to accommodate busses turning around.

The Conservation Commission may use the Fairgrounds pulling stones along some of the trails instead of putting them around the parking area, according to Dan Meyer, Chair of the Conservation Commission.

Update on National Trails Day guided tours of the Fogg Farm Conservation Area: The Harris's will conduct the 9 am tour; the Keilty's at 10 am; and Milt and Romaine at 11 am. Milt will advertise the guided tours in the May and upcoming June issues of the Messenger.

The broken boards found on the footbridge have been repaired.

Pete Davis is considering logging some of his Fogg Farm property, so the Trails Committee will need to be careful making sure trails stay close enough to streams like Tingley Brook, following resource protection area guidelines.

Review of remaining current fiscal year funds: A discrepancy exists between the amount reported by Milt and what the Town indicates. It's due to the funds donated for the bench (\$450) and reconciling that donation.

Update on site visit to Echo I KLT property: This will be coordinated with the Land Trust steward and be held on June 16, 2014 at 6:30 pm. Meet at the Torsey Pond Nature Preserve parking lot.

Update on McDougald Trail Dedication: It may be held on June 20, 2014, as that date corresponds with an old Readfield school's reunion. Also, many remaining McDougald's will be in the area then. The plan is for a tour of the Fairgrounds complex trails after the reunion ends.

Update on Drake Trail proposal: Nothing has changed.

Discussion on Town Meeting: During Workshops, the Budget Committee and the Select Board approved the FY 14/15 Trails Committee request of \$4985. After that approval, one Select Board member tried to question the request.

Other Business: The Morrill Road trail can't begin until budget is approved at Town Meeting. The item will be put on the June meeting agenda.

The Bolz property is pending sale, so the proposed trail there will not be built. Perhaps the new owners will be approached by the Trails Committee at a later date.

Brian Tarbuck, Director of the Greater Augusta Utility District, has not provided any further information on public access to the Greater Augusta Water District property in East Readfield.

Meeting adjourned at 8:20 pm.

Respectfully submitted,  
Karen Peterson

## June 24, 2014 Trails Committee Meeting Minutes

Present: Milt Wright, Romaine Turyn, Henry Laidlaw, Nancy Buker, Rob Peale, Lydia Adelson, Ann Keilty, Gary Keilty, Jeannie Harris, Robert Harris, Karen Peterson Excused Absent:

Visitors: Christine Sammons, Andrews Tolman

Meeting called to order at 6:33 PM by Milt Wright, Chair.

Introductions made.

Tolman property site visit: Lydia reported the proposed trail was a "very generous offer" by Susan and Andy Tolman. It's a beautiful site with open trails that were former logging roads. The group went to the bog area and came back around the other side. Parking on Town property by the old landfill would be required to access the bog trail.

Adjoining property owners would also have to give their approval since the proposed trail crosses portions of their land: Woody and Jan Tarbuck, Barbara Bright, one new resident and the Town.

There was some discussion of the possibility of connecting to existing snowmobile trails off the Barber Road.

There was also discussion of the work required if a year-round trail is planned. Approximately 50' of bog bridging would be needed.

Some discussion on forming a committee to explore whether this trail would be possible. Topics would include landowner contacts, cost assessments, and community interest. Romaine Turyn made Motion to explore the possibility of a trail between the Tolman's and the old landfill. Seconded by Rob Peale.

Passed unanimously.

Administration: Rob Peale prepared the April 2014 Trails Committee Meeting Minutes. Ann Keilty made Motion to accept. Seconded by Jeannie. All present approved except for one abstention, Karen Peterson.

Update on KLT Echo I Site Visit: A trail was blazed by Howard Lake. It goes in a short distance to a bog, then returns. Another trail was flagged that extends what Howard marked, and it goes to a stream overlooking the bog. Rob Peale said it's a good birding area. If the trail is kept in an unimproved state, it won't cost much to build it.

Romaine asked if this trail could connect with the Maine Farmland Trust (former Kents Hill Orchard) property. Milt thought the connecting property was too wet for trail purposes.

Milt talked with Nicole Rhodes of KLT about use of either Echo I or II properties. Milt will keep her informed of Trails Committee decisions regarding the properties. Rob Peale believes it would be a relatively simple trail to mark out. Romaine made Motion to have Trails Committee empower Rob Peale to go to the Echo I and II properties and scout out potential trails. Seconded by Ann Keilty and Motion passed unanimously.

Town Meeting Update: The budget requested by the Trails Committee was approved at Town Meeting. Rob Peale believes we also need to focus on trails that won't require lots of money to build or maintain. It is also important to capture the efforts of volunteers—who did what, when and for how much time. Romaine suggests putting up signs in the Fairgrounds stating the trails were built by volunteers. Nancy will put signs up at the kiosks that say the trails were built and maintained by volunteers and the Trails Committee.

McDougald Trail Dedication Report: Milt went to the Small Schools' Reunion at the Emporium, where some McDougald family members were expected to participate. None were there so the dedication did not happen.

Factory Square Plaque Update: Milt described how the Little Town Club had two plaques made to honor the historical significance of the Giles Road bridge and the Factory Square footbridge. It seems kids used to hang around the footbridge and party. The plaque was thrown in the stream twice and finally removed for safekeeping. No one recalled where it was until it was found in the Town vault. Dale Potter Clark and Evelyn Potter are hoping the plaque can be re-installed. Gary and Ann suggested having Dale and Ev participate, since they are de-facto Town Historians.

Trails Committee Priority List: Some discussion on more Fairgrounds area work, the Library/Union Meeting House trail, the Factory Square trail, and the Morrill Road trail. These last three items were included in the recently approved budget request at Town Meeting.

Milt asked all present to bring their priorities to the July meeting.

Nancy wants to add Fogg Farm Conservation Area to the list of priorities. More markings are needed, small stumps throughout trail should be removed, and surfaces should be made more even for walking.

Fairgrounds Complex Update: Gary will begin working there this Friday, from 9 AM until 3 PM. He'll have his tractor and, hopefully, be joined by other tractor operators. The plan is to put more bluestone on the cemetery spur trail within the cemetery itself, add more cover to the McDougald Trail, and try to improve the drainage in the area near Kris Olson's property.

David Erb, Ball field Committee, has agreed to reimburse the Trails Committee for materials bought to improve Fairgrounds drainage problems caused from construction of the new ball field. An email from Dan Meyer, Chair of the Conservation Commission, also stated the Ball field Committee will pay \$372.30 for installation of the required culvert.

A Permit by Rule may be needed for work to resolve some of the drainage issues.

GeoTech fabric and bluestone will be put down by the new granite bench.

National Trails Day Report: All agreed Romaine's daughter did a great job designing the advertising poster.

Rob and Jeannie Harris conducted the 9 AM tour, with four persons. Gary and Ann had one for the 10 AM tour, and Milt had one for the 11 AM tour.

Construction Projects Update: The question of existing liability language used by the Town for other private/public property agreements was clarified. The Lion's Club ball field owner, Al Parks, never signed a written agreement with the Town. It was a word of mouth agreement only.

Trails Committee Recruitment: Two vacancies currently exist. There is one Alternate member vacancy.

Meeting adjourned at 8:36 PM.

Respectfully submitted,  
Karen Peterson

## July 22, 2014 Trails Committee Meeting Minutes

Present: Milt Wright, Gary Keilty, Ann Keilty, Lydia Adelson, Romaine Turyn, Henry Laidlaw, Rob Peale, Chris Sammons, Karen Peterson

Excused: Jeannie Harris, Robert Harris, Nancy Buker

Visitor: Andrews Tolman

Meeting called to order at 6:30 PM by Milt Wright, Chair.  
May and June 2014 Minutes tabled until August.

Annual Election: The Officers are Chair, Vice-Chair and Secretary. Milt Wright nominated for Chair by Karen, seconded by Henry. Unanimous vote. Gary Keilty nominated for Vice-Chair by Ann, seconded by Milt. Six in favor, one abstention. Karen Peterson nominated for Secretary by Lydia, seconded by Chris. Six in favor, one abstention.

2013/2014 Trails Committee Budget: Milt reported all money appropriated was spent. In fact, an additional \$.52 was spent. Milt proposed the future purchase of a heavy duty sapling and weed whacker for approximately \$400.

Update on proposed Tolman Trail: Andrews Tolman reported he has made progress talking with his adjoining neighbors. One neighbor would like the access to be from the southern portion, using the former Transfer Station gate. A third neighbor, recent residents, haven't been directly spoken with yet. Now the issue will be whether the Town wants the public accessing the Trail from the former Transfer Station site.

Milt suggested this Trail be considered for next Fiscal Year, if plans proceed. The details involving adjacent landowners and possible costs associated with its development will need more time. All present thanked Andrews for his efforts.

KLT Echo I property: Rob will report at a later date.

Update on the Non-Resident Summer Meeting: Milt attended as Chair to represent the Trails Committee. He was asked to describe the Trails and received positive comments about them. Other issues discussed were Fireworks, Heritage Days, Union Meeting House programs, RSU 38 Budget process, the Town mil rate, Planning Board Hearings with out of state abutters, and whether to have Sunday hours at the Transfer Station.

Update on Fairgrounds property: Gary reported Bob Harris used a chainsaw and cut four trees down. Also, many Trails Committee members raked near the junction of trails and parking area. Lydia, Hank and Jeannie worked to finish the area around the granite bench, putting fabric down and hauling and distributing bluestone. Gary also talked with Jerry Bley, of the Conservation Commission, about plans for the old fill piles created when the Church Road was rebuilt. Jerry updated Gary on the RSU #38 Trail—John Cushing was awarded the bid to finish the Maranacook portion for \$30,000. Completion is anticipated to be by mid-August 2014.

Factory Square plaque installation: Gary and Ann put the plaque back up. It was reported the area was mysteriously weed whacked.

Update on Library/Union Meeting House Trail: The Union Meeting House Trail Agreement was signed by Marius Peladeau, Board President, and Milt. The Town Clerk then informed Milt the Agreement had to also be approved by the Select Board. Milt asked the Town Manager to clarify whether the approval was needed, and it will be referred to Legal Counsel. The project will be on hold until then.

Update on Planning Board Land Use ordinance changes: Milt distributed copies of two changes that could affect trails in shore land areas. There was some discussion on interpreting the changes.

Membership Update: Chris and Lydia have three year terms. Three members' terms expire on June 30, 2015—Rob Peale, Romaine Turyn and Milt.

Other Business: Chris asked whether there were any Rules for using the Trails. There are none. Milt was forwarded an email from Dan Meyer, Conservation Commission Chair, to Teresa Kerchner, of the KLT, regarding mapping of the Trails.

Next Meeting will be August 26, 2014.

Meeting adjourned at 8:01 PM.

Respectfully submitted,  
Karen Peterson, Secretary

# TOWN OF READFIELD

## APPOINTMENT APPLICATION

The Select Board shall not discriminate against an applicant based on religion, age, sex, marital status, race color, ancestry, national origin, sexual orientation or physical or mental disabilities. The Select Board may exclude from consideration any applicant with physical or mental disabilities only when the physical or mental handicap would prevent the applicant from performing the duties of the appointment and reasonable accommodation cannot be made.

The Select Board shall have final authority over the appointment of citizens to Boards, Committees and Commissions that are instruments of Town Government. The Select Board shall not appoint an applicant to a position for which the applicant will likely have a frequent or recurring conflict of interest.

Please check one:  1<sup>st</sup> time appointment  re-appointment

Which Board, Committee or Commission

are you applying for?

Recreation Committee

Name: Carrie Knight Phone (H): 207 685 0000

Street address: 97 Old Kents Hill Rd Phone (C): 207 332 6522

Mailing address: Readfield me 04355

E-Mail: CarrieKnight@hotmail.com

Below please tell us of any experience and/or training that might be useful in this position.

Spent many years as camp counselor and Sunday school teacher, have 3 kids and volunteer for many events

Below please tell us the reason you are interested in applying for this position.

3 kids in elementary school and want to help bring fun events and activities to town

If you are currently employed, what is your position?

stay at home mom

APPLICATION FOR APPOINTMENT FOR:

Name: Carrie Knight Position Rec Committee Term: 2 yr

CLERK'S USE BEFORE THE APPOINTMENT

Open position Recreation Board Term: 8-11-14 - 6-30-16

Was this position advertised?  Yes  No If no, please explain: \_\_\_\_\_

Is there a recommendation attached?  Yes  No If no, please explain: \_\_\_\_\_

I feel Carrie would bring a lot to the board. She has two young kids in the school system and she helped us last year with the Halloween Party when she had just moved in to town. Very nice family.

Thank you,

Kathleen Dupont

CLERK'S USE AFTER THE APPOINTMENT

Chair has been notified of appointment?  Yes  No If yes, what date: \_\_\_\_\_

Is an Oath appropriate:  Yes  No If yes, what date: \_\_\_\_\_

SELECT BOARD APPOINTMENT

To Carrie Knight of Readfield, in the County of Kennebec and State of Maine: There being a position on the Recreation Board of Trustees, we the Select Board of the of Readfield do, in accordance with the provisions of the laws of the State of Maine, hereby appoint you to said position within and for the Municipality of Readfield, such appointment to be effective:

8-11-14 thru 6-30-16. Given under our hand this 11, day of Aug., 2014.

Sue Reay P. Greg Durgin Thomas Dunham Valarie Pomerleau Allen Curtis

**7. Select Board Liaison Policy – 2nd reading**

Please see the second draft below of this policy, as prepared by Greg Durgin following comments from the first reading on August 25, 2014:

Select Board Liaison Policy (Draft 2)

The Readfield Select Board may appoint a select board member or a community resident as a liaison to any standing or ad hoc committee at the board's discretion. The appointments shall be made on a yearly basis at the first meeting of the Select Board in July. For any ad hoc committee formed throughout the year, the Readfield Select Board may appoint a select board member or a community member as a liaison.

*Overview*

The role of the liaison is to provide understanding of the purpose, goal(s), and objective(s) of the committee. Since the role is designed to be advisory in nature, the liaison is not appointed or expected to be a voting member of the committee.

*Opening Channels of Communication*

- ⑩ Attend all committee meetings per our appointments and procedures policy
- ⑩ Contact the committee chair through email, phone calls, or other means
- ⑩ Report committee activities to the select board as needed
- ⑩ Provide feedback to the committee from the select board

*Support for the Committee's Administrative Duties*

- ⑩ Assist the committee by reviewing the purpose, goal(s) and objective(s) as needed
- ⑩ Assist the committee by reviewing any appropriate budget
- ⑩ Assist the committee in an appropriate manner in contacting either town departments, personnel, or other committees when needed

.....

If approved in this format, a clean copy will be available at the meeting for the Select Board to sign.

## 8. Maranacook Lake Outlet Dam (MLOD) hydrologic RFP

*Please see the attached RFP for a hydrologic study for the MLOD. Local representatives of the MLOD Committee will attend the meeting to discuss this as needed with the Select Board. The cost of the study would be shared with Winthrop, according to the Interlocal agreement for the dam. The RFP must be approved by both the Readfield Select Board and Winthrop Town Council.*

### REQUEST FOR PROPOSALS MARANACOOK LAKE WATERSHED HYDROLOGIC STUDY

#### TOWNS OF READFIELD AND WINTHROP, MAINE MARANACOOK LAKE OUTLET DAM COMMITTEE

The Towns of Readfield and Winthrop, Kennebec County, Maine, are soliciting proposals for a hydrologic study of the Maranacook Lake watershed, to be conducted for the Towns' Maranacook Lake Outlet Dam Committee.

#### **Background**

Maranacook Lake is a 1700 acre lake located in the Towns of Readfield and Winthrop, Kennebec County, Maine. The Maranacook Lake Outlet Dam is jointly owned by both Towns and is located adjacent to 97 Bowdoin Street, Winthrop, Maine. The Dam is a concrete structure consisting of two spillways and one gate. The Towns have authorized the Maranacook Lake Outlet Dam Committee as their representatives charged with making recommendations to the Towns regarding maintenance needs, including structural modifications to the dam. The Cobbossee Watershed District is the local water level management authority for Maranacook Lake and is represented on the Committee. In recent years the lake level has risen above full pond too often and for too long a duration.

The Committee is seeking information needed to advise the Towns on options for modifying the dam to increase outflow in order to achieve water level goals. A hydrologic study of the Maranacook Lake watershed is the first step in understanding lake level response to precipitation events given the current configuration of the dam, and in predicting different lake responses from hypothetical dam alterations.

#### **Project Timeline**

- Pre-proposal site visit at Maranacook Lake Outlet Dam is **Thursday, September 18, 2014 at 10:00 a.m.**
- Questions due September 23, 2014.
- Proposals due at Winthrop Town Office, **September 26, 2014 at NOON.** (see 'Submittal Requirements' section).
- Proposals opened at Winthrop Town Office, **September 29, 2014 at 3:00 p.m.**

- Proposals reviewed by the Committee at Winthrop Town Office, October 1, 2014 at 10:00 a.m.; recommendations made to Towns of Readfield and Winthrop on October 1, 2014.
- Proposals, with recommendations, considered for approval October 6, 2014, by Town of Readfield Select Board (6:30 p.m.) and Town of Winthrop Council (7:00 p.m.); subsequent dates, if necessary, October 20, 2014 Readfield Select Board and November 3, 2014, Winthrop Town Council.
- Contract signed within 7 days of governing bodies' approval.
- Final Hydrologic Study products due December 31, 2014.

#### **Available Site-specific data to be used in hydrologic model development**

- The Cobbossee Watershed District has been measuring and recording Maranacook Lake surface elevation since 1975 at the lake outlet just upstream of the Maranacook Lake Outlet Dam. Elevations are measured with a U.S. Geological Survey wire-weight gage and are in feet above sea level based on NGVD 1929. Frequency of measurement varies, with greater frequency (one or more per week) in recent years. Data from relevant time periods must be used to develop and calibrate the hydrologic model.
- The Cobbossee Watershed District (CWD) collects precipitation, which is measured five days a week (weekend accumulations are measured on Monday), at the CWD office in Winthrop, located 0.25 miles from the dam. CWD precipitation data for selected storms will be used to produce hydrographs for comparison to recorded water level data for developing and calibrating the model. The model will also be developed using design storms selected by the Committee as well as standard hydrologic design storms.

#### **Scope of Services**

1. The goal of the study is to provide the Committee with the necessary information to guide decisions on making structural changes at the dam to increase outflow capacity and improve dam operation capability, in order to achieve lower lake levels from extreme events, as well as other goals such as drawdown capability.
2. The hydrologic study will include developing a customized hydrologic model to determine water inflow to the lake and show the resultant lake levels and duration of levels above target levels, given the current configuration of the Maranacook Lake Outlet Dam. The outflow deficiency of the current dam will be calculated. The model will be calibrated using existing precipitation and lake level data from prior selected events. The model will then be applied to other hypothetical dam configuration scenarios to evaluate the likelihood of achieving water level goals from such potential modifications to the dam structure.
3. Development of the model and evaluating its results will be a collaborative effort between the contractor, the Maranacook Lake Outlet Dam Committee (the Committee), and the Cobbossee Watershed District (CWD). The contractor will consult with the Committee during the study regarding the Committee's target lake level during different

seasons and the hypothetical dam configurations to consider. The contractor will consult with the CWD regarding the most relevant past storms and water level conditions to evaluate. In addition to telephone and e-mail communication during the study, the contractor will meet with the Committee once during the study.

4. Typical design storms of 1, 2, 5, 10, 25, 50, and 100 year events should also be evaluated.
5. The model will include data from the upstream Torsey Pond watershed, including water level and dam operation data.

### **Deliverables**

Deliverables are **due December 31, 2014**.

1. A calibrated model of the Maranacook Lake watershed including all digital model files.
2. A written report describing:
  - a. the model development process and methods;
  - b. the study's findings, including specific data results, with regard to modeled storms' impact on water levels with the current dam;
  - c. the study's findings, including specific data results, with regard to modeled storms' impact on water levels with hypothetical dam modifications;
  - d. recommendations for the Committee to evaluate future modifications to the dam structure;
  - e. instructions and guidance for the Committee's use of the model after the study is completed.

### **Site visit**

1. All proposers should inform themselves of the Maranacook Lake Outlet Dam. The Towns disclaim any and all responsibility for injury to Proposers, their agents or others while examining the sites or at any other time.
2. Interested Proposers are invited to meet with representatives of the Committee at the Maranacook Lake Outlet Dam adjacent to 97 Bowdoin Street, Winthrop, Maine on Thursday, September 18th at 10:00 a.m. Parking is available across the street from the dam at the Norcross Point public use area on Bowdoin Street, Winthrop, Maine.
3. Proposers may contact the Committee to discuss the possibility of meeting at the site at an alternate date.

### **Submittal Requirements**

1. A written narrative that addresses the above-stated Scope of Services and includes:
  - a. a description of the proposed technical approach, including but not limited to the type and source of data and type of software to be used to develop the model, including collaboration with the Committee and the Cobbossee Watershed District;
  - b. a description of the final products;

- c. cost;
  - d. personnel or company qualifications, including relevant experience.
2. The proposal must be signed by the Proposer with its full name and address.
  3. Each Proposer is required to state in its Proposal: the Proposer's name and place of business and the names of persons or parties interested as principals with it; that the Proposal is made without any connection with any other Proposer making any proposal for the same services; and that no person acting for or employed by either Town is directly or indirectly interested in the Proposal or any agreement which may be entered into to which the Proposal relates or in any portion of the profits therefrom.
  4. **Proposals are due by Noon on Friday, September 26, 2014.** Proposals must be submitted in sealed envelopes marked as PROPOSAL, Maranacook Lake Watershed Hydrologic Study, to Jeffrey Woolston, Town Manager, at the Winthrop Town Office, 17 Highland Avenue, Winthrop, Maine, 04364. No faxed or emailed proposals will be accepted. Proposals received after this scheduled time shall not be considered.
  5. Proposals will be opened at 3:00 p.m. Monday, September 29th at same location. All proposers are welcome to attend the public opening.

#### **Acceptance/Rejection**

The Towns reserve the right to reject any or all proposals.

#### **Other Requirements**

1. Proposers are responsible for all of their costs in preparing and submitting proposals hereunder. No Proposals may be withdrawn within a period of thirty (30) days after the opening of proposals.
2. The successful Proposer shall be required to sign an agreement substantially similar to the Town of Readfield's standard Services Agreement, a copy of which is attached as Exhibit 1. Before commencing work under the Services Agreement, the successful Proposer shall produce evidence satisfactory to the Town of insurance coverage and personal property tax payment as required in Exhibit 1.
3. All Services to be furnished to the Towns shall be performed with equipment, methods and use of personnel in accordance with the pertinent Occupational and Safety and Health Act requirements of the State of Maine and the United States.

#### **Contact information**

Questions should be submitted to:

Wendy Dennis, Chair, Maranacook Lake Outlet Dam Committee

[cwd@fairpoint.net](mailto:cwd@fairpoint.net)

207-377-7111

Date: September 9, 2014

EXHIBIT 1.

SERVICES AGREEMENT

MARANACOOK LAKE WATERSHED HYDROLOGIC STUDY

THIS AGREEMENT is made this \_\_\_\_\_ day of October, 2014 by and between the Towns of Readfield and Winthrop, municipal corporations existing under the laws of the State of Maine and located in the County of Kennebec, State of Maine (hereinafter "TOWNS") and \_\_\_\_\_ (hereinafter "CONTRACTOR").

The CONTRACTOR shall furnish all of the services, materials and perform all of the work as described in the Request for Proposals for Maranacook Lake Watershed Study issued September \_\_, 2014 by the Town Managers, and shall do so in accordance with the Contractor's Proposal dated \_\_\_\_\_, 2014.

The CONTRACTOR must maintain liability insurance, in the amount of \$400,000 per occurrence, for personal injury, death and property damage claims which may arise from operations under this agreement. The CONTRACTOR shall provide evidence of insurance or financial resources sufficient to satisfy the requirements of the Workers' Compensation Act.

The CONTRACTOR will provide to the TOWNS a Certificate of Insurance naming the TOWNS as additional insureds prior to the start of any work under this agreement. The TOWNS disclaim any and all responsibility for injury or damages to the CONTRACTOR, its agents, or others at any time during this agreement.

The CONTRACTOR must be current in personal property tax payments to the respective municipality where the firm is located or provide a letter from the municipality stating the CONTRACTOR is in good standing related to tax payments.

The CONTRACTOR agrees to abide by the Town of Readfield's prohibitions against workplace violence, sexual harassment, and political activities in Readfield while working in Readfield. The CONTRACTOR agrees to abide by the Town of Winthrop's prohibitions against workplace violence, sexual harassment, and political activities in Winthrop while working in Winthrop.

The TOWNS shall remit to the CONTRACTOR the total payment of \$\_\_\_\_\_ by the first warrant following satisfactory completion of all services. The TOWNS reserve the right to withhold payment should it be determined that the CONTRACTOR has not performed the services required as stated in the REQUEST FOR PROPOSALS.

Witness \_\_\_\_\_ TOWN of READFIELD  
By: \_\_\_\_\_  
Stefan Pakulski, Town Manager

Witness \_\_\_\_\_ TOWN of WINTHROP  
By: \_\_\_\_\_  
Jeffrey Woolston, Town Manager

Witness \_\_\_\_\_ CONTRACTOR  
By: \_\_\_\_\_  
Its: \_\_\_\_\_

**9. DAR Proclamation: Bonnie Wilder**

Bonnie Wilder will attend again to deliver her annual Daughters of the American Revolution (DAR) presentation on the Constitution, and request to the Select Board to authorize a proclamation on Constitution Week.

Ms. Wilder will attend the Winthrop Town Council meeting the same evening, starting at 7:00 PM, and requests that the Select Board allow her agenda item to be taken out of order if necessary soon after she arrives from Winthrop.

## 10. Petition for Town budget referendum vote

The Town Clerk received the following petition with the requisite number of certified voter signatures:

We the undersigned, voters of the Municipality of Readfield, being of a number equal to at least 10% of the number of votes cast in the last gubernatorial election petition the Municipal Officers of the Town of Readfield to place the following article on the ballot at the Gubernatorial Election on November 4, 2014.

"Shall the Town of Readfield, beginning with the 2015 Warrant Article Voting June 9, 2015 polls submit all warrant articles to the voters of the Town in a format of a secret ballot referendum question(s), rather than town meeting, and to keep the polls open from 8 a.m. – 8 p.m. on June 9, 2015, when said article or articles are voted upon?"

The Select Board will review this petition on September 8, 2014. The Town Manager sought input from MMA's Legal Services regarding the Select Board's responsibilities regarding the petition, such as when action must or could be taken. Please see the response below from Richard Flewelling, Assistant Director of MMA's Legal Services Department:

"Actually, since the petition asks for a secret ballot referendum vote on the proposed article, the applicable statute (30-A M.R.S.A. Section 2528(5)) requires that "the municipal officers shall have a particular article placed on the next ballot printed or shall call a special town meeting for its consideration."

Thus, if the town is already holding a municipal election on November 4, 2014, the Selectmen would have to either include the petitioned article on that ballot or call a special referendum election sometime thereafter to vote on the petitioned article. In view of the petition's purpose (to require referendum voting on all warrant articles beginning with the June 9, 2015 annual town meeting), a special referendum election would, in my opinion, have to be called before the June 9, 2015 annual town meeting. Given the time and expense required for a special referendum election and the fact that a State referendum election is already scheduled for November 4, 2014, my advice is to call a simultaneous municipal referendum election to vote on the petitioned article.

Incidentally, you and the Selectmen, as well as the petitioners and the voters, should be aware that a requirement for all-referendum voting on town meeting warrant articles is legally enforceable only if incorporated in a municipal charter; otherwise, it is advisory only. For details, see the following "Legal Note" from the October 2012 *Maine Townsman*:

### **CHARTER REQUIRED FOR ALL-REFERENDUM VOTING**

The Maine Supreme Court held recently that a requirement for all-referendum voting in municipal elections is legally binding only if imposed by municipal charter.

In *Blanchet v. Town of Waldoboro*, Mem-11-605 (Aug. 16, 2012), plaintiffs challenged the legality of the town's budget because it was not approved by secret ballot referendum, which ostensibly was required

by a 2008 ordinance enacted after a voter petition. The town countered that the municipal voting process is controlled by Titles 21-A and 30-A unless a charter provides for a different method (see 30-A M.R.S.A. § 2501). The Law Court agreed, noting that the town does not have a charter and that nothing in Title 21-A or Title 30-A prohibited the town's use of a traditional "open" town meeting vote in this case.

The Court's holding in *Blanchet* (which, because it is a memorandum of decision, is not technically legal precedent) is consistent with our advice on at least two previous occasions (see "All-Referendum Voting," *Maine Townsman*, "Legal Notes," January 2006; "Why a Municipal Charter?," *Maine Townsman*, "Legal Notes," April 2009). Only a charter can effectively require all future voting to be by referendum; an ordinance or town meeting vote purporting to mandate all-referendum voting is advisory at best.

Former MMA staff attorney Kristin McHenry Collins, now with the law firm of Kelly & Collins in Belfast, successfully represented Waldoboro in this case. *(By R.P.F.)*

Whether or not the all-referendum voting "requirement" is adopted by the voters as a warrant article, the Selectmen would remain legally free to call for all-referendum voting or not, as they in their discretion deem it appropriate. This is what "advisory" means. There would be no effective legal means of challenging the Selectmen's decision, as some voters in *Blanchet v. Town of Waldoboro* (see below) learned the hard way."

**Richard P. Flewelling, Assistant Director**  
**Legal Services Department**

Also please see additional attached information regarding Petitions for Town Meetings and for Secret Ballot Referendums, from MMA's elections manual.

## Chapter 5

# Petitions for Town Meetings and for Secret Ballot Referendums

## Chapter Contents

Introduction	No Specific Filing Requirement
Free Circulation of Petitions	Initial Procedure (validation)
Who May Circulate Petition	Withdrawal of Signature from Petition
Who May Sign Petition	Withdrawal of Petition
Governing Statutes [Overview of 30-A M.R.S.A. Secs. 2522, 2528, and 2521(4)]	Consideration of Merits of Petition
Circulators of Sec. 2522, 2528(5) or 2521(4) Petition; Their Obligations	Putting Issue to Vote
Form of Petition Under Secs. 2522, 2528(5) and 2521(4)	Manner of Vote Requested
	Incorrectly Worded Petitioned Article
	Refusal to Honor Petition

## Introduction

State law makes important provisions for voters' right of petition. That right includes the right to petition for town meetings for the voters to consider specifically requested articles. Municipal officers need to know Maine law and procedure, and their own duties and powers, relating to petitions.

In Chapter 2 of this Manual we have reviewed generally the nature of the business (ordinances, resolutions, budget proposals, etc.) that can be scheduled on a warrant for transaction at a town meeting, and we have stated that any of those matters can be the subject of a petition for an article on a warrant. Such a petition can arise in a town that does all of its business in an open town meeting forum or in a secret ballot town, where referendums are allowed.

This chapter concerns only petitions relating to issues, not petitions to nominate candidates for town offices (those are discussed in Chapter 8). We try here to lay out the A to Z of petitions, including such issues as who may circulate them, who may sign them, how many people must sign them, the circumstances under which they can be denied, and how soon after filing of a petition a town meeting or election may or must be scheduled.

This chapter does not address specifically the availability of a right of petition under town or city charters, the kinds of petitions that various town or city charters (or a city

ordinance establishing a right of initiative and referendum pursuant to the Maine Constitution) allow or the limitations such charters may place on the kinds of issues that can be the subject of petitions, or any local requirements for petition processes. This chapter instead discusses two major kinds of petitions and one lesser one, all three of which arise under the general law of Title 30-A applicable to towns and plantations.

This chapter is intended primarily for the municipal officers' attention, but clerks and registrars will want to read at least the discussion of validation of petitions.

## **Free Circulation of Petitions**

**Overview.** In 1989 it came to the attention of the Legislature that one or more municipalities had charters or ordinances requiring voters to come in to city hall or town hall in order to sign some or all kinds of petitions, rather than allowing petitions to circulate freely among the general municipal population. The Legislature responded to this news by enacting 30-A M.R.S.A. Section 2504, which bars municipalities from enacting any charter provision or ordinance "prohibiting the circulation of petitions for any local initiative." Accordingly, towns must allow petitions for local initiatives to be freely circulated.

**Examples.** Section 2504 lists, by statutory reference, four specific kinds of local petitions that can be circulated by any registered voter, but these are set forth in the statute as examples only of local "initiatives":

- petition for an article on the warrant for an open town meeting (30-A M.R.S.A. § 2522);
- petition for a local referendum election in a secret ballot jurisdiction (30-A M.R.S.A. § 2528(5));
- petition for an ordinance in a city to establish a local right of initiative and referendum in municipal affairs, and a petition arising under such an ordinance (Constitution of Maine, Art. IV, Pt. Third, Sec. 21); and
- petition pursuant to a municipal charter provision authorizing local initiatives.

Despite the existence of this law, it appears that perhaps in a few Maine municipalities, local charters continue to require that petitions (or some kinds of petitions) be made available for signature by voters only in the office of the municipal clerk. It is not known how those municipalities reason that the statute does not apply to their particular provisions.

Understand that this statute *does not create any new right* of petition: it merely requires that petitions subject to it be allowed to circulate freely within a municipality: voters cannot be required to come in and sign them at city or town hall, for example.

The remainder of this chapter focuses principally on the first two kinds of petitions listed above.

## **Who May Circulate Petition**

It appears that *any registered voter of the state* may circulate a petition for a local initiative. Section 2504 of Title 30-A provides that "A petition related to *any* local initiative...may be circulated as provided in Title 21-A, Section 903-A" (emphasis added). Section 903-A states that any registered voter may circulate a petition. Thus, it appears that, although a petition circulator must be a registered voter, the voter need not be registered to vote in the particular municipality in which the petition is circulated.

Note that other statutes may clearly impose a more specific requirement in specific contexts. For example, the statutes on charter commissions for adoption and revision of charters can be initiated either on order of the municipal officers or by local petition, but the petition must have a committee of locally registered voters. See Section 2102(3). Accordingly, statutes specific to the subject matter of a petition should always be consulted.

## **Who May Sign Petition**

Under all statutes concerning municipal petitions, only the signatures of voters registered to vote in the municipality in which the petition arises will count towards any applicable statutory requirement that a certain number or percent of signatures be obtained.

## **Governing Statutes**

### **[Overview of 30-A M.R.S.A. Sections 2522, 2528, and 2521(4)]**

The remainder of this chapter is addressed principally to the general power of petition for a town meeting or election warrant article. The statute governing open town meeting warrant article petitions is Section 2522, while Section 2528 governs secret ballot referendum petitions. The third pertinent statute, Section 2521(4), is discussed further below.

**The principal petition statutes.** Let's compare the two principal petition statutes.

**Section 2522:** "On the written petition of a number of voters equal to at least 10% of the number of votes cast in the town at the last gubernatorial election, but in no case less than

10, the municipal officers shall either insert a particular article in the next warrant issued or shall within 60 days call a special town meeting for its consideration.”

**Section 2528(5):** “By order of the municipal officers or on the written petition of a number of voters equal to at least 10% of the number of votes cast in the town at the last gubernatorial election, but in no case less than 10, the municipal officers shall have a particular article placed on the next ballot printed or shall call a special town meeting for its consideration. A petition or order under this subsection is subject to the filing provisions governing nomination papers under subsection 4.” (Subsection 4 requires filing by the 45<sup>th</sup> day before the day of voting.)

**Discussion:** The clear principal difference between these two statutes is the mention of 60 days in the open town meeting petition statute, the first one of the two above. In fact, the 60 days clause was added to the statute only in 1973. Unfortunately, no legislative history illuminating this provision has been found, so we must reason as best we can what the meaning of the statute is, and there is probably room for reasonable people (including reasonable attorneys!) to disagree.

A reasonable interpretation, and the one we commend to Maine towns and plantations, is that the municipal officers, on receipt of a petition that complies with and cites Section 2522 (or asks for an open town meeting vote, or does not ask for a secret ballot referendum vote), may put the particular article sought on the next warrant that is issued within or outside the 60 days, or they may act with dispatch, i.e., within 60 days after receipt of the petition, to call a special town meeting to consider the matter. If the municipal officers elect to add the matter to the next warrant that is issued for any other purpose, that next warrant may be the annual town meeting warrant, which could come around many months later, depending on when a petition is filed. There may be circumstances in which long delay would be impermissible. Below, we will return briefly to the question what may be done where the municipal officers unreasonably refuse to honor a petition.

If a petition asks for a secret ballot vote, then, because there is no “within 60 days” option in the statute, the municipal officers are not nearly under the same political pressure to act as they may be subjected to under Section 2522. This may be simply because the Legislature knows that secret ballot voting is much more expensive a process than an open town meeting. But, as noted above, this is really speculation, because we lack the pertinent legislative history on the 60-day provision.

**Section 2521(4) and the concept of “reasonable refusal.”** Sections 2522 and 2528(5) must be read together with subsection 4 of another statute, Section 2521, which provides additional procedure where municipal officers refuse to act on a petition. (Sections 2522 and 2521(4) were formerly a single statute.)

Section 2521(4) provides that if the municipal officers unreasonably refuse to call a town meeting, a notary public may call the meeting on the written petition of a number of voters equal to at least ten percent (10%) of the number of votes (including write-ins) cast in the town in the last gubernatorial election, but in no case less than ten voters.

It can be inferred that municipal officers do not have to act on every petition submitted to them, but that they may refuse it if their refusal is reasonable. If the circulators or other voters then believe that the refusal to act was not reasonable, they can begin a new petition, addressed to a notary public, who is empowered to issue a warrant for a town meeting to address the business proposed by the petition.

The statutes do not expressly require the voters who sign the petition addressed to a notary to be the same voters who signed the original petition, and no such requirement should be inferred.

The concept of reasonable refusal is discussed below in this chapter, as is the power and duty of a notary public to whom a petition is addressed (page 96). Before taking up these subjects, there are other preliminaries to discuss.

A December 1981 *Maine Townsman* Legal Note, "Voter Petitions," remains of value and can be found in this Manual's Legal Notes Appendix.

### **Circulators of Section 2522, 2528(5), or 2521(4) Petition; Their Obligations**

As noted above, there appears to be no requirement that the circulators of a Section 2522 or a Section 2521(4) petition be voters of the town, or even residents of the town, but it appears they must be registered to vote somewhere in Maine.

Must a circulator do any of the following: (a) state that he personally circulated the petition? (b) state that each signer had an opportunity to read the petition before signing? (c) state the number of signatures on the petition? (d) state that each signer has signed no more than once; (e) swear or affirm that each of the voters signed in the presence of the circulator; or (f) swear or affirm that to the best of his knowledge and belief each signature is the signature of the person whose name it purports to be?

A circulator of a petition for a *charter commission* must execute an affidavit on the back of each petition form attesting to each of the six elements mentioned above. See 30-A M.R.S.A. § 2102(B)(3). There is no such express requirement in Title 30-A for a petition under Section 2522 or Section 2521(4).

From the above, it can be argued that a Section 2522, Section 2528(5), or Section 2521(4) petition can simply be posted on a wall or placed on a counter in a business establishment in a town, and collected later for filing, and that it need not be accompanied by any circulator's affidavit. There is a contrary argument, however. It is that Title 30-A incorporates both Title 21-A and the Maine Constitution by reference. See *Albert v. Town of Fairfield*, 597 A.2d 1353 (Me. 1991). Under this argument, not only would petition blanks be obtained from the town clerk, but also the circulator would have to verify under oath, before a person authorized by law to administer oaths, that all of the signatures to the petition were made in his or her presence and that to the best of his or her knowledge and belief each signature is the signature of the person whose name it purports to be. See, Maine Const., Art. IV, Pt. 3, sec. 20; 21-A M.R.S.A. §§ 335 (primary nomination papers) and 354 (general election nomination papers).

But the Maine Constitution's provision does not appear by its terms to apply to town elections, and Title 30-A has its own provisions on petitions, that could easily have included similar language but do not. Accordingly, we think the better view is that a Section 2522, 2528(5), or 2521(4) petition can be "homemade" and that no circulator's affidavit is required. Of course, this may entail consequences: the lack of an affidavit makes it more appropriate that the actual signatures of petition signers be compared to registration records, a subject discussed below.

### **Form of Petition Under Sections 2522, 2528(5), and 2521(4)**

Our law prescribes no particular form for these petitions. A petition should, however, on each page bearing signatures, set out the full text of the request, as a failure to do so may invite question, if the fact is not otherwise apparent, whether each of the signers had before her or him the full text of the petition before signing. Moreover, the text of the law itself implies what some of the content of the petition should be.

Section 2522 petitions typically are addressed "To the Municipal Officers of the Town of \_\_\_\_\_" and begin with the phrase "We, the undersigned, being registered voters of the Town of \_\_\_\_\_, request the municipal officers to place the following article before the voters for their consideration" and follow that introduction with the text of the article itself.

A Section 2528(5) petition could read much the same, adding the phrase "in a secret ballot referendum vote" after the phrase "for their consideration" in the text suggested above.

There is no express Title 30-A requirement that a clerk or other municipal official prepare a form and make it available to anyone who wishes to circulate a Section 2522, 2528(5), or 2521(4) petition, but there is an argument that 30-A M.R.S.A. Section 2501, read together with 21-A M.R.S.A. Section 901, requires the clerk to make such forms

available. (Section 901(3) provides that a voter who prefers may furnish his own forms, but that they must be approved by the clerk.) The better view is probably that voters can get up their own forms except when a Title 30-A provision *expressly* or impliedly requires the clerk to prepare the forms (something that is not true of the three general Title 30-A petition statutes under discussion here).

There is no express or implied requirement in Title 30-A, Title 21-A, or the Maine Constitution, for any of the three petitions discussed here, that signers provide their street address or anything else but their signatures. Because of the process of validation of a petition (discussed below in this chapter), however, a clerk will want to prepare and make available a sample petition form that has a column each for signatures, for printed names (to aid in validation where signatures are illegible), and for voters' street addresses, as well as a column for the name of the municipality of the voter's residence. No signature should be discounted solely because the printed name or address does not appear, however, nor solely because ditto marks are used in lieu of writing the name of the municipality on every signature line. In lieu of preparing a sample form, it may suffice just to encourage any inquiring prospective circulators that it may aid in validation if they include such columns.

Sample forms for petitions, both for open town meeting articles and also for secret ballot referendums, appear in the Forms Appendix to this Manual.

### **No Specific Filing Requirement**

Neither Section 2522 nor Section 2528 expressly says that a petition must be submitted directly to the municipal officers, or any or each of them, although it should be addressed to them (as in the example above). A petition may come to any of them, or be filed with the clerk across the counter in the municipal office. Whichever municipal official first receives a petition should note the date of receipt upon it. The municipal officers should be made immediately aware of it, and may want a copy of the text of it promptly.

A Section 2521(4) petition presumably will always be addressed and delivered or presented directly to a notary public.

### **Initial Procedure (Validation)**

**Validation.** To "validate" a petition means to ensure that it bears a sufficient number of signatures of voters registered in the municipality. Statute law does not expressly require, or provide any procedure for, validation of Section 2522, 2528, or 2521(4) petitions. Validation is, however, implicitly authorized by any applicable requirement that petitions bear a certain minimum percentage or number of signatures of registered voters. If a petition does not bear at least the minimum required, it may be dismissed without further

consideration. If it does meet the minimum signature requirement, then it must be considered on its merits.

The obvious way to accomplish validation is to compare the names of petition signers with a voting list. If circulators are not required to swear that the signatures are genuinely the signatures of the persons whose names they purport to be, and that all signers signed in the presence of the circulator, then perhaps signatures on petitions should not merely be compared with a town voting list, but compared directly with voter registration cards on file with the registrar of voters. Even with a circulator's affidavit, the municipal officers will likely want a clerk or registrar at least to confirm that the names on the petition are names on the voting list.

**Validation as first step?** Section 2522 does not state whether, after filing, the first order of business is to validate a petition or whether the municipal officers can or should take it up for consideration. In theory, if they took it up directly, they could promptly determine whether they wished to act favorably on it. If they determined that they wished to act favorably on it, they could, simply on their own motion and vote, order that the issue go forward to the voters. If they determined that they did not favor it and that a refusal to act favorably would not be unreasonable, there would, similarly, be no need to validate the petition. If they determined that they did not like it but that they could not refuse it then they might at that point request validation, to ensure that it indeed bears a sufficient number of signatures.

**Responsibility for validation.** Title 30-A does not specify who is responsible for validation of a Section 2522 or a 2521(4) petition. Obvious candidates are the clerk and the registrar. In some municipalities one person holds both of these offices, but in others not. Assignment of validation responsibility may be a matter of custom, position description in the case of an appointed clerk, or ordinance. In some towns, validation may be the responsibility of an administrative assistant or secretary to the municipal officers.

Title 21-A, which establishes the office of registrar, does not say that the registrar's duties shall include, in addition to those prescribed by Title 21-A, any assigned by the authority that appoints the registrar. A registrar might argue that the registrar should not be burdened with additional duties of a local nature. This is unlikely to succeed, in that registrars are appointed by the municipal officers. Registrars who prefer to validate the signatures themselves, rather than have another person working extensively through the voter registration records, will likely welcome the task.

An argument favoring assignment of validation of Section 2522, 2528(5), and 2521(4) petitions to the town clerk is that, for a charter commission petition, the law says the clerk shall determine and prepare a certificate of sufficiency of the petition. See 30-A M.R.S.A. § 2103(4). Because clerks have this statutory duty anyway, and therefore should be acquainted with validation procedures, it may make sense to assign all petition validation

duties to the clerk, at least if the registrar has no objections and an elected clerk is willing.

Municipal officers would do well to assign in writing the responsibility for validating Section 2522, 2528(5), and 2521(4) petitions, as well as other statutory petitions (such as one for a local option liquor question vote).

**Procedure.** If it cannot be ascertained that a petition signature is indeed the signature of a registered voter of the municipality, the validating official should indicate as much by a checkmark and initials in the margin next to the entry, not by striking out or otherwise obscuring the signature.

The base for calculating whether there is a sufficient number of signatures is the number of votes cast in the municipality in the last gubernatorial election. That base number can be determined from the return of the most recent gubernatorial election filed with the Secretary of State. The total number should include any write-in votes cast for the office of Governor, as well as the votes cast for the candidates whose names were printed on the ballot, but should not include the number of ballots that were cast without any choice marked or written-in for the office of Governor.

If the number of valid signatures does not equal ten percent of the base number of gubernatorial votes, and in any event if there are fewer than ten valid signatures, then the petition is insufficient.

If a petition is sufficient, then the validating official should certify that determination to the municipal officers and forward the petition or an attested copy to them for their consideration. If the number of valid signatures is insufficient, then the validating official should certify that finding, and forward a certificate and the petition or an attested copy to the municipal officers, who should thereupon dismiss it as insufficient. If they wish to further insulate their action from attack and can agree on a reasonable basis for refusing to act favorably on the petition (see discussion below), then they can also, though not required to, go on record with a vote that declares, in effect, that even if it were valid they would not act favorably on it.

**Additional procedure where signatures insufficient.** Though not required by law, the municipal officers may determine, in lieu of dismissal of a petition bearing an insufficient number of valid signatures, to specify an additional period of time in which circulators will be allowed to gather and submit a number of additional signatures sufficient, with those already validated, to meet the minimum necessary.

The municipal officers would do best to create a written statement of policy concerning Section 2522 petitions before doing this. Such a policy could cover the following points: the original petition will remain on file and cannot be returned to the circulators; any

additional signatures submitted will be the subject of validation and certification; a new and final certificate of sufficiency (or insufficiency, as the case may be) will be prepared by the clerk (or other validator) and submitted to the municipal officers, who will thereafter address the merits of the petition; and upon certification the supplemental petition may be associated with, and if the entirety is now sufficient, incorporated with, the originally filed petition.

In adopting such a policy, municipal officers may wish also to review and borrow from 30-A M.R.S.A. Section 2102(4), which, for charter commission petitions, expressly authorizes and provides procedures for a single supplemental petition filing where an initial filing is insufficient.

**Staleness of signatures.** Section 2522 does not specify how recently before a filing the signatures on a petition must have been collected. This is the concept of staleness. It is not ordinarily a concern in petitions for business articles, as opposed to petitions for nomination of candidates (for which Section 2528 makes specific provisions, to guard against stale petitions).

However, controversies on issues come and go. Voters may not feel the same way about the subject matter of a petition six months or a year after they sign it, particularly if, even though it was not filed, some dispositive action on a controversy has been taken by the municipal officers or by a town meeting. Accordingly, if it is clear from the face of a petition that the signatures on it were collected a year or more, say, before the filing date, the municipal officers may wish to suggest to any known circulators that the petition may be stale, and that the circulators may wish to gather additional, fresh signatures, or circulate another petition. The municipal officers should not on the ground of staleness decline to accept a petition for consideration. It may be a ground for dismissing it after acceptance without considering its merits. Would this be a reasonable thing to do? Counsel should be consulted before determining to dismiss a Section 2522 petition for signature staleness, because no statute addresses this question and case law should be researched.

## **Withdrawal of Signature from Petition**

When, if ever, may one who has signed a petition withdraw his or her name from it?

**Withdrawal after signing but before filing of petition.** A voter may inquire of a clerk or other municipal official after signing a petition but before it has been filed whether the voter's name can be withdrawn. The clerk should refer such an inquirer to any known circulator of the petition, as that is a matter between the circulators and the signer. No law known to MMA Legal Services staff requires a circulator to permit a signer to withdraw, but a circulator may wish somehow to accommodate the signer.

**Withdrawal after filing not permitted.** No statute expressly authorizes or forbids the withdrawal of a signature on a petition after filing. The recommended rule is simple: if you signed it, you cannot withdraw your name after filing. This is a simple rule of "look before you leap" which everyone should apply in civic and legal affairs. (The same rule probably should be applied to withdrawal of signatures on nomination petitions in secret ballot and Section 2527 towns.)

After filing of a petition, a signer's signature should not be erased, deleted, stricken out, or otherwise obscured or altered, and no entry should be made indicating that the signature is withdrawn. The signature, if it is that of a registered voter, will count in determining whether the required number of voters have signed, despite any expressed wish by a signer that the signature be discounted or disregarded.

A clerk, when confronted with a request for withdrawal, should provide the foregoing view, and may also, although not under any legal obligation to do so, advise the signer that: (1) signing a petition does not commit or bind a person to vote at all, much less to vote in favor of the issue presented; (2) if the issue is going to an open town meeting, the signer can appear and seek to speak in opposition to the issue despite having signed the petition; and (3) if it sufficiently concerns the signer, he or she can seek in other ways (e.g., letter to the editor) to disclaim support for the measure.

It may be important for clerks and other municipal officials to be aware of the human dimension of the matter of withdrawal of a signature. Sometimes a voter will realize only after a petition has been filed that it is open to inspection as a public record, and some may fear employment or business or other recrimination or adverse consequences for having signed. A voter may even have been threatened for having signed. Regrettable and understandable as such fears may be, however, there is no discretion or power to strike or obscure or otherwise delete the signature, and only sympathy can be extended.

In summary, the simple, recommended, uniform rule is that once a petition is filed a signature cannot be withdrawn in any way, for any reason.

### **Withdrawal of Petition**

As with withdrawal of a signature after filing, there can be no withdrawal of a petition or any portion thereof after filing. Neither the petition nor any part of it should be in any way returned to a circulator. The document itself and its legal force and effect cannot be thus rendered inoperative.

The underlying theory here is that once individual voters have signed a petition and it has been filed, they have acquired some right to consideration (if the petition is otherwise valid), which cannot be withdrawn or cancelled by the circulators. *Lafleur, Atty. Gen., ex rel. Anderson v. Frost*, 146 Me. 270 (Me. 1951).

A deeper question is whether any action at all can be taken that will destroy the legal vitality of a petition, such that its merits cannot be considered by the municipal officers. The answer to this is also in the negative, with one exception, suggested by *LaFleur*: if all of the voters who signed a petition filed affidavits (sworn statements) requesting withdrawal or inaction on the petition, then perhaps the municipal officers could if they wished honor the affidavits and not consider the merits of the petition.

## Consideration of Merits of Petition by the Municipal Officers

**Introduction.** As indicated in the introduction to this chapter, the municipal officers can refuse to put a petitioned article on a warrant if it would be reasonable for them to refuse to do so.

No definition of an “unreasonable refusal” or of a “reasonable refusal” appears in the statutes. Our knowledge of the concept of reasonability comes from case law. Before reviewing in detail what the decided cases teach us, it is very important to understand that the municipal officers may not refuse a petition merely because, from their political or personal perspective on what is appropriate for the municipality, they believe the petition is unreasonable. Their denial must be *objectively* reasonable as a matter of law, not merely subjectively reasonable in the view of the municipal officers.

**Necessity for valid petition.** For there to be a refusal to act, a petition must first be presented to the municipal officers. Without a request, there can be no refusal, reasonable or unreasonable. *Allen v. Hackett*, 123 Me. 106 (1923).

**Ultra vires request, or request for illegal action.** Where it would be beyond the power of the voters of a town to act upon a particular article (such an action is said to be *ultra vires*; the Latin phrase literally means “beyond the powers”), or where the article seeks to accomplish an object at odds with law or the U.S. or Maine Constitution, the municipal officers can reasonably refuse to issue a warrant. Examples follow.

- **EXAMPLE—Even if enacted, petitioned ordinance would be invalid.** In a case decided by the Maine Supreme Judicial Court, it was held that the municipal officers of Portland could not be compelled by the court to submit to the voters an ordinance that, if ratified, would be invalid. It would be a useless act on the part of the municipal officers, declared the Court, which then said that a court will not issue a peremptory writ to compel a useless act. *LaFleur, Atty. Gen. v. Frost*, 146 Me. 270, 290 (1951).
- **EXAMPLE—Vacancy in elective office that municipal officers may fill by appointment.** With the exception of the positions of municipal officer and municipal school committee, a vacancy in office may be filled by the municipal officers by appointment of a successor, per 30-A M.R.S.A. Section 2602, to serve out the remaining term. When the municipal officers, following a resignation of, say, an

elected treasurer or road commissioner, appoint a successor who duly qualifies and is sworn, and are then presented with a petition for a special town meeting to elect a successor to the official who has resigned, it is reasonable for the municipal officers to refuse to honor the petition, because there then remains no vacancy to be filled. *Googins v. Gilpatric*, 131 Me. 23, 27 (Me., 1932) (treasurer). To the same effect is an *Opinion of the Attorney General*, May 13, 1980 (road commissioner).

- **EXAMPLE—Cable television ordinance enactment is exclusive authority of municipal officers.** If petitioners sought enactment by the town meeting of a cable television enabling ordinance, the article would run afoul of 30-A M.R.S.A. Section 3008(2), which awards to the municipal officers the exclusive authority to enact such an ordinance. Adoption of such an ordinance by the voters would be beyond their powers, and the act would be void or voidable. Accordingly, a court would probably not require the municipal officers to hold a town meeting to vote on such an ordinance, and would quash any warrant issued by a notary public for the call of such a meeting.
- **EXAMPLE—Article for vote to establish or change speed limit.** Municipalities may not establish, or increase, or lower, speed limits on any public road, including municipal roads. 29 M.R.S.A. § 1251. Thus, it would be entirely reasonable, as a matter of law, to refuse to call a meeting to vote on an article to establish, or to raise or lower, a speed limit. (As a political matter, however, the municipal officers might well wish to communicate with the Commissioner of Transportation in response to a petition to change or set a speed limit. See the discussion of this subject in MMA's *Municipal Roads Manual*.)
- **EXAMPLE—Article for plowing private driveways at public expense.** A petition to use public monies (e.g., from a town's surplus account) to pay the winter maintenance crew or a private contractor to keep everyone's driveway clear of snow would run afoul of the constitutional law doctrine that public funds cannot be devoted to essentially private benefits or other purposes. See, *Opinion of the Justices*, 560 A.2d 552 (Me., 1989). Such a petition could be dismissed as asking for something not within the power of the voters to direct, or of the municipal officers of the town to accomplish.
- **EXAMPLE—Article granting a tax exemption not authorized by state law.** See the May 1998 *Maine Townsman* Legal Note, "Voting a Tax Exemption," in the Legal Notes Appendix to this Manual.

**Vested rights; intervening rights of third parties.** Once a contract has been signed, or bonds have been sold, pursuant to an authorizing town meeting vote, it is too late for that vote to be reconsidered or rescinded. Our courts have repeatedly so held, beginning as

long ago as 1889 and at repeated at least as recently as 1991. That most recent case is *Dunston v. Town of York*, 590 A.2d 526 (Me. 1991).

We now discuss more extensively a sixth illustration of a "reasonable refusal" to honor a petition where third party rights have not vested.

**Petition to reconsider action after formal adjournment.** Sometimes, voters will seek to reverse the outcome of an open town meeting vote on an issue, or of a secret ballot referendum, by petitioning for a new meeting or election to consider the same article previously acted on (whether passed or defeated). A 1990 Superior Court case is worth discussing at some length.

The case dealt with a secret ballot referendum on a school construction issue, and held that it was not unreasonable for the municipal officers to refuse to put an issue to a second referendum vote, at least upon the petition of a minority of voters, where no irregularity appeared in the conduct of the first vote.

The town concerned had voted by secret ballot referendum, 399 to 390, to approve a school construction bond issue. A ballot inspection was requested and held, and apparently turned up nothing warranting a recount. Nine days after the election, however, the municipal officers were presented with a petition bearing a sufficient number of signatures to entitle it to their consideration. The petition asked for another election and a revote on the same issue. The municipal officers voted unanimously to reject the petition. Thereafter, a second petition was submitted, which did not ask for a revote, but for a meeting at which the voters could vote on whether to rescind the approval which had previously been given. (The effect of a rescission would be, one would think, much the same as a revote in which the referendum were defeated, but the circulators were probably trying by the wording of the second petition to respond to whatever they knew of the municipal officers' reasoning for rejecting the first one.)

The municipal officers postponed a decision on the second petition and filed suit in Superior Court. While the suit was pending, a third petition was in circulation. It was addressed to a notary public, and alleged that the municipal officers had unreasonably refused to issue a warrant, and called upon the notary to do so. (This third petition was a Section 2521(4) petition. Procedure on them was discussed above in this chapter.)

The Superior Court declared that the municipal officers' obligation to place petitioned articles before the voters for their consideration, under both 30-A M.R.S.A. § 2522 and § 2528(5) "should be interpreted to apply to petitions proposing *new* articles for voter consideration or concerning municipal officers' failure to act and should *not* apply to situations, such as the one presented here, in which minority voters seek a revote on a recently approved referendum." *Inhabitants of the Town of Vassalboro v. Frederick & Camille Denico, et al.*, Sup.Ct.Kenn.Cty., Civ. Action Docket No. 89-517 (Feb. 23,

1990), at p. 3 (emphasis added). The full text of the decision appears in this Manual's Other Materials Appendix. This was the first prong of what was in fact a two-pronged decision.

*The Superior Court went on to say that even if, contrary to its considered judgment, Sections 2522 and 2528(5) do permit reconsideration elections (and not just petitions for new business articles) on the petition of a minority of voters, the denial in the case before it was not unreasonable as an abuse of discretion, because of factors the court reviewed. The court noted that although the voter turnout was low (it was a special election) and the margin of victory small, there were no allegations that voters were unable to get to the polls because of a natural disaster or other adverse circumstances. Moreover, the court found that the ballot inspection had revealed no evidence of fraud or impropriety. Finally, because there was some allegation that some town or school official had publicly misstated one or more facts relating to the bond issue, the court, for reasons that do not appear in the opinion, found that the municipal officers could have reasonably concluded that the allegations were insufficient to require them to call for a second vote. Accordingly, the court granted summary judgment to the plaintiff town, thereby effectively upholding the refusal of the municipal officers to act on either of the first two petitions, and quashing any filing of the third. No appeal was taken in the case.*

The significance of the decision is that it appears to be the first by any Maine court of record to suggest that municipal officers need not permit the "ping-ponging" of referendum issues back and forth by a minority faction of dissatisfied voters. The municipal officers, it appears, can reasonably conclude that the first valid vote on an issue will be the only vote on the issue. (A related decision, *Heald v. SAD No. 74*, 387 A.2d 1 (Me. 1978), involved a different statute, and an SAD referendum and board of directors, not a board of selectpeople or other municipal officers.) It would seem that the reasoning of the second prong of the decision could be applied to a petition seeking a second meeting and a re-vote on an issue decided by an open town meeting as well as to one decided by a secret ballot referendum.

Thus municipal officers confronted with a "ping-pong" situation, where they conclude that it would be reasonable to refuse to call for another vote, can assert both prongs of the Vassalboro case and argue (1) that the law bars the petition and (2) (where appropriate) that if it does not it is nevertheless reasonable for them to refuse to honor it, in the particular circumstances. Of course if they are inclined to grant the petition, they can grant it and leave it to others to argue the first prong of the opinion in the Vassalboro case.

**Unintelligible petition.** It may be reasonable (no decided case is known) to refuse to honor a petition for an article where the petitioned article is hopelessly unintelligible to a reasonable and fair-minded reader—that is, where it is simply impossible, because of ambiguity, apparent incompleteness, or other defect to discern what question the petition

proposes to put before the voters. But counsel should be consulted before any determination is made that a petition is so vague or incomplete or ambiguous that even if it were adopted no one would know what it meant.

**Technical deficiencies and objections.** If a petition has been signed by the required minimum number of voters, a court will likely be impatient if the municipal officers have tried to turn every conceivable deficiency in the form of the petition into an argument for legal insufficiency. Here are five quick examples of clearly or arguably deficient petitions. All of the petitions in these examples should probably be allowed.

- A petition is not addressed to the municipal officers (as in the form, "We, the undersigned voters of the Town of \_\_\_\_\_, hereby petition the municipal officers of the said Town to place the following article before the voters for their consideration") but merely says, "Please call a town meeting to consider the following article." The municipal officers should treat this as sufficient, if properly validated and otherwise proper.
- A petition is clearly addressed to the municipal officers but is delivered to the town clerk. This should not be a problem.
- A petition includes more than one article. This should not matter, even if they concern unrelated subjects. A court would likely not be patient with a technical argument that a separate petition is required for each article, or for each subject matter.
- A petition includes some articles that appear proper and some that are clearly illegal or otherwise beyond the powers of the voters. This is not a basis for rejecting the entire petition. The articles that it would be objectively unreasonable to refuse should ordinarily go forward to the voters.

The municipal officers should bear in mind, too, that although they cannot change the wording of a petition, they can, for an *open* town meeting warrant, include both the petitioned article and any alternative version they prefer. In their alternative version, they can correct any technical deficiency in the petitioned article. This is discussed further below, in this chapter.

**Summary advice.** Experience teaches that a court will listen carefully to arguments that a petition seeks an unauthorized act or thing, or that it seeks a re-vote on an issue that has recently been fairly and properly decided by a validly called and held town meeting, or that it was otherwise reasonable for the municipal officers to have denied a petition as an objective matter of law, as illustrated by the examples given above or by similarly compelling facts. But it will probably not suffice if the basis for the refusal is merely the municipal officers' subjective views—i.e., if they refuse a petition merely because it is

inconsistent with their view of what is in the better or best interests of the municipality. And it will probably not suffice if the objection is merely a technical one.

The best advice is to apply common sense and to be objectively reasonable along the lines discussed in this Manual, and to consult with counsel, particularly where an article appears unintelligible.

## **Putting Issue to Vote**

**Introduction.** Assume the filing of a petition containing a sufficient number of valid signatures of voters, and a request that it would not be reasonable for the municipal officers to refuse to act on. The obvious next question is when should or must the municipal officers put the question to a vote.

What if a petition specifies a date, or a date not later than which a meeting is requested? What if the petition is silent on the point? We have stated above, in Chapter 2, that it is the municipal officers who set the date and time of annual and special meetings. The doctrine of "reasonable refusal" discussed above in this chapter appears to apply as well to the timing of a meeting as to the subject matter of a meeting. And the 60-day provision in Section 2522 may be pertinent to the question whether the timing of action on a petition is reasonable. But this would appear to apply only to an open town meeting petition, because Section 2528, as shown above, lacks the 60-day provision.

**The statutory requirement for open town meeting petitions.** Section 2522 says that "the municipal officers shall either insert a particular article in the next warrant issued or shall within 60 days call a special town meeting for its consideration."

Confusion arises from this statute because of the sequence of its phrases. It appears to mean that the municipal officers' choices are two: *either* call a special town meeting to be held within 60 days after receipt of the petition *or* place the petitioned article on the next warrant issued within or after 60 days after receipt of the petition.

The statute should not be read too technically. For example, if, before a petition is received, the municipal officers have already posted a warrant for a town meeting to be held within sixty days after the petition is received, and if they decide to take the petition issue to a vote within sixty days of its receipt, they can do so by adding it to the warrant for the meeting they have already scheduled, if at least seven days remain before the already-scheduled meeting. See the discussion of addendum warrants in Chapter 2 of this Manual. Also, if the municipal officers issue a warrant for other business after a petition has been received but for a meeting within sixty days of filing, they can add the requested article to that warrant.

Similarly, whether a petition requests a special meeting or that the issue go to the annual town meeting, the municipal officers can decide to do the opposite of what is requested, if their decision is reasonable.

At heart, the statute, read together with Section 2521(4), means that the municipal officers can delay taking the issue to the voters if the issue is not pressing or fugitive or transitory, or the petitioners will not otherwise be prejudiced, or their interests completely destroyed, by delay and that voter turnout will be higher if it awaits a later meeting (which might be the annual meeting), and that the expense of a special meeting for this one issue is disproportionate or excessive and no other matters are pending or planned for a special town meeting. But it would probably be wrong to delay the actual decision whether to honor the petition at all beyond the initial sixty-day limit. The law generally makes a failure to exercise administrative discretion reviewable by a court within a reasonable time after the discretion should have been exercised, and 60 days is ordinarily a reasonable time where no statute specifies a different time.

Wherever time is of the essence, for example, if the petition is to approve a grant application, or to appropriate matching funds from surplus, and a grant application or other action deadline is coming up quickly, the municipal officers should not set the date for a vote so far into the future that the vote would be of no assistance to the petitioners.

But the case may be otherwise where the petitioners do not need to meet some third-party deadline. A Penobscot County Superior Court decision illustrates this. Petitioners sought acceptance of a privately owned road as a public way. The municipal officers decided to put the article to a vote at the annual meeting, which was the next warrant issued after the filing of the petition. The annual meeting was not to be held for six more months, however.

The court found that there was no evidence showing an emergency, that the annual meeting was scheduled for "only" six months away, and that there was evidence that more town residents attended annual meetings than special meetings. *Goodwin v. Leeman*, Sup.Ct.Pen.Cty., Civil Action Docket No. CV-8126 (May 28, 1988). The court appeared to accord little weight to the continued expense to the petitioners for private maintenance of the road during the interim until the annual meeting. It is hard to believe that the parties did not argue the point. Probably the Court was thinking that it is not unreasonable if the petitioners are merely inconvenienced or frustrated by delay, but that it would be wrong if their rights or opportunity, or whatever chance they had for obtaining their object, would be *completely* frustrated, or destroyed by delay.

## **Manner of Vote Requested**

As noted in the introduction to this chapter, a petition for an article could arise in a "pure" open town meeting town as well as in a secret ballot town. If a petition that complies with Section 2528(5) (secret ballot referendums) is submitted, some confusion can arise, because a Section 2528 petition may look in all respects like a Section 2522 petition. (The circulators' intent may perhaps be inferred from the fact that such a petition is filed at least 45 days before a known, already-announced or regularly held election (such as a November general election).) Confusion also can arise because voters often refer to a "secret ballot" when they mean a written ballot. (Indeed, at least a few statutes outside Title 30-A do this.)

The best guidance is, if a petition expressly or by fair implication asks for a secret ballot referendum vote, then treat it that way.

What of a petition asking that an article be put to secret ballot vote at a meeting already scheduled by the municipal officers, where the petition is not filed at least 45 days before a scheduled election day (see 30-A M.R.S.A. § 2528(5) and (4), read together). In such a case, if the warrant has not already been posted for seven days and if no absentee ballots have been mailed out, the municipal officers can vote to take down the posted warrant and effectively (by posting a new warrant) postpone the planned meeting far enough into the future to allow them to enter a timely order on their own initiative for a referendum on the petitioned question (such an order, like a petition, must be filed with the municipal clerk at least 45 days before the day to which the election is being postponed, see 30-A M.R.S.A. § 2528(5)); or they can decide to proceed with the first meeting already posted and schedule and prepare a warrant for a second, later meeting for its consideration.

If a petition in a secret ballot town asks for a "written" ballot and does not cite Section 2528 (or cites only Section 2522), then it can be treated as a petition for an open town meeting vote at which it is requested that voting be by written (not secret) ballot. (In fact, at the meeting, the moderator or the voters themselves are not bound by the petition for a written ballot, but can determine to vote by some other means.) But see the last paragraph below on this subject.

If a petition in a secret ballot town is silent on the point and does not request a referendum, and if there is no basis for inferring a request for a secret ballot vote, then the municipal officers can order it to a vote either at open town meeting or by secret ballot referendum, as they prefer. But see the last paragraph below on this subject.

If a petition in a town that uses only the open town meeting form of voting asks for a "secret ballot" then the request should be construed to be for a vote by written ballot, unless the petition seeks one of the statutory referendums mentioned in the last paragraph of discussion of this subject, below.

A petition for a vote "by written ballot" in a town meeting town (this includes a town that under Section 2527 has elected to use the procedures of Section 2528 for nomination of candidates) should be construed as a petition for an open town meeting. It is believed that the request for voting specifically by written ballot need not be honored simply because the petition requests it. No statute is known which expressly compels it, unless the petition is one to fill a vacancy in the office of moderator (unlikely to be the subject of a petition), selectman, or school committee member. If the petition does not call for such an election, but concerns some other office or an issue not expressly made the subject of a secret ballot referendum by statute, then it is believed that the request for a written ballot vote can be ignored, because the moderator of the meeting sets the procedure for the conduct of the open portion of any meeting, subject only to the exercise of the right of appeal by members of the assembly. ("Appeal" is discussed in Chapter 7 of this Manual.) For that reason, it would probably be inappropriate for the municipal officers in the warrant to "order" such an election to be by written ballot. The meeting moderator can be alerted to the issue and invited or requested to consider it when determining how the vote will be conducted.

A petition arising under other statutes that require the use of Section 2528 secret ballot procedures, even in towns that are not secret ballot towns, should be treated as a petition for a secret ballot vote, and this is so even if such a petition does not expressly ask for a vote by secret ballot, or if it asks for a "written ballot" vote or for an open town meeting. Seven such statutes are identified in Chapter 4 of this Manual. They relate to charters, local option liquor referendums, SAD referendums, revenue bonds, school construction bonds, municipal electric districts, and municipal de-organization. Upon receipt of a petition that is clearly concerned with one of these subjects, the discussion in Chapter 4 and the pertinent statute cited therein should be reviewed carefully. Good practice is, whenever a petition cites a statute, review it, as it may call for a secret ballot referendum vote even in non-secret ballot towns, or it may impose other special requirements.

### **Incorrectly Worded Petitioned Article—Use of Alternative Article**

**Overview.** Sometimes a petitioned article will have typographical errors or apparent, and apparently inadvertent, gaps or omissions, or will seem otherwise unclear, or will mis-cite an ordinance which the article proposes to amend, or have some other defect. Sometimes, too, a petitioned article will appear complete but have some other, clearly substantive defect. Also, the municipal officers may believe that there is a more direct or more efficient way to accomplish what they perceive is the petitioners' objective. What are the limits of the municipal officers' authority in such circumstances?

**Typographical errors and other non-substantive defects.** The municipal officers should consider in all such cases that they have virtually no latitude to change the language of the petitioned article, *even with* the consent of the circulator(s) of the

petition. This is because to alter the petitioned article would be to change what all of the signers—the petitioning voters—put their names to.

While it may seem entirely unobjectionable for municipal officers, in preparing the warrant, to correct what seem to be obviously faulty grammar or misspellings in a petitioned article, they have no obligation and no power to do so, and best practice is not to, but to print the article exactly as filed with the clerk. Of course, if the petition asks for an open town meeting vote, the municipal officers can always place on the warrant a corrected version that they may prepare. Such an alternative article could appear immediately before the petitioned article. Alternative articles are not desirable where voting is by secret ballot referendum, because of the chance that both will be approved.

**Substantive matters.** If a petition is for an open town meeting vote then the municipal officers, both for minor and for more substantive matters, may put on the warrant both the petitioned article and an alternative article of their own drafting. They should not alter the petitioned article itself in any way. At the open town meeting, the municipal officers can urge that the petitioned article be defeated or passed over, and that their own proposal be considered.

Indeed, if the identity of one or more of the circulators is known, the municipal officers may succeed in convincing them in advance of town meeting of the relatively greater merits of the municipal officers' alternative proposal, and persuade the circulators themselves to move at the meeting for defeat or pass over of their own article, so that the alternative can be taken up with dispatch. The alternative article can appear on the warrant immediately before the petitioned article, and information notes after each can explain the origin of each, and the recommendation of the municipal officers.

This alternative article technique is feasible only where the petition has not requested a secret ballot vote in a secret ballot town: there is no practicable way to list alternative articles on a pre-printed ballot, and there is a risk that both will pass, which will only complicate matters.

There will be times, however, when municipal officers will prefer not to submit *any* alternative, and to hope that the petitioned article will die of its own internal infirmities, omissions, or ambiguities. Results cannot be guaranteed, however.

### **Refusal to Honor Petition (Section 2521(4) procedure)**

What happens when there is a refusal to call a meeting?

It was said above that petitioners can seek relief from a notary public if the municipal officers unreasonably refuse to honor a petition. This is pursuant to 30-A M.R.S.A. Section 2521(4).

Our highest state court has said that the whole theory of the New England town meeting has been that upon all necessary occasions the inhabitants of a town could on short notice come together. On that idea is based the statute authorizing a notary (it formerly authorized a justice of the peace) to issue a warrant if the municipal officers unreasonably refuse. *Jones v. Sanford*, 66 Me. 585, 590 (1877).

In fact, if application is made to a notary, the notary has no discretion not to issue a warrant calling the requested meeting and including the requested article or articles. In this respect the notary's duty is ministerial, not judicial—it involves no discretion. The notary is not to hold a hearing nor otherwise to decide on evidence concerning the reasonableness or unreasonableness of the municipal officers' refusal. *Southard v. Bradford*, 53 Me. 389 (1866).

Municipal officers who believe they have reasonably refused to honor a petition may apply to a court for a declaratory judgment (one declaring the relative rights of the parties) and an injunction barring the meeting and quashing the notary's warrant, or they may delay and let the meeting run its course. Indeed, the municipal officers can choose to attend the meeting and attack the proposal, or they can simply boycott the meeting. (A clerk arguably has a statutory duty to attend, and so should be there; if a clerk is nonetheless absent, a moderator should appoint a clerk *pro tem*.) There is a chance, after all, that the requested article will not pass, and that would probably end the controversy. If the article does carry, the municipal officers can either go to court or refuse to implement whatever action the article directs or contemplates, thereby forcing others to take the judicial initiative. (It can be argued that the better choice is to proceed to court, on the theory that the municipal officers, as a town's chief executive officers, are obliged either faithfully to execute the law or to seek an order overturning the law.)

The law is clear that a town meeting called by a notary public, where there has *not* been an *unreasonable* refusal by the municipal officers to call the meeting, is an illegal meeting. *Allen v. Hackett*, 123 Me. 106, 114 (Me. 1923). Once a court declares a meeting to have been illegal, it follows that any action taken at it is void and a legal nullity.

**When town or plantation is without municipal officers.** Section 2521(3) provides that when a town, once organized, is without selectmen, a notary public may call a meeting on the written petition of any three voters. The Forms Appendix to this Manual contains two form petitions addressed to a notary public. One of these is for use in plantations and also in towns that elect their municipal officers by an open town meeting, and the other is for use in towns that elect their municipal officers by secret ballot

### **11. Winthrop Ambulance Service (WAS) contract renewal**

Please see the attached WAS contract renewal for the current fiscal year.

This represents a \$0.50 rate increase from the previous contract, from \$7.50 to \$8.00 per capita, based on 2,598 year-round Readfield residents (2010 Census).

Last year's contract was for \$19,485. The new contract would be for \$20,784 for a total increase of \$1,299. The Town budgeted \$20,600 for this service. If approved, the difference in cost possibly could be offset by lower expenses in other Protection category lines, or possibly by asking Town Meeting to approve use of unassigned funds to make up the difference.



## TOWN OF WINTHROP

17 Highland Ave  
WINTHROP, ME 04364

207-377-7200

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### INVOICE

September 4, 2014

TERMS: ½ Oct 15, 2014  
½ April 15, 2015

TO: TOWN OF READFIELD  
Attn: Accounts Payable  
8 Old Kents Hill Road  
Readfield, Me 04355

**AMBULANCE SUBSIDY** *for Fiscal Period July 1, 2014 through June 30, 2015*

Per Capita Rate for Fiscal 2014 - 15      \$8.00

multiplied by population of 2,598

**Total subsidy due:                      \$20,784.00**

*Total Population all participating communities is 9147*

FINANCE CHARGES will apply on unpaid balances 30 days past due date at a rate of  
1 ½% per month

# Winthrop Ambulance Service

August 1, 2014

Dear Community Partners,

Attached is a contract for Ambulance Service for fiscal year 2014. As you will notice, the per capita rate for this year has increased slightly to \$8.00. The increase is due to lower than expected revenues driven by lower insurance reimbursements and changes within the healthcare system. Please sign both copies of the contract and return them, I will have them signed and return one copy to you for your records.

I would like to take this opportunity to thank you all for your continued support, this marks our 36<sup>th</sup> year together as a regional service. I feel that this is important to recognize in the current financial state of the economy, and with increasing pressure to share services it shows how successful regionalization can be. Also, thanks to the generosity of the Town of Readfield, we continue to be able to station an ambulance at the Readfield Fire station during the day that covers Readfield, Fayette, Manchester and Mt. Vernon and dramatically decreases response times

I believe that we are working towards providing the best EMS service available. As always, we value your input, so please feel free to contact me directly with any questions or ideas. My email is: [jdovinsky@winthropmaine.org](mailto:jdovinsky@winthropmaine.org).

Again, thank you for your continued support, and I look forward to working with you in the future.

Sincerely,

John Dovinsky, Director

**CONTRACT FOR AMBULANCE SERVICE**

Agreements, by and between the Town of Winthrop, hereinafter referred to as "Winthrop", and the Inhabitants of the Town of Readfield, hereinafter referred to as "Readfield".

WHEREAS, Winthrop has instituted a public ambulance service and is willing to permit said service to be used by other communities:

NOW, THEREFORE, the parties hereto mutually covenant and agree as follows, to wit:

1. Winthrop agrees to provide emergency ambulance service to said Readfield for the period of July 1, 2014 to June 30, 2015. This agreement shall continue from year to year after July 1, 2015. Said agreement shall be an annual agreement renewable automatically subject to termination by either party provided written notice of intended termination be served on the other community 30 days before the proposed termination date.

2. The contract year covered by this agreement shall commence annually on July 1, and terminate on June 30th of the following year.

3. Said Readfield shall pay for said service at a rate computed on a per capita basis using the total populations of all participating towns, and the amount budgeted by Winthrop for the ambulance service for the fiscal period aforementioned. Per capita payments will be due in installments, with one-half due in October and the other half due in May.

4. In the event of any such service being rendered by Winthrop, there shall also be paid to Winthrop by the patient for the particular call, a base amount, plus cost of any materials or supplies used in connection with said call, as well as per mile cost from the location served by the ambulance to the patient's destination. These charges shall be established by and may be adjusted from time to time by the Town of Winthrop.

IN WITNESS THEREOF, the parties hereto have hereunto set their hand.

Date: August 1, 2014

**TOWN OF WINTHROP**

**TOWN OF READFIELD**

By: \_\_\_\_\_  
Town Manager

By: \_\_\_\_\_  
Town Manager

WITNESSED BY:

WITNESSED BY:

\_\_\_\_\_

\_\_\_\_\_

**CONTRACT FOR AMBULANCE SERVICE**

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IN WITNESS THEREOF, the parties hereto have hereunto set their hand.

Date: August 1, 2014

**TOWN OF WINTHROP**

**TOWN OF READFIELD**

By: \_\_\_\_\_  
Town Manager

By: \_\_\_\_\_  
Town Manager

WITNESSED BY:

WITNESSED BY:

\_\_\_\_\_

\_\_\_\_\_

## 12. Select Board retreat report

Please see the attached retreat report from facilitator Dana Lee. This was sent electronically previously to all Select Board members.

### **Readfield Select Board and Town Manager Retreat August 8, 2014; 8:00 am – 4:00 pm Facilitated by Dana Lee, Lee Facilitation Services**

*Attending: Chair Sue Reay, V. Chair Val Pomerleau, Selectmen Allen Curtis, Greg Durgin and Tom Dunham, Town Manager Stefan Pakulski*

- *Parts of the meeting were dedicated to a Q and A with state representatives running for election and with RSU Supt. Donna Wolfrom, Finance Director Brigitte Williams and School Board Member David Greenham*

#### **Past Year Successes**

Many policies have been updated and approved by the Select Board (SB).

The SB appointed Ad Hoc Committees as needed to help review policies; three ad hoc committees are still currently working: Public Works Reporting Committee, Roles of Liaisons Committee, and Road Bond Reporting Committee.

Had discussions attempting to better determine Town Manager workload, SB expectations and how they affect workload. Had discussions with Town Manager regarding time management.

Focused on the proper roles of SB Members, how we communicate and function has been discussed and is improving.

The SB achieved some improvements in participation and transparency using the Town's website, the Messenger, taking more comments at meetings, and use of ad hoc committees.

The Town received another good audit report.

The Sb has established SB budget liaisons for the Budget Committee and the RSU Board.

The Town Manager actively managed the use of the Enterprise Funds.

The Ballfield Committee achieved the creation of a ballfield.

There was good progress made on trails development by the Trails Committee.

## **Frustrating Issues / Concerns**

The roles, responsibilities, communication and expectations among and between Select Board Members and the Town Manager needs improvement. "Surprises" are still occurring to both the TM and to the SB members; evidence of communication improvement needs.

The Board stressed the need for Board members and staff to be very clear, thorough and accountable to Readfield citizens. This will allow for greater trust and respect among and between residents, the Select Board and Town Manager.

The Chair is still having occasional issues with Board following proper communication policies, including when complaints are made regarding the Town Manager. More understanding needed about SB roles, functioning and protocols.

The SB needs to "speak with one voice," referring agenda issues to SB Chair, accept democratically made decisions, even if an SB Member disagreed.

The rise of unionization of employees has put strains on the SB and Town Manager; unsure of what direction this will take, but will likely require a lot of Town Manager and SB time and ultimately, a lot of "fence-mending."

## **Goal Prioritization**

*Numbers in parentheses indicate number of responses.*

(6) SB and Town Manager communication / trust / functioning needs improvement.

- Every six weeks, the Chair plans to hold an executive session of just SB members to perform intra-board performance toward better following policies, chain of communication, proper roles, etc. These discussions will periodically involve the Town Manager to share in how he fits into their SB improved functioning progress.

(6) Holding the mil rate / tax burden down.

- Can overtime be better managed? Would part-time employees be more cost-effective?

(4) Advance a public discussion regarding voting in the Town budget by secret ballot.

- Needs research on how to change to that adoption method, advance public information on the topic, establish hearing date(s), SB to take time / take comments and input.

(3) Improve the timing and SB time allowed to understand the proposed budget.

- Speak to Budget Committee about an earlier Budget Calendar, working more closely together (speaking at their meetings?). There is a September joint workshop with BC to discuss priorities and process.

(2) Thoughtfully and effectively managing the union issues.

- Noted for the SB to take this slowly and thoughtfully. If the unions do not form, there will be more work needed on Personnel Policies.

(2) Town Manager accountability / time management improvements.

(2) Library report / use of bank report to be issued and advanced

(2) Further develop and utilize format for Town Manager Evaluation (Workshop already scheduled).

(1) Long-term road plan must be maintained.

(1) Long-term solid waste and recycling plan to be developed.

(1) Advance the installation of needed security cameras

#### **Other Goal Items**

*Did not receive any priority responses during scoring.*

Investigate the staffing of Transfer Station Manager and Road Commissioner duties / Town Manager workload.

Better understand the audit, terminology, cash flow, Tax Anticipation Notes, fund balance and options (Workshop already scheduled for 8/27).

Hold an "all-committees" workshop to discuss adherence to policies and guidelines (Workshop already scheduled)

Advance a successful Fire Station addition plan.

Advance the repair of Old Woolen Bridge.

Conduct research on cost and functionality of a GIS system for the Town / website.

Restore town boundary markers; include in CIP (Some progress).

- Involve abutting towns to cost-share.

Hold tabletop Emergency Operations Planning exercise with the RSU (Already scheduled)

### **Chairman Sue Reay's Review of Progress Spreadsheets with The Select Board**

#### **Ordinances:**

- The Town Manager will work with Town Clerk to obtain and distribute all of the most recently adopted Ordinances and update the web with same (by 8/16). SB will take up spreadsheet again on 8/24. SB Members asked to give input (by 8/19) on which policies are their priority to get reviewed.

#### **Policies:**

- SB Members asked for feedback on their priorities to Chair (by 8/19). The first policy to be considered will be the Appointment Procedure Policy, along with review of roles of SB and Town Manager.

#### **Workshops:**

- The first four workshops have been identified and are confirmed. The Chair is seeking SB feedback on which other workshops should be prioritized (by 8/19)

#### **Budget Schedule:**

- The Chair is seeking feedback on revising the budget schedule from SB Members, Budget Committee Members and Administration.

**13. David Linton: Bear resolution**

Resident David Linton has requested to speak with the Select Board regarding a possible resolution on bear hunting. This would take longer than allowed for an individual under the Public Communications section.

**14. Other (if needed)**

**15. Public Communications**

Members of the public may address the Select Board on any topic.

**Executive Sessions**

**16. Labor negotiations update (if needed)**

**17. Personnel issues**