

## What is a Selectman's Job?

### Introduction:

Historically, the person elected to a town's board of municipal officers, whether male or female, has been referred to as the town selectman. In fact, the term "selectman" is still found throughout Maine's Statutes, although in recent years the Legislature has been using the term "municipal officers" for "selectman" when enacting new municipal legislation.

There are probably two reasons for the Legislature's current preference for the term "municipal officer". First, the term could reflect a conscious effort to steer Maine law toward gender neutrality. Also, 30-A MRSA 2001 defines a "municipal officer" as the "selectman or councilor of a town, or the mayor and alderman or councilor of a city." In that same section of law, the term "municipal official" is defined as "any elected or appointed member of a municipal government." What distinguishes the municipal officers from all other municipal officials is the broad range of authority and responsibility granted to the municipal officers as the town's chief executive officers. For these reasons, the term "municipal officers" is used throughout this paper in the place of "selectman."

It is difficult to overestimate the depth and range of responsibilities that are associated with a municipal officers duties of office. New England enjoys a unique tradition of significant municipal authority, and Maine's towns and cities have been given a larger share of governmental responsibility than municipalities in many other states. Along with the privilege of this with a town meeting form of government, almost all of that obligation falls upon the board of municipal officers either directly or indirectly.

Most people who have never been a municipal officer are completely unaware of the complexities of modern municipal administration. After a person is sworn in as a municipal officer, the range of duties alone can seem formidable: financial administration; solid waste disposal; assessing; welfare; employee supervision and personnel relations; road supervision; the appointments and supervision of a galaxy of municipal officials, boards and committee members; public management; contract administration; intergovernmental coordination; record keeping; legal affairs; communications. These are just a few aspects of the job, and this fails to mention the part of the job that is perhaps the most important and certainly the most time consuming: attention to the grievances, needs, aspirations, and interests of the public which are being served.

Few jobs are as potentially rewarding as is that of the municipal officer, or as potentially frustrating. The look, feel and personality of a community can be changed dramatically, for the good or for the bad, not only by the major decisions made by the board of municipal officers, but also by the administrative practices or the attitudes that the municipal officers might adopt toward the public or other governmental agencies with which they might deal. In order to maintain the trust and respect of others, they must act in the most ethical manner at all times and must hold all other municipal officials, employees and volunteers accountable to the same high ethical standards.

## **DUTIES and POWERS: EXECUTIVE FUNCTIONS**

Under a town meeting form of government, the duty of the municipal officers is to execute the “Will of the people” as that “Will” that has been expressed legislatively by the Town Meeting Body. In a town meeting town, therefore, the municipal officers and all the other municipal officials either elected or appointed by the municipal officers) represents the executive branch of the municipal government, of which the municipal officers are the chief executive officers.

The specific duties of a town’s chief executive officer are many and varied. In an effort to categorize those duties, however, it is helpful to think of the town as a corporation, which is exactly what it is – a municipal corporation. In order to safeguard and advance the interests of a municipal corporation, the chief executive officer, acting as the agent for the legislative body, is ultimately responsible for four broad areas of corporate management:

Management of the municipal finances.

Protecting the health, safety and welfare  
of the municipal residents.

Public property and personnel management.

The municipal officers are the representatives of the  
town for intergovernmental and public relations  
purposes.

## **EXECUTIVE/ADMINISTRATIVE ROLE**

The Executive/Administrative duties and responsibilities are wide and varied. The following areas and functions are common to most small to middle sized towns.

**Municipal Officers Meetings:** Depending on the size of the community, the municipal officers may have their regular meetings scheduled weekly, monthly or bimonthly depending on the amount of business to be conducted. State law does not require that the municipal officers meet with any regularity. Any meeting other than a regular meeting is called a special or emergency meeting. Quorum and notice requirements apply to both types of meetings. Municipal officers have a responsibility to know and follow the laws concerning:

- Notice Requirements
- Public Participation
- Right to Know
- Executive Sessions
- Public Records
- Conduct of Meetings

**Town Meeting and Town Meeting Warrant:** All legislative action by the voters must be done through the town meeting. All towns must hold an annual town meeting to elect officials 30-A MRSA § 2525. Generally, budget items and other business items are voted on at the annual meeting.

The municipal officers have the authority to set the date of the annual town meeting unless spelled out differently by ordinance or charter. They also set the date for special town meetings.

The municipal officers generally determine the wording and placement of the articles in the town meeting warrant. They are responsible for reviewing each article to make sure that it is unambiguous and does not call for any action that might be illegal or improper. The municipal officers should also make sure that each article is something that the voters have the legal right to vote on.

The municipal officers are responsible for ensuring that the town meeting warrants are properly posted.

**Personnel:** An important executive duty is dealing with personnel. The municipal officers are responsible for the hiring, firing, discipline, productivity, and supervision of appointed officials and hired employees (those people employed by the town but who do not take an oath of office, such as the solid waste attendants, secretarial staff, and so on). Under a town manager or administrator these duties may be delegated, but it is a good idea for the municipal officers to know the general rules in this area.

**Public Property:** The municipal officers have a general obligation as executive officers to ensure that public property is not destroyed, wasted or misused. Public property may be “real” property (land and buildings) or “personal” property (vehicles, equipment, cash, and the like). Specific items of property are discussed below. In many cases, a town board or commission may also have some involvement with property.

**Cemeteries:** The state law governing cemeteries is found in 13 MRSA § 1031-1349, and include private as well as public burial grounds. The town has a duty (§1101) to maintain the graves of U.S. veterans who served in any war.

Private cemeteries may be conveyed to the town in accordance with §§ 1221-1222, and the town may administer perpetual care of similar trust accounts in accordance with §§1223-1263.

The ownership, operation and maintenance of public cemeteries are governed by §§1302-1305.

**Parks and Playgrounds:** Areas designed and maintained for public recreation are generally overseen by and elected or appointed commission or a recreation department. In either case, the municipal officers should know whether insurance is needed for these areas. Also, if private concessions or events are located in a public park, the municipal officers must be involved in the contract process.

**Fields and Forests:** The town may own land, which is not designed or intended for recreational use. These areas may be open to the public, but the municipal officers should take steps to prevent litter, pollution, tree cutting and other problems, which devalue or destroy the property. Conservation commissions often have a role in this regard, making recommendations on how to preserve these lands. The town municipal officers may want to draft an ordinance (for town approval) restricting the use of these lands.

**Ministerial and School Lands:** Many towns hold title to what is known as “ministerial and school land”. The state law governing this is found at 13 MRSA §§3161-3172. The municipal officers, town clerk and treasurer serve as trustees of these lands if no other trustees exist.

**Libraries:** The law governing public libraries is found at 27 MRSA §101-109. The municipal officers are responsible for the operation of any town-owned library and may appoint one or more persons to actually run the library on a day-to-day basis. In many towns, the town may own the building, but the “public” library is operated by a Board of Trustees. If that is the case, the municipal officers do not have decision-making authority over the trustees or over property owned by the library corporation. Commonly, the library is financially supported by the town and by a private endowment. It may require some research to determine the town’s obligations and powers if this is the case.

**Tax-acquired Property:** The town often takes title to property because the owner failed to pay property taxes or certain other assessments in the time allowed. With town approval, the municipal officers may sell this property to recover the taxes and get the property back on the tax rolls. The town may want to keep the property for a park or other purposes, in which case the municipal officers should oversee it as explained above. Where the taxpayer continues to reside on the property after the tax lien forecloses, the town may still authorize the sale of the property, but the municipal officers should make it clear to any purchaser that eviction is the purchaser’s responsibility. The property should be sold by quitclaim deed (not warranty deed) and the municipal officers should make no representations about the value or condition of the property or quality of title. In terms of liability, the town is not liable for injuries occurring on the property until 60 days after the former owner or tenant has given up actual after the former owner or tenant had given up actual possession. At that point, municipal officers should make certain that the property is not a safety hazard and is adequately insured. This may require that the place be boarded up or otherwise sealed. Municipal Officers should, periodically, check the inventory of Tax-Acquired Property to see if there are any that should be disposed of and put back on the tax rolls. Disposal of Town-owned Property must be authorized by the Town Meeting

**Town-owned Buildings:** A town may own and operate several buildings, such as the town hall, garage, fire station, library and other facilities. The municipal officers must see to it that these building are adequately insured against damage as well as for liability. Also, the municipal officers should keep track of the physical condition of the buildings, grounds and parking areas so that maintenance and repairs can be done before small problems become large ones.

**Vehicles and Equipment:** Regardless which department uses town vehicles or equipment, the municipal officers should make sure that these items are adequately insured and regularly maintained.

**Roads:** The municipal officers are responsible for ensuring that the town ways (public roads and streets) are maintained and used properly. The following list indicates areas that the municipal officers may be involved:

- Creating Roads
- Discontinuing roads by formal town meeting vote
- Abandoning roads by passage of time
- Winter closings
- Seasonal, emergency and special event closings
- Weight restrictions
- Controlling vehicles, parking and pedestrians
- Liability
- Snow removal and road maintenance
- Utility pole permits
- Salt/sand sheds
- Contaminated wells

One of the municipal officers major involvement with roads in some communities is with the property owners that live on unaccepted roads and continually request that the town provide services such as plowing, sanding, grading and repairing of their unaccepted road. The municipal officers must listen to these complaints or requests and try to explain that the town is not allowed by law to expend public funds on any unaccepted ways.

**Public Safety:** The municipal officers as executive officers are responsible to ensure that the public safety measures that have been implemented in their community are enforced fairly and equitably. This includes police protection, ordinance enforcement, fire and emergency services, animal control, dangerous buildings and nuisances, public health and civil defense.

**Solid Waste Management:** The municipal officers are responsible for the proper disposal of solid waste generated within their community. In recent years, most Maine communities have come under increased pressure by the State to close their local landfills and to also start recycling programs. The costs for closing the landfills, building transfer stations and establishing recycling programs are staggering. These problems and the headaches that go with them are taking more and more of the municipal officers time.

**General Assistance:** The municipal officers are the “overseers of the poor” unless and until they have designated another person or persons as the municipal officials charged with that function. The overseers are responsible for administering the towns General assistance program, which is a municipal program mandated by state law (22 MRSA §44301 et seq.). The operation of the town’s GA program is discussed in detail in MMA’s General Assistance Manual.

**Litigation and Ordinance Enforcement:** One important executive function of the municipal officers is to decide if and when the town should file a lawsuit in a particular situation. This often arises in the context of an ordinance violation, where a lawsuit may be the only way to obtain compliance. The town may need to bring suit in other matters as well. For example; breach of contract, destruction or misuse of town property or to clear up boundary or road disputes. The municipal officers are the only town officials with the authority to bring an action in the town's name. The Planning Board or some other official may want to sue but they must do it through the municipal officers. The municipal officers make the decision whether to go to court or not but the money needed to do this must be authorized by the voters.

## **DUTIES AND POWERS: LEGISLATIVE and QUASI-JUDICIAL FUNCTIONS**

**Legislative Role:** While the municipal officers have very broad executive powers, their legislative or law making powers are limited to what is granted by either state law, local charter or ordinance. The municipal officers can adopt a personnel policy that describes the rights and duties of town employees or a policy on how to run their meetings. A policy cannot be used to regulate outside matters such as automobile junkyards, parking, victualers, etc. Those matters must be controlled by ordinance or regulation. Although the municipal officers are limited in their ability to enact ordinances in general, they are responsible to prepare or have someone else prepare any ordinance deemed necessary to resolve a local problem and submit it to a town meeting for action.

Despite the fact that the town meeting is the town's legislative body, Maine law describes a few legislative functions that are to be performed by the municipal officers. The following list comprises some of these functions:

- Cable TV ordinances pursuant to 30-A MRSA §3008 and 3010

- All traffic ordinances pursuant to 30-A MRSA §3009

- General Assistance ordinances pursuant to 22 MRSA §4305

- Regulation of lands over or adjacent to public water supplies pursuant to 22 MRSA §2642

- An ethics policy governing the conduct of elected and appointed officials pursuant to 30-A MRSA §2605(7)

- Regulations on the temporary or seasonal use of roads pursuant to 29 MRSA §902

- Extension of a moratorium ordinance, which was already adopted by the town pursuant to 30-A MRSA §4356

**Quasi-Judicial Role:** When the municipal officers are called upon formally to hear facts and to make a decision, they are performing a quasi-judicial function since this is what a judge does in court. This duty most commonly arises in issuing permits and licenses. 30-A MRSA §3701 states that the municipal officers are the town's licensing authority unless otherwise provided by statute, charter or ordinance.

In the conduct of personnel matters, the municipal officers are often responsible for the hiring, supervision and firing of employees or appointed officials. State law and court cases set some guidelines in this regard and the town may have a personnel policy, union contract or charter provision which describes how to conduct personnel matters. Before taking any disciplinary action, the municipal officers must investigate the complaint – this is essentially a fact-finding duty. The employee involved, has the right to present his/her side of the story. The municipal officers make their decision based on the information presented.

**Other Matters:** The municipal officers may be asked to make other quasi-judicial decisions such as declaring a building to be dangerous-17MRSA §2851 or deeming a road to be abandoned-23MRSA §3028.

## **INTERACTION WITH OTHER MUNICIPAL OFFICIALS, BOARDS AND COMMITTEES**

**Assessor:** Historically, and in many towns today, the board of municipal officers also serves as the board of assessors. For many boards of municipal officers who undertake the entire assessing function, the assessing chore is by far the most time consuming task associated with being a municipal officer. A relatively recent trend in even the smallest towns is to contract out the appraising component of the assessing function. This is almost always done when it comes time for the town to do a complete revaluation. Many towns continue with the use of a professional appraiser for an annual maintenance service, particularly for new property valuations.

It is important to remember that the professional appraiser employed by the town for the purpose of appraising property values is not the town assessor unless expressly appointed by the board of municipal officers, pursuant to 30-A MRSA §2526. The private appraiser under contract only provides information to the assessors, which they may or may not use in determining the actual assessment. For this reason, it is important for the municipal officers to understand the methods used by the appraiser.

In general, the board of assessors has the following basic responsibilities:

- Maintaining an updated mapping system, depicting all parcels of land in the community. This requires a review of all deed transfers so that any subdivision of lots may be recorded on the tax maps and that proper square footage or acreage may be recorded.
- Maintaining updated lists of all real and personal property so that taxes may be assessed to the proper owner of record.
- Maintaining an updated list of all exempt property.

- Performing field inspections to determine pertinent data concerning the land, buildings, structures, equipment and any other improvements. A review of all building and plumbing permits help to identify which properties need to be inspected for revaluation.
- Determining value of property. After collecting general, specific and comparative data on all types of property, the assessor analyzes the data and processes them into indications of value for each individual piece of property. The property is then assessed at its market value or at some legally authorized fraction thereof, known as the assessed value.
- Determining the classification of all land and properties into their proper category. This includes “tree growth”, “farmland”, “open space”, “shore land”, “resource protection”, “general purpose” and various “exemptions”.
- Updating of records and maintaining the official Valuation Book.
- Certifying the Valuation Book and determining the tax rate.
- Providing the Tax Collector with the “Tax Commitment Book” consisting of a list of valuations and the individual assessments. It also contains the Collector’s Warrant, a certificate of commitment and a certificate to the effect that the list is a “perfect list of assessments.
- Reviewing requests for abatements and taking the necessary action to grant or deny and abatements.
- Representing the community during public hearings before the Board of Assessment Review.
- Making supplemental assessments. At times, certain additional or supplementary assessments may be necessary in cases where persons or property were inadvertently omitted from the regular assessment.

All newly elected Municipal Officers, whether they intend to become a Certified Maine Assessor or not, should attend some of the Assessor’s Training Courses, sponsored by Maine Revenue Services to learn the basics of assessing.

**Tax Collector:** The municipal property tax collector is elected or appointed for the purpose of collecting all property taxes assessed by the assessors against all real estate and personal property.

The principal interaction of the municipal officers and the tax collector is when the municipal officers are also the assessors. The assessors provide the tax collector with the “Tax Commitment Book” which the tax collector uses as a basis for the collection of taxes.

**Town Clerk:** The town clerk is essentially the keeper of records and documents for the community. The town clerk also performs many important duties in connection with local, state and federal elections. The town clerk acts as an agent of various state departments in the issuance of licenses and permits.

The municipal officers are required to provide a fire proof safe or vault to the town clerk to use for the preservation of all records that are not current records.

**Treasurer:** The general duties of the treasurer are to receive and record all revenues due the municipality and to make necessary disbursements to retire all municipal debts only upon authorization of the board of municipal officers. Although the treasurer is certainly an important and primary adviser to the municipal officers with regard to financial matters, the treasurer is prohibited from acting in an unauthorized or unilateral way, such as choosing banking or lending institutions, making unauthorized disbursements of any kind, setting financial policy or initiating loans. The treasurer may disburse money only on a warrant for that purpose signed by a majority of the municipal officers.

**Road Commissioners:** Both the municipal officers, generally, and the road commissioners, specifically, are responsible for ensuring that the town ways and bridges are safe and convenient for travelers with motor vehicles. (23 MRSA §3651). At times there may be some confusion as to the relationship between the road commissioners and the municipal officers because the road commissioners are often elected positions and cannot be removed or formally disciplined by the municipal officers. 23 MRSA §2701 states:

“In the absence of a statute, charter provision or ordinance to the contrary, any decision involving the duties and responsibilities of the road commissioner shall be made by a majority of the selectmen, whose decision shall be final.”

The road commissioners, therefore, while in charge of highway repair and maintenance within the town, must act according to the general policies or guidelines as determined by the municipal officers. Unless the town uses a specific line-item budget, the municipal officers have the authority to decide how money will be spent regarding road work and road personnel. The road commissioner has no inherent authority to incur expenses or enter contracts for the town. This can only be done if authorized by the municipal officers.

The municipal officers, in conjunction with inputs from the road commissioners, are responsible for going out to bid for paving or other contract work in the building or maintenance of the town roads. All bids should contain specifications to ensure that proper work and materials are provided.

**Fire Department:** There are three different ways to provide fire protection for a town and the control over the department will vary according to the method used for fire protection in your community. A town is not required by law to provide fire protection at all. Most towns do have some sort of fire department or contract out for fire protection, but this is a discretionary service.

Every town must have a fire chief. Strange as it seems, the law (30-A MRSA § 3153) does require a town to have a fire chief even though a town is not required to

provide fire protection. The municipal officers establish the compensation of the fire chief.

Many small towns have a volunteer fire department (VFD), which may vary in organization from town to town. Some VFD's are independent and are not a department of the town at all. They elect their own officers, own their own equipment and property. Their financial accounts are kept separate from the town. The municipal officers have no direct control over these fire department.

In other towns, the land, firehouse, fire trucks and equipment are provided and owned by the town. Operating funds are provided by the town meeting and the municipal officers generally appoint the fire chief unless spelled out otherwise by charter or ordinance. Requests for and disbursement of funds are made through the municipal officers. Fire fighters may be volunteer, full time, part time or on-call.

A third method of fire protection authorized by 30-A MRSA §3152 is for the town to contract out with another town or VFD that may be willing to provide the service. The municipal officers would be responsible for negotiating the contract and submitting it to the town meeting for approval.

**School Board:** Schools in Maine are governed by elected school boards which have certain duties prescribed by law 20-A MRSA §1001. Two areas where the municipal officers are generally involved in education are:

First, there is a financial link between the municipal officers and the school board, particularly with regard to municipal schools. For the SAD or the CSD, the municipal officers are billed for the towns pro-rata share of educational services in accordance with a budget approved by the voters in the SAD or CSD. The municipal officers authorize the treasurer to pay the bills just as they would handle any other debt.

For the municipal schools (see 20-A MRSA §2301 et seq.), the municipal officers involvement is deeper because the municipal officers must review and approve all school related disbursements on a case by case basis, just as they would for any other town expenditures. As the town's chief executive officers, the Municipal Officers have the authority to question and may refuse to authorize any municipal school disbursement, which was not authorized by the town meeting. In fact, the municipal officers could incur personal financial liability for a school overdraft, just as they could for an overdraft from any other line budget item.

The other area of interaction between the school board (or its administrative staff) and the municipal officers concerns the use of municipal services such as solid waste disposal, fire protection, traffic control, plowing, etc. In return for any special demands for municipal services, school facilities are regularly made available for town functions. In order to coordinate this exchange of services, it is important to maintain good communication between the municipal officers and the school board.

**Other Boards and Committees:** The board of municipal officers has the responsibility to appoint the members of local boards, committees, and commissions unless otherwise directed by local charter, ordinance or state statute. Specifics of such appointments may be found in the charter or ordinance provisions that created the board or committee in question.

The municipal officers are responsible for knowing what the overall responsibilities of the individual boards and committees are and ensuring that they fulfill those responsibilities and act in accordance with the charter, ordinance or state statute.

## **INTERACTION WITH OTHER MUNICIPALITIES, the PRIVATE SECTOR and the STATE**

**Dealing with other Municipalities:** Municipalities often find it desirable or necessary to join with other municipalities to deal with problems such as solid waste, recycling, and police/fire protection or road maintenance. To do this, the municipal officers usually enter an agreement or contract with the municipal officers of the other municipality. Although the voters have to approve the agreement or contract, the municipal officers, on behalf of the municipality, are responsible for seeing that the provisions, contained within, are met.

**Dealing with the Private Sector:** Most transactions with private businesses are done by contract. The voters need not approve the specific contract itself; they may authorize the municipal officers to enter a contract for so many years or for so many dollars. The board of municipal officers must use its judgment in negotiating the specific contract and attempt to do what is in the best interest of the municipality within the authority granted by the voters. There is no state law that generally requires that town work be put out to bid. Certain projects such as school construction and state mandated public improvements must follow the bid rules contained in 5 MRSA §§and 1743A. Some municipalities have a charter or ordinance which requires that a bid process be used.

**Dealing with the States:** The areas where the municipal officers interact with the state government are far too numerous to describe in detail. On a day-to-day basis, the municipal officers deal with the various departments within the executive branch of the state government. There is a need also for the municipal officers to communicate with their area legislators.

## **MUNICIPAL FINANCES**

Municipal finance is without question one of the most important and time consuming responsibilities facing any board of municipal officers. Because many new municipal officers come into office without any special expertise in financial management, there is sometimes the tendency not to question the town's traditional financial management systems.

Municipal expenditures have increased dramatically in the last 5-10 years for most communities. Therefore it is incumbent on all municipal officers to become informed and knowledgeable of the proper financial procedures. The municipal officers, as the chief executive officers of their community, are responsible for ensuring that all revenues and expenditures are accounted for and that proper records are maintained. They are also responsible to ensure that any use of revenues and disbursement of funds are made only in accordance with the direction of the town meeting articles as voted on.

The task of financial planning and financial administration consists of the following components:

- Budgeting
- Revenue Source Identification
- Bonding, Borrowing and Debt Limits
- Investments
- Reviewing all Bills and Authorizing Payment
- Proper Record Keeping
- Proper Accounting Procedures
- Annual Audits
- Capital Improvement Planning
- Cash Flow Analysis

Municipal officers should obtain a rudimentary knowledge of the Municipal Accounting System so that they can understand the Municipal Financial Reports/Audit Reports.

**Note:** Most of the information for this synopsis of what a Selectman's job is all about came from the "Handbook for Municipal Officers", put out by the Maine Municipal Association. I had the pleasure of working with Joe Wathen in the preparation of the Handbook in 1990 and 1991. I had been elected a Selectman, in the Town of Acton, in 1989 and didn't have a clue as to what the job was all about. In my search for information, I called MMA and ended up talking with Joe Wathen. He asked me to participate in the preparation of the Handbook and I agreed. This is just a synopsis of what a Selectman's job is. For more detail, refer to the "Handbook for Municipal Officers" and the "Assessors Manual". They are both available from MMA. I strongly recommend that any newly elected Municipal Officer take advantage of the Training Sessions/Seminars sponsored by MMA and Maine Revenue Services.

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