

TOWN OF NEWRY SELECTMEN AGENDA

Tuesday March 24, 2020

Toll call # (425)436-6372

Access Code 531106

5:00 PM

Call to Order

Selectmen Present:

Others Present:

Pledge of Allegiance

Sign Warrants – All of the Selectmen signed

Approval of Meeting Minutes

Adjustments to the Agenda:

Announcements:

Public Comment:

New Business:

Discuss and consider updates on COVID-19 Pandemic

Discuss and consider staffing levels and workflow during this Civil Emergency

Consider and discuss the following department Budgets:

Administration

Ambulance

Third Party Requests

Fire Department

Recreation

Unfinished Business:

Consider and discuss the sale of Tax Acquired Timeshares

Consider and discuss signing the Taxation of Timeshare ordinance

Reports:

Administrator Report

CEO Report

Committees Report

Selectmen's Report

Other Business:

SELECT BOARD MEETING March 31, 2020 5PM, Newry Town Office

SELECT BOARD MEETING APRIL 7, 2020 5PM, Newry Town Office



Amy Bernard <abernardnewrymaine@gmail.com>

Legislative Update – Enactment of COVID-19 (Coronavirus) Legislation

2 messages

Maine Municipal Association <kdufour@memun.org>
Reply-To: Maine Municipal Association <kdufour@memun.org>
To: abernardnewrymaine@gmail.com

Wed, Mar 18, 2020 at 9:14 AM

**Legislative Update**

To: MMA's Legislative Policy Committee
Key Appointed & Elected Municipal Officials
Legislative Bulletin Subscribers

From: Kate Dufour, Director of MMA's State and Federal Relations
Department

Date: Wednesday, March 18, 2020

RE: Legislative Update – Enactment of COVID-19 (Coronavirus) Legislation

Yesterday, the Maine State Legislature met to enact several pieces of legislation providing the state and local governments with the authority necessary to address COVID-19 (coronavirus) related issues and then adjourned sine die (without another day).

What follows are descriptions of the more municipally significant legislation enacted by the Legislature and soon to be signed into law by Governor Mills. With the exception of the Highway Fund bond (LD 2134), these bills were enacted with emergency preambles, making the proposals effective upon the signature of the Governor. The bond bill becomes effective in 90 days from March 17.

[LD 2167, An Act To Implement Provisions Necessary to the Health, Welfare and Safety of the Citizens of Maine in Response to the COVID-19 Public Health Emergency](#), in part:

- **Municipal Budgets & Elections (Part D).** In the event that town meetings are postponed, allows municipalities to continue to fund government operations at the same budget levels approved for the previous year and authorizes the municipal treasurer to disburse funds on the authority of the warrant signed by the municipal officers outside of a public meeting. If the budget is not adopted and the assessor(s) need to commit taxes in a timely manner, the law allows the assessor(s) to commit taxes based on the previous year's budget levels. Allows municipal officers to postpone the date of a scheduled municipal secret ballot election by posting notice in a public location at least two days prior

to the election and to use previously printed ballots. These provisions apply retroactively to March 1, 2020 and are repealed on Jan. 1, 2021.

- **Freedom of Access Act (Part G).** Up until 30 days after the termination of the emergency, allows entities subject to FOAA, including municipalities, to conduct public proceedings through telephonic, video, electronic or other similar means of communication as long as certain conditions are met, including: (1) providing notice of the means (e.g., telephone, video, electronic, etc.) by which the meeting will be held; (2) ensuring that members of the body can speak and be heard by other members of the body and members of the public can hear all participants in the meeting; and (3) taking all votes via roll call.
- **Licenses & Registrations (Part F).** (1) Extends until 30 days after the end of the public health emergency, registrations for motor vehicles, all-terrain vehicles (ATV), watercraft and dogs issued by the municipality. (2) Allows a municipality, without conducting a hearing, to grant a request for a renewal of a liquor license. (3) Requires the Secretary of State and the Department of Inland Fisheries and Wildlife to expand online access to licensing and registration systems (e.g., motor vehicle, trailer, ATV or watercraft registration, etc.), regardless of whether the municipality currently participates in the on-line service.
- **School Budget Meeting (Part E).** In the event that school board meetings are delayed, allows school administrative units to continue operations at the same budget levels approved for the previous year.
- **Emergency Management Act (Part H).** Provides the Governor additional powers under the Maine Emergency Management Act, including the ability to adjust timeframes and deadlines imposed by law for state, county or municipal governments when an adjustment is reasonably necessary to mitigate a substantial impact of the emergency.
- **Unemployment Insurance (Part B).** Revises certain unemployment insurance eligibility and benefit charging provisions under the Employment Security Law to protect public health during a declared public health emergency.

LD 2126, *An Act Making Supplemental Appropriations and Allocations for the Expenditures of State Government, General Fund and other Funds and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2020 and June 30, 2021*, provides funding for the following programs of direct municipal significance:

Highway Fund Revenue. Transfers from the General Fund to the Highway Fund \$10 million to support highways, bridges and multimodal transportation

(e.g., transit, rails, aviation, ports, etc.) and to support initiatives that reduce greenhouse gas emissions.

State Aid for K-12 Education. Establishes at \$2.37 billion the total FY 2021 cost of K through 12 education, as calculated by the Essential Programs and Services model and including the normal cost of teacher retirement. The state's contribution to those costs is \$1.23 billion, accounting for 52% of total expenditures. The budget allocates an additional \$229 million as the state's share of the total unfunded actuarial liabilities (UAL) of the Maine Public Employees Retirement System that are attributable to teacher and retired teacher health and life insurance benefits. The UAL appropriation brings the total costs of K-12 education to \$2.60 billion, with the state's \$1.46 billion appropriation accounting for 56% of total expenditures. For FY 2021, the minimum local share of K-12 education expenditures is \$1.14 billion and the mill rate expectation is 8.18.

LD 2134, *An Act to Authorize a General Fund Bond Issue for Infrastructure To Improve Transportation and Internet Connections*, provides a bond issue of \$90 million for highway and bridge improvements, including the Madawaska International Bridge replacement project and for the Department of Transportation's municipal partnership initiative and \$15 million for multimodal facilities or equipment related to transit, rails, aviation, ports and marine transportation to be matched by an estimated \$275 million in federal and other funding. Part B of the bond issue provides \$15 million to invest in high-speed internet infrastructure to be matched by up to \$30 million in federal, private, local or other funds.

LD 2163, *An Act To Address Funding Needs Related to COVID-19*, authorizes transfers of up to \$11 million from the Reserve for General Fund Operating Capital to a COVID-19 response fund in order to address funding needs associated with the public health emergency through January 15, 2021.

According to two memos to the members of the Legislature, one authored by Governor Mills and the other co-authored by Senate President Troy Jackson and Speaker Sara Gideon, the Legislature will be called back into a special session this year when it is safe and responsible to do so. When reconvened, the Legislature will address many of the bills that upon adjournment were left in committees, tabled in the House and Senate, or placed on the Appropriations and Financial Affairs Committee's table awaiting funding.

As result, until the Legislature is reconvened, the publication of the Legislative Bulletin and legislative updates will be suspended. If you have any questions about the legislative session, please do not hesitate to contact me at kdufour@memun.org.

Also, MMA's Legal Services Department is working on a detailed description of the municipally related authorizations adopted in LD 2167, the Governor's COVID-19 omnibus bill. That notice will be posted on the Association's website later today (March 18, 2020). If you have questions about how the provisions adopted in LD 2167 will impact your community, please contact our Legal Services Department at legal@memun.org.

Thank you.

3/18/2020

Gmail - Legislative Update – Enactment of COVID-19 (Coronavirus) Legislation

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Maine Municipal Association
60 Community Dr
Augusta, ME 04330-8603

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Amy Bernard <abernardnewrymaine@gmail.com>
To: Barbara Rajaniemi <brajanieminewrymaine@gmail.com>

Wed, Mar 18, 2020 at 4:16 PM

Here you go.

Amy

[Quoted text hidden]



ADMINISTRATION:

02-02 COMPUTER: This account funds the cost of the software system, website fees, and annual maintenance contract with IT person. TRIO will be upgrading to TRIO Web this runs \$2500.

02-03 ELECTIONS: This account pays for the ballot clerks' hourly rates for elections, and other election supplies and related costs. I recommend no changes in amount. I have budgeted \$1500 for coding ballots for 2 elections, this runs about \$850 each election.

02-04 REGISTRY OF DEEDS: This account pays for the lien filings with the registry of deeds. The costs of liens and discharges are paid off when the taxes are paid.

02-05 MILEAGE: This account pays for the miles employees use their vehicles for town business, such as checking permits, bank runs and trainings. I have decreased this by \$1000.

02-20 LEGAL EXPENSE: This account pays for the fees for the Town Attorney. These funds will go to representing the town in legal issues, review town ordinances to be brought to the voters. As we are in the middle of many legal issues facing the Town, I increased this by \$3000.

02-23 ACCOUNTING/AUDIT: This account covers the cost of the annual audit for the Town's financial account system.

02-27 POSTAGE: This account pays for the cost of postage for bills, Tax bills, notifications, and any correspondence sent via mail.

02-30 AVCOG: This account pays the dues to be a member of Androscoggin Valley Council of Governments (AVCOG). This is up \$355.

02-89 PRINTING this line needs an increase to cover the cost of outsourcing the tax bills, town reports, and checks for AP and Payroll. This is up

02-90 ADMIN TRAINING This account pays for the cost associated with attending training through MMA or its affiliates associations.

02-91 ADVERTISEMENTS this line is for the newspaper ADs we do for the public hearings and town meeting notices. I recommend \$1500 for this account. As we will be selling Tax Acquired property

02-92 OFFICE SUPPLIES I recommend \$5000 in office supplies for the office needs.

02-99 MISC: This line in the Budget has historically been the catch-all account recommends \$1200 in misc. account.

05-01 Wages Regular: This line covers the payroll for the Town's staff and Select Board. This amount represents a 3% increase for staff.

06-02 Medicare: This is the only account that covers all the Medicare and FICA matches for the salaries.

06-03 IRA Match: This line pays for the Towns match to the employee's retirement plan.

Administration and Salaries: Summary

The Town Meeting warrant article for the Administration and Salaries for the 2021 budget is an increase 3%. The significant increases from last year's budget are largely due to increasing in legal and accounting lines. The overall budgetary increase is \$9,730.

Custom Budget Report

Expense

2019 2020 2021
Budget Budget Initial

Dept/Div: 100-01 Administration / Administration

EXPENSE

02-02 COMPUTER	16,500.00	15,500.00	17,500.00
02-03 ELECTIONS	1,450.00	6,500.00	3,500.00
02-04 REGISTRY OF DEEDS	4,000.00	3,750.00	5,500.00
02-05 MILEAGE	7,500.00	7,500.00	6,500.00
02-20 LEGAL EXPENSE	20,000.00	10,000.00	13,000.00
02-23 ACCOUNTING/AUDIT	5,000.00	6,500.00	7,500.00
02-27 POSTAGE	4,000.00	4,500.00	4,500.00
02-30 AVCOG	5,900.00	5,995.00	6,350.00
02-88 DUES	2,300.00	3,750.00	3,750.00
02-89 PRINTING	2,500.00	3,000.00	3,400.00
02-90 ADMIN TRAINING	3,000.00	3,300.00	3,300.00
02-91 ADVERTISEMENTS	1,000.00	1,000.00	1,500.00
02-92 OFFICE SUPPLIES	5,500.00	5,000.00	6,500.00
02-99 MISC	1,200.00	1,200.00	1,400.00
Wages			
05-01 Regular	187,957.00	211,100.00	215,875.00
Town Employee Expenses			
06-02 Medicare	17,469.00	18,250.00	16,500.00
06-03 IRA Match	5,200.00	8,955.00	8,955.00

Dept/Div: 100-22 Administration / DO NOT USE

Wages

Dept/Div: 100-23 Administration / Medicare BD

Wages

Administration 290,476.00 315,800.00 325,530.00

3%



AMBULANCE:

02-05 MILEAGE: This account covers the travel reimbursement for the representative to Med-Care Board of Directors.

02-21 MED-CARE: This account covers the Ambulance subsidy for 2020. This is an increase over last year's subsidy. Rates went up by

05-01 Regular Wages: This account covers the wages for the representative for the Town of the Med – Care Board of Directors. This has increase due to union negotiations and expectation more meetings will be necessary.

Ambulance summary:

The increase in this Town Meeting warrant article for Ambulance is due to the increase in the subsidy the Town of Newry pays Med Care to provide ambulance services. The increase over 2019-20 budget is \$6360. This is an increase of 5.9%.

Custom Budget Report

Expense

	2019 Budget	2020 Budget	2021 Initial
Dept/Div: 101-01 AMBULANCE / AMBULANCE			
EXPENSE			
02-05 MILEAGE	300.00	480.00	15,750.00
02-21 MED-CARE	8,200.00	9,910.00	700.00
Wages			
05-01 Regular	450.00	450.00	750.00
AMBULANCE	8,950.00	10,840.00	17,200.00

2021
~~2020-21~~ Newry Fire Dept. Budget

Equipment:

5	Pair Bunker Boots	\$1,500.00
2	Helmet Face Shields	\$340.00
	Radio & Pager Repair	\$500.00
5	Rolls 1 1/2" hose	\$750.00
	1 1/2" fire nozzle	\$500.00
2	Multi Orifice Nozzle	\$180.00
2	1" to 1 1/2" nozzle adapters	\$28.00
3	Halligans	\$615.00
2	Hose Spanner sets	\$100.00
3	MSA 30 min cyl. 2216 PSIG Aluminum SCBA bottles	\$ 4,080
	Water filtration system for Sunday River Station	\$2,350.00
	Misc. Equipment	\$1,000.00

Total: ~~\$11,943.00~~ \$8145.00

Ops & Maintenance:

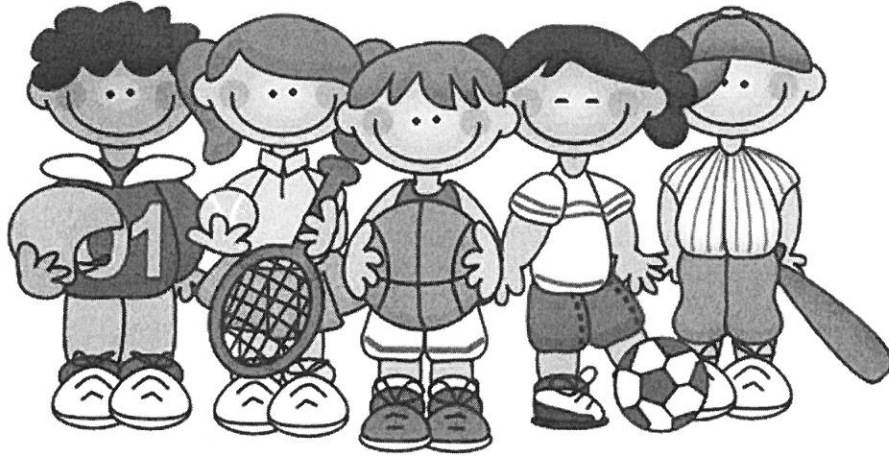
Fire Service – Lyn Gilley	\$50.00
NOMA – Mutual Aid	\$100.00
MFCA – Chief's Assoc.	\$95.00
NVFC – Membership Dues	\$210.00
Western Maine Fireman's Assoc.	\$50.00
Rumford Hospital FD Physicals	\$1,500.00
Pumps Testing Services 3 Trucks – Reliance Equipment	\$4,500.00
NE Emergency Apparatus – SBA Flow Testing	\$1,500.00
Fail Safe Hose testing	\$2,000.00
Rosenbauer – Ladder 1 Ariel	\$3,600.00
AAA Fire Extinguisher testing	\$600.00
Wildland Fire Equipment	\$300.00

1500

Custom Budget Report

Expense

	2020 Budget	2021 Initial
Dept/Div: 117-01 FIRE DEPT / FIRE DEPT		
EXPENSE		
02-06 GAS & OIL	2,000.00	2,000.00
02-07 EQUIPMENT	11,943.00	8,145.00
02-08 TRAINING	1,000.00	800.00
02-98 OPERATIONS & MAINTENANCE	30,735.00	27,535.00
Wages		
05-01 Regular	30,000.00	30,000.00
Utilities		
10-01 Electricity	1,500.00	1,500.00
10-02 Heat	7,000.00	7,000.00
10-03 Phone	1,000.00	1,000.00
Dept/Div: 117-02 FIRE DEPT / COUNTY TRAINING		
EXPENSE		
FIRE DEPT	85,178.00	77,980.00



RECREATION BUDGET:

125-01-02-97 Rec Carry Forward: Since the Town of Bethel declined to surcharge non-Bethel residents participating in their recreation program in late 2015, the board decided to contribute a flat fee to the Town of Bethel for use of its programs by Newry children on a per use basis. I recommend funding \$1500 for the basketball, softball/baseball, and swim lessons programs.

Custom Budget Report

Expense

	2020 Budget	2021 Initial
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Dept/Div: 125-01 RECREATION COMMITTEE / RECREATION COMMITTEE

EXPENSE

02-97 CARRY FORWARD	500.00	1,300.00
RECREATION COMMITTEE	500.00	1,300.00

Custom Budget Report

Expense

	2020 Budget	2021 Initial
Dept/Div: 105-01 THIRD PARTY REQUESTS / THIRD PARTY REQUESTS		
EXPENSE		
02-32 AGE FRIENDLY COMMUNITIES	500.00	500.00
02-33 EDDIE SCHOOL	1,000.00	0.00
02-34 AREA YOUTH FOOTBALL	500.00	500.00
02-50 SAFE VOICES	150.00	150.00
02-51 AMERICAN RED CROSS	875.00	875.00
02-52 ANDROSCOGGIN HOME HEALTH	310.00	310.00
02-53 BETHEL LIBRARY	6,000.00	6,000.00
02-54 BETHEL CHAMBER	1,500.00	1,500.00
02-55 CHANNEL IV ASSOC	5,000.00	5,000.00
02-57 COMMUNITY CONCEPTS	700.00	700.00
02-59 FLAGS FOR SOLDIER'S GRAVES	200.00	162.00
02-60 MAHOOSUC KIDS	2,000.00	2,000.00
02-61 MAINE ADAPTIVE SPORTS & RECREA	1,000.00	1,000.00
02-63 MOUNTAIN EXPLORER	10,000.00	12,000.00
02-64 BRYANT POND 4-H CAMP	600.00	600.00
02-65 PROJECT GRADUATION	500.00	500.00
02-66 REACH	500.00	500.00
02-67 SENIOR PLUS	750.00	750.00
02-68 TOWN GRADUATES	300.00	300.00
02-69 TRI COUNTY MENTAL HEALTH	500.00	500.00
02-71 WCBB-MPBN	300.00	300.00
02-72 WESTERN MAINE TRANSPORTATION	200.00	200.00
02-74 WINDY VALLEY SNOWMOBILE CLUB	5,000.00	5,000.00
02-75 WMVAC	175.00	175.00
02-76 HARVEST HILLS ANIMAL SHELTER	329.00	329.00
02-77 LIFE FLIGHT	1,000.00	1,000.00
02-78 PINE TREE 4-H	100.00	100.00
02-96 CAMP SCHOLARSHIP NEWRY	600.00	600.00
THIRD PARTY REQUESTS	40,589.00	41,551.00

NOTICE OF SALE OF TAX-ACQUIRED PROPERTY

The Board of Selectmen/Town Council/City Council of the Town/City of NEWRY is accepting bids for the purchase of the municipality's interest in 30 tax-acquired properties listed below. Each bid must be received in writing and in a sealed envelope marked "Tax-Acquired Property Bid" on the outside. Each envelope may contain a bid for one property only; any person wishing to bid on several properties must submit a separate bid in a separate envelope for each property. All bids must be received in the municipal clerk's office no later than 3 o'clock a.m./p.m. on April 6, 2020. Late bids will not be opened or considered. Each bid must also include the bidder's name, mailing address and phone number and must be accompanied by a deposit in the form of a certified check or money order, in an amount equal to or greater than 20 % of the bid price. Each successful bidder's deposit will be credited to the total purchase price for that parcel. Deposits will be returned to the unsuccessful bidders. Any bid which does not contain the proper deposit will be rejected. Bids will be opened and reviewed by the Selectmen/Council at the municipal office on April 7, 2020 at 5:15 o'clock a.m./p.m. The Board of Selectmen/Town Council/City Council reserve the right to reject any and all bids. Each successful bidder shall have 14 days from the date of the bid acceptance in which to complete the purchase. Each property will be conveyed by a quitclaim deed without covenants. In the event that a successful bidder fails, for any reason, to complete the purchase in the time stated, the bid acceptance is void and the bidder's deposit shall be forfeited to the municipality. The Board of Selectmen/Town Council/City Council may thereafter negotiate a sale of the property with any or all unsuccessful bidders. The properties for sale are described on the Town/City's Tax Maps as:

Jordan Map - Lot	Jordan Map - Lot	Summit Map - Lot
J-1-102D	J-1-267D	A-1-337C
J-1-103B	J-1-302D	A-1-139A
J-1-107A	J-1-324D	A-1-202D
J-1-128A	J-1-329C	A-1-232B
J-1-140D	J-1-340D	A-1-288C
J-1-146A	J-1-341B	A-1-310A
J-1-149D	J-1-364D	A-1-310C
J-1-155A		A-1-481C
J-1-157C		A-1-337C
J-1-161A		
J-1-232C		
J-1-235B		
J-1-247a		
J-1-258C		

The tax maps and other public information concerning the properties may be reviewed at the Town/City Office during its normal business hours, which are: Monday through Thursday 7A-5P.

Note that the municipality makes no warranties or representations of any kind whatsoever concerning the nature, extent, validity, value or utility of any rights to be conveyed. Bidders are strongly advised to consult an attorney prior to filing a bid.

By: _____

James Largess
Chairman, Board of Selectmen/Town Council/City
Council

Map - Lot

	Description	acct	
J-1-102D	102D		1898 Studio Deluxe, full kitchen, queen sleeper sofa, queen murphy bed
J-1-103B	103B/105B		2652
J-1-107A	107A		1899 Studio Deluxe, full kitchen, queen sleeper sofa, queen murphy bed
J-1-128A	128A		1935 Studio Superior- Handicapped, one queen, full kitchen
J-1-140D	140D		2722 is a standard room, but is part of lockout. Lists together with studio deluxe.
J-1-146A	146A		1962 Studio Superior- Handicapped, one queen, full kitchen
J-1-149D	149D		1977 Studio Superior- one queen MURPHY bed, full kitchen, Deck
J-1-155A	155A		1982 Studio Superior- Handicapped, one queen, full kitchen
J-1-157C	157C/159C		2745 Studio Superior- one queen MURPHY bed, full kitchen, Deck
J-1-161A	161A		1990
J-1-232C	232C		2028 Studio Superior- one queen MURPHY bed, full kitchen, Deck
J-1-235B	235B/237B		2907 is a standard room, but is part of lockout. Lists together with studio deluxe.
J-1-247a	247A/249A		2927 Studio Deluxe, full kitchen, queen sleeper sofa, queen murphy bed
J-1-258C	258C		2076 Studio Superior- Handicapped, one queen, full kitchen
J-1-267D	267D/269D		2966 Studio Deluxe, full kitchen, queen sleeper sofa, queen murphy bed
J-1-302D	302D/304D		3026 One Bedroom Suite sleep 4. King in loft bedroom, bunk bed, full kitchen, queen sleeper sofa
J-1-303D	303D		2109 2 bedroom suite, 1 king bed, 2 sets of bunks, loft deck
J-1-307B	307B		2115
J-1-324D	324D/326D		3050 is a standard room, but is part of lockout. Lists together with studio deluxe.
J-1-329C	329C		2156
J-1-340D	340D		2181 3 bedroom suite, 1 king bed, 2 sets of bunks, queen, loft, deck, gas fireplace
J-1-341B	341B		2183 One Bedroom Suite sleep 6. Queen in bedroom, Studio Deluxe, full kitchen, queen sleeper sofa, queen murphy bed
J-1-364D	364D		2209 Studio Superior- one queen MURPHY bed, full kitchen, Deck

Jordan

Map - Lot

	Description
A-1-121D	121D

Summit

316 Studio Superior- one queen MURPHY bed, full kitchen, Deck

MEMORANDUM

TO: Board of Selectmen, Town of Newry
CC: Amy Bernard, Town Administrator
FROM: Jim Katsiaficas, Esq.
DATE: February 25, 2020
RE: Proposed Taxation of Time Shares Ordinance Discussion

The Town of Newry faces a situation regarding time share property tax collection and enforcement that is causing both uncertainty and a large amount of work for the Town and its staff. This a situation the Maine Legislature recognized in the 1980s and addressed by enacting a law that allows a municipality to adopt an ordinance to shift the collection of property taxes on time shares to a managing entity. I have prepared a draft of such an ordinance for Newry for consideration by the Board of Selectmen, who, as the municipal officers, have the exclusive authority to adopt such an ordinance. The draft is based on time share taxation ordinances enacted by Wells (1999) and Ogunquit (2014).

A homeowners' association (HOA) for a building with timeshare units can have hundreds or thousands of members, each of whom is responsible for payment of property taxes on a small ownership stake – usually a week's share of a unit. The Town can assess and bill each time share interest in these unit, pursue collection of taxes from each time share owner, and enforce payment of taxes through the automatic tax lien foreclosure process.

However, given the thousands of taxpayers any given building's time share ownership can give rise to, this can become a difficulty for the Town's tax collector and treasurer. In addition to assessing and committing the taxes, this also involves collecting taxes and pursuing delinquent accounts.

In addition, the Town can inadvertently become the owner of time shares that can be difficult to resell. While the town meeting each year has voted to authorize Newry to waive the automatic tax lien process for time shares (quarter shares), previous Town tax collectors and treasurers nonetheless have employed the automatic tax lien foreclosure process to collect delinquent time share property taxes. (Also, please note the better practice is to name those properties for which waiver of foreclosure is authorized, rather than vote on a blanket waiver of foreclosure like this one, but that points out the burden of the Town pursuing collections for delinquent timeshare accounts.)

As a result, the Town has foreclosed on approximately 38 time share accounts and owns those interests. The town meeting annually authorizes the Selectmen to sell tax acquired property by quitclaim deed upon payment of an amount that is not less than the tax, cost and interest on that property, but the likelihood of obtaining all back taxes, interest and costs on these time shares is low given the apparently depressed market for these time shares. Further, a party purchasing time share accounts from the Town may have further expenses that would make it less likely that the Town will find buyers. This is because although the Town is not liable to the HOA to pay common expenses it acquired by tax lien foreclosure so long as it does not use these time share estates, when the Town sells the time shares as tax acquired property, the purchaser is responsible to pay those common expenses.

For these reasons – the administrative burden of pursuing property tax collection against so many time share interest owners and the low likelihood of recovering all amounts owed if a town does tax acquire these interests, many coastal resort towns have enacted time share taxation ordinances in accordance with State law.

- The primary benefit of such an ordinance is placing the collection of these time share interest accounts in the hands of the HOA/managing entity. The Town will continue to assess and commit the taxes, but collection will become the responsibility of the managing entity.
- There should be little additional burden to the managing entity. The managing entity already is assessing and collecting common expenses from the time share owners, and so this is just another item to be included in its annual process for collection of common expenses.
- The Town will receive timely payment on a regular basis. Where persons are delinquent in payment of taxes on time shares, the managing entity will be able to lien and enforce the lien by foreclosure, and will pay those amounts to the Town without the Town having to use the automatic tax lien process.
- The Town will not have to remarket time share interests. While the managing entity might say that the collection duty under the draft ordinance is burdensome, the managing entity is in a better position than the Town to collect taxes for, foreclose on, and remarket the time shares than the Town. This avoids the current situation, where the Town has to resell some 38 time shares, and likely will have trouble doing so because the buyer has to pay at least the back taxes, interest, and costs and will be liable for unpaid common expenses. The ordinance takes the Selectmen out of being the middlemen in reselling these time shares. (The statute and the ordinance do give the Town the option of requesting a list of delinquent owners if the Town wishes to pursue collection, but the intent here is to take the Town out of the collection business for time shares and place that on the entity that is in the better position to collect.)
- HOAs/owners likely will argue that the Town is better able to compute and collect taxes and that the timeshare units are overvalued.

Newry is not the only community where these issues are playing out. Attached are two articles from *The Ellsworth American*, the first from July 22, 2011 explaining that the City will be foreclosing on 66 timeshare units, and the second from December 20, 2019 describing the City's consideration of adopting an ordinance like the one before Newry to deal with the more than 300 time share units Ellsworth now owns. Ellsworth wants to take itself out of the timeshare rental business. If you go to Ellsworth's website, you can see a list of tax acquired timeshares the City is trying to sell off for \$100: (https://docs.google.com/spreadsheets/d/1-Clk9YX-6vUQS-zeY9WiXiVeLCAJ2VcKoxw_mvmb67l/edit#gid=935)

**TOWN OF NEWRY
TAXATION OF TIME SHARES ORDINANCE**

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1. PURPOSE

The purpose of this Taxation of Time Shares Ordinance (“Ordinance”) is to facilitate the collection and payment of property taxes on Time-share Estates.

2. AUTHORITY & SCOPE

This Ordinance is enacted by the municipal officers in accordance with Title 33 M.R.S.A., Chapter 10-A, Time Shares §§591-595. This section governs the taxation of any Time-Share Estates in the Town of Newry.

3. DEFINITIONS

As used in this section, the following terms shall have the meanings indicated:

3.1 Escrow Account. An account established and maintained by the Managing Entity in accordance with 33 M.R.S.A. §593(5).

3.2 Managing Entity. The time-share association responsible for management of Time-Share Estates, or if the association has designated, by Project Instrument or Time-share Instrument, a manager or an agent responsible for the obligations imposed by this Ordinance, such manager or agent.

3.3 Project. Means real property subject to a project instrument containing more than one Unit. A project may include units that are not time-share Units.

3.4. Project instrument. Means one or more recordable documents by whatever name denominated, applying to the whole of a project and containing restrictions or covenants regulating the use, occupancy or disposition of units in a project, including any amendments to the document, but excluding any law, ordinance or governmental regulation.

3.5 Time-share Estate. Any interest in a Unit or any of several Units under which the exclusive right of use, possession or occupancy of the Unit circulates among the various Time-

Share Owners of the unit in accordance with a fixed time schedule on a periodically recurring basis for periods of time established by the schedule coupled with a freehold estate or an estate for years in a time-share property or a specified portion thereof.

3.6 Time-share Instrument. Means one or more documents, by whatever name denominated, creating or regulating Time-share Estates.

3.7 Time-share Owner or Owner. A person who is an owner or co-owner of a Time-Share Estate other than as security for an obligation.

3.8 Time-share Unit. "Time-share unit" means a unit in which Time-shares Estates exist.

3.9 Unit. Means real property or a portion thereof designated for separate use.

4. TAX BILL; COLLECTION OF FUNDS

4.1 The Town of Newry shall send the Managing Entity a tax bill for the time-share Project, which shall include the information necessary to identify the assessed value of and the amount of tax owing for each Time-share Unit.

4.2 The Managing Entity shall collect and receive funds from Time-share Owners for the purpose of paying the real estate taxes assessed on each Time-share Estate.

5. ESCROW ACCOUNT

5.1 The Managing Entity shall establish and maintain an Escrow Account with a financial institution licensed by the State and deposit any money collected or received for taxes in the Escrow Account within ten (10) days after collection or receipt. The Escrow Account shall be established in the name of both the Managing Entity and the Town of Newry.

5.2 No withdrawal may be made from the Escrow Account without the written agreement of the Town of Newry.

5.3 Prior to the delinquency date established by the Town of Newry at its Annual Town Meeting, the Managing Entity shall pay to the Newry Tax Collector all money deposited in the Escrow Account for the purpose of tax payment. If the amount paid from the Escrow Account is not sufficient to discharge all taxes and tax-related costs due and owing, the Managing Entity shall place a lien on those Time-share Estates whose Owners have not contributed to the Escrow Account as provided in 33 M.R.S.A. § 594, and pay the outstanding amount no later than 30 days after the date it has collected the taxes and costs from the delinquent Owner or has foreclosed the lien and sold the Time-share Estate requested to a new Owner or 10 months from the date of commitment, whichever is earlier. If requested by the Town of Newry, the Managing Entity shall provide a list identifying those Owners and their interests, including the period of ownership, to the Newry Tax Collector, who may then, if he or she so elects, proceed to collect the taxes on those interests as allowed by law.

5.4 If the Newry Tax Collector and Treasurer use the lien procedure described in 36 M.R.S.A. §§ 942, 942A and 943 to collect delinquent taxes on Time-share Estates, whatever notice is called for in §§ 942, 942A and 943 shall be sent to the Time-share Owner as required by law. The Newry Tax Collector and Treasurer shall also give to the Managing Entity or leave at the Managing Entity's last and usual place of abode or send to the Managing Entity by certified mail return receipt requesting either a copy of the notice sent to the Time-share Owner or a notice that lists all the Time-share Owners to whom notices have been delivered.

6. **VIOLATIONS & PENALTIES**

6.1 When a violation of any provision of this Ordinance shall be found the Newry Tax Collector shall inform the Managing Entity, the Municipal Officers and the Town Administrator of the violation. If the notice does not result in the correction of the violation, the Board of Selectmen may institute any and all actions and proceedings, either legal or equitable, including seeking to enjoin the violation and the imposition of civil penalties, that may be appropriate or necessary to enforce this Ordinance.

6.2 Any Managing Entity that fails to comply with the provisions of this Ordinance shall be punished by a civil penalty of at least \$100 and not more than \$200 per day payable to the Town of Newry and for court costs and reasonable attorney fees incurred by the Town of Newry. Each day the violation continues after the Town of Newry gives notice thereof shall constitute a separate violation.

7. **EFFECTIVE DATE**

This Ordinance shall become effective upon enactment by the municipal officers, and shall apply to real property taxes assessed on April 1, 2020 and billed for the Fiscal Year 2020-2021 which commences July 1, 2020 and to real property taxes assessed and billed thereafter.

Enacted this __ day of March, 2020

James Largess, Chairman

Gary Wight

Virgil Conkright

Town of Newry Board of Selectmen