

SKELTON
TAINTOR
& ABBOTT
ATTORNEYS AT LAW

RONALD P. LABEL
BAR NO. 1531

August 19, 2015

Hand Delivered

Linda Mason, Clerk
Androscoggin Superior Court
2 Turner Street
Auburn, ME 04210

**Re: City of Lewiston *et al.* v. Androscoggin County, *et al.*
Docket No. CV-15-118**

Dear Linda:

I enclose for filing in connection with the above-captioned matter the following:

1. Motion to Dismiss of All Defendants with Memorandum of Law in Support, Notice of Default thereon, and proposed Order thereon.
2. Motion of All Defendants for Sanctions Against Plaintiff and Plaintiffs' Counsel with Memorandum of Law in Support, Notice of Default thereon, and proposed Order thereon.
3. Our check in the amount of \$200. in payment of the required filing fee for the Motion to Dismiss.

A copy of this letter and the enclosures have this day been sent to opposing counsel.

Very truly yours,

SKELTON TAINTOR & ABBOTT



Ronald P. Lebel

RPL/cms

Enclosures

cc: Peter J. Brann, Esq. (w/enc.)
Patricia A. Fournier (w/enc.)

H:\DOCS\DENCH\ANDROSCOGGIN COUNTY COMMISSIONERS\LEWISTON VS\CORRESPONDENCE & MEMOS\LINDA MASON, CLERK - LTR 8-17-15 (RPL).DOCX

STATE OF MAINE
ANDROSCOGGIN, ss.

SUPERIOR COURT
CIVIL ACTION
DOCKET NO. CV-15-118

CITY OF LEWISTON, *et. al.*,)
)
)
 Plaintiffs,)
)
 v.)
)
 ANDROSCOGGIN COUNTY, *et al.*,)
)
 Defendants.)

MOTION TO DISMISS OF ALL
DEFENDANTS WITH INCORPORATED
MEMORANDUM OF LAW IN SUPPORT
M.R.Civ.P. 12(b)(6)
M.R.Civ.P. 12(b)(7)
M.R.Civ.P. 19

All Defendants move to dismiss Plaintiffs’ Complaint under M.R.Civ.P. 12 (b) (6)&(7), because the Amended Complaint fails to state claims upon which relief can be granted against each Defendant and fails to join a necessary party under M.R.Civ.P. 19.

I. FACTUAL BACKGROUND

1. On November 6, 2012, Androscoggin County voters approved a County Charter. The original Charter is attached hereto as Exhibit 1C.¹

2. Shortly thereafter, the County discovered that the document approved by the voters contained numerous errors, inconsistencies, and omissions, including:

Section 3.7 – COMPENSATION

This section provided that salaries and benefits of all County elected officials “shall be recommended by the Board and approved by a majority plus one vote of the full Budget Committee.” This appeared to be inconsistent with section 5.5.2 of the Charter.

¹ On November 26, 2012, Governor LePage issued a Proclamation stating that the voters had adopted the Charter. (See Exhibit 1B). Defendants can attach, and the Court may consider, public records, documents that are central to a plaintiff’s claim, and documents referred to in the complaint, without converting a motion to dismiss into a motion for summary judgment. See *Moody v. State Liquor & Lottery Comm’n*, 2004 ME 20, ¶ 11, 843 A. 2d 43, 47-48 (noting that the purpose of this rule is to prevent legally deficient plaintiffs from surviving a motion to dismiss by “simply [] failing to attach a dispositive document on which it relied”).

Section 5.1 BUDGET

The Charter Commission minutes expressly stated the Budget Committee would be purely advisory, but the wording of the Charter was confusing. Under Section 5.5.2 the Budget Committee could “reject or modify” any proposed line item in the Board of Commissioners’ budget by the affirmative vote of 11 of 14 members. It then stated the Budget Committee “shall adopt a final budget and transmit the same to the Board.” The Board “shall act on the proposed budget” no later than December 16th of each year. Section 5.5.4. “The budget as adopted shall be the final authorization for the assessment of county taxes . . .” The only body described as adopting the budget was the Budget Committee; however, the Board of Commissioners clearly must “act” on the budget for it to take effect. In acting on the budget under Section 5.5.4 the Board of Commissioners could change it from the budget adopted by the Budget Committee.

3. The Legislature addressed inconsistencies in the Charter by enacting ‘Chapter 62 Resolves’ (“Chapter 62”) on June 21, 2013, approved by the Governor on the same day. (Ex. 3) Chapter 62 directed the Androscoggin County Commissioners to make certain changes to the Androscoggin County Charter, saying:

That, notwithstanding the Maine Revised Statutes, Title 30-A, section 1324, the Androscoggin County Commissioners are directed to make the following changes to the Androscoggin County charter.

1. The charter must be amended in section 2.2 to add language that allows the board to arrange by contract to have functions of one or more municipalities, the State, federal agencies, special districts or public or private entities to be transferred to and be performed by the county.
2. The charter must be amended in section 3.1 to indicate that new Commissioners elected take office January 1, 2015, except that a commissioner elected prior to the establishment of the new commissioner districts serves the remainder of that commissioner's term representing the commissioner district that contains that commissioner's place of residence; to eliminate the subsection establishing a special election for transitional terms; and to provide that, beginning January 1, 2015, terms of the Commissioners are for 4 years, except that Commissioners originally elected for terms extending beyond December 31, 2013 serve the balance of their terms, and one newly elected commissioner in district 2, 4 or 6 serves a transitional term of 2 years and Commissioners elected to succeed those 3 serve 4-year terms.
3. The charter must be amended in subsection 5.5.3 to provide that the budget committee only approves a final proposed budget to be submitted to the board for its approval, rather than adopting a final budget that is transmitted to the board.

4. The charter must be amended in subsection 5.5.4 to give the board the authority to modify the proposed budget and to adopt the final budget and to require the board to vote to adopt the final budget.

(Ex. 3.)

4. The Commissioners followed the Legislature's command at their meeting on August 14, 2013. (Ex. 3A.) A copy of the current, revised Charter is attached herein as Exhibit 3B.

5. On October 29, 2014, the Budget Committee voted to propose a drastic cut to the Commissioners' salaries and further voted to eliminate their health benefits entirely. (*See* Ex. 4A.)

6. On November 19, 2014, the Commissioners then in office, Makas, Bell and Greenwood, voted to seek a legal opinion "regarding Charter adoption of 2015 proposed budget." (Ex. 5A.)

7. On November 19, 2014, the County's general counsel, Bryan Dench, issued a legal opinion to the Commissioners regarding Charter authority over Commissioners' salaries and benefits and final budget approval. (Ex. 5B.)

8. On November 25, 2014, in reliance on the written legal opinion of their general counsel, Commissioners Makas and Bell voted to adopt salaries and benefits greater in amount than that recommended by the Budget Committee but less than those then in effect. Commissioner Greenwood abstained. (*See* Ex. 5B.)

9. On the same date, all three Commissioners voted to approve a County Budget in an amount different than the one recommended by the Budget Committee. (Ex. 5B.)

10. Commissioners Chicoine, Roy, Fournier and Christner won election in November 2014, and Commissioner Makas won re-election on that date. They took office January 8, 2015, some six weeks after the incumbent Board of Commissioners approved Commissioners' salaries and benefits and the county budget in November. (Exs. 8A – 8E.)

11. On February 4, 2015, six of the seven Commissioners voted: “to officially approve correspondence from the Commissioners’, (*sic*) dated February 4, 2015, in response to the municipalities regarding wages and benefits.” The text of the letter appears in the minutes of that meeting. (Ex. 9A.)

12. On April 15, 2015, the Commissioners voted to place an amendment to Section 5.5.4 of the Charter before the voters in Androscoggin County in November 2015 that would reduce the authority of the Board of Commissioners over Commissioner salaries in the following terms:

Notwithstanding the final authority of the Board of Commissioners over the adoption of the County budget under Section 5.5.4, no increases in the salaries of elected officials is effective without the approval of a majority plus one vote of the full Budget Committee.

(*See* Ex. 9B.) The proposed amendment has been transmitted to the State, and it will be voted on by the voters of Androscoggin County on November 3, 2015.

The Amended Complaint

The Amended Complaint alleges three causes of action. Count I seeks a three-part declaratory judgment against the County: (1) declaring that the County is prohibited from paying the Commissioners’ legal expenses if the County’s insurance policy does not cover them, (2) declaring that the County budget has not been properly approved, and thus the County is limited to operating at 80% of the last approved budget; and (3) declaring that the Commissioners are not entitled to receive salaries and benefits that have not been approved by the Budget Committee. Count II purports to state a tort claim against the Commissioners for breach of fiduciary duty to the public by exercising their final budgetary authority under the Charter and receiving salaries and benefits. Finally, Count III alleges a cause of action for unjust enrichment against the Commissioners (but no other county employee) for receipt of their salaries and benefits.

II. ARGUMENT

The Amended Complaint is so flawed as to raise the question whether this suit was filed in good faith. As is explained in more detail below, it fails to state a cause of action and fails to join a necessary party under Rule 19, which mandates dismissal of all three causes of action under M.R.Civ.P. 12 (b)(6) and (7).

A. PLAINTIFFS' COMPLAINT SHOULD BE DISMISSED BECAUSE IT FAILS TO STATE A CLAIM UPON WHICH RELIEF MAY BE GRANTED AND BECAUSE IT FAILS TO JOIN A NECESSARY PARTY.

1. Plaintiffs' Complaint Is Time-Barred Under M.R.Civ.P. 80B

The gravamen of the Complaint as originally filed on July 21, 2015, and as amended and filed on August 6 is that the Board Of Commissioners voted to set its own salaries and approve the final budget on November 25, 2014, relying on the Charter for their authority to do so, as amended pursuant to legislative directive on August 14, 2013. The main thrust of this case, then, is to challenge governmental actions that took place 707 days (the Charter amendments) and 239 days (the budget votes), respectively, before Plaintiffs filed their original complaint.

All actions challenging the validity of governmental "action or failure or refusal to act" must be brought under Rule 80B. M.R.Civ.P. 80B (a). A party who fails to act within the prescribed time (or 30 days if no time is prescribed by statute) under Rule 80B cannot avoid dismissal for untimeliness by making the claims in a declaratory judgment action. *See Sold, Inc., v. Town of Gorham*, 2005 ME 24, ¶ 10, 868 A. 2d 172, 176 (2005). In *Sold, Inc.*, developers sought a declaratory judgment invalidating a part of the Town of Gorham's subdivision ordinance requiring impact fees for subdivisions that did not reserve a percentage of land in the subdivision for active recreational use. *Id.* ¶ 6, 868 A. 2d at 174. The Law Court held that while a declaratory judgment action may be used as an *anticipatory* challenge "to seek clarification of the applicability of laws, ordinances, and administrative regulations on impending

projects,” *id.* ¶ 14, 868 A. 2d at 177, a declaratory judgment action could not be used to circumvent Rule 80B: “The declaratory judgment law, 14 M.R.S.A. §§ 5951-5963 (2003), does not provide a self-help device for parties who have failed to timely appeal a municipal administrative decision to gain an extension or revival of the time to appeal and reopen a decision that has otherwise become final.” *Id.* ¶ 16, 868 A. 2d at 177. Plaintiffs attempt to do here exactly what the Law Court foreclosed in *Sold*, and the Amended Complaint should be dismissed as untimely.

The actions primarily complained of by Plaintiffs in their July 21 complaint occurred almost two years ago in the case of the Charter corrections and almost eight months ago in the case of the budget votes by the Board of Commissioners. None of the governmental actions that form the basis for Plaintiffs’ allegations occurred within the thirty days prior to filing of suit, and review of these actions is not timely under Rule 80B.

Plaintiffs are also precluded from pursuing their claims because of their counsel’s failure to comply with Rule 80B (i), which provides that a plaintiff filing a claim for review of a governmental action with another claim as an independent basis for relief—as Plaintiffs’ original and Amended Complaints purport to do² —“shall file a motion no later than 10 days after the filing of the complaint, requesting the court to specify the future course of proceedings...” The Amended Complaint was filed on August 6, 2015, so Plaintiffs’ 80B (i) motion was due by August 16, but no motion has been filed. The deadlines set forth in Rule 80B are enforced strictly, as Plaintiff City of Lewiston is well aware. In *City of Lewiston v. Maine State Employees Ass’n*, 638 A.2d 739, 742 (Me. 1994), the Law Court held that the City of Lewiston’s 80B appeal was untimely because the complaint counsel mailed from

² Nearly a month after Plaintiffs filed their Complaint, Plaintiffs’ counsel filed an Amended Complaint on August 6, 2015, that added a request for a declaration that the County is prohibited from paying the Defendant Commissioners’ legal expenses, if the County’s insurance policy does not. (See Am. Compl. at ¶ 65.) Counts II and III of the Amended Complaint claim breach of fiduciary duty against all seven Commissioner Defendants and unjust enrichment against all seven Commissioner Defendants.

Lewiston to Auburn missed the Court's deadline by a day. Of course here the City of Lewiston can't try to lay the blame on the United States Post Office; this was an error by counsel.

2. **The Amended Complaint Fails to Plead Sufficient Conduct Against Individual Defendants to State a Claim.**

The complaint must allege the elements of a cause of action and the facts entitling a plaintiff to relief on some legal theory. *Robinson v. Washington County*, 529 A.2d 1357, 1359 (Me. 1987).

Plaintiffs' Amended Complaint—despite the opportunity to remedy this defect with its amendment—fails to meet even this most basic standard.

For instance:

1. Paragraph 39 of the Amended Complaint alleges that “certain Commissioners” made representations to third parties with regard to the interpretation of the County Charter but, assuming Commissioners does not mean all the Defendants as it was previously defined in the Amended Complaint, does not identify who made representations to whom, what those representations were and when they were made.
2. The Amended Complaint fails to allege with specificity the dates on which the votes Plaintiffs want the Court to find illegal were taken, perhaps to avoid the obvious conclusion that the votes were taken at least eight months before the Complaint was filed, rendering appeal untimely under Rule 80B.
3. In paragraph 47 of the Amended Complaint Plaintiffs allege that in February of 2015, all seven Commissioners: “reaffirmed the decision of Defendants Makas and Bell to approve the County Commissioner salaries and benefits without budget committee approval, and reaffirmed the amount of the salaries and benefits to be paid to County Commissioners.”
4. Defendant's Exhibit 9A is the minutes of the Commissioner's meeting of February 4, 2015. The action about which Plaintiffs apparently complain in paragraph 47 of the Amended Complaint is the motion “to officially approve correspondence from the Commissioners”, dated February 4, 2015, in response to the municipalities regarding wages and benefits.”
5. The minutes reflect that there were six affirmative votes in support of that motion. Accordingly, one of the Defendants sued did not participate in that action. Furthermore, the approval of a letter to municipal officials addressing matters of public interest cannot constitute, as a matter of law, conduct that is actionable and tortious, as the Amended Complaint alleges. The action of the six Commissioners who approved the letter was an action that is constitutionally-protected free speech. The Amended Complaint, which seeks money damages for engaging in constitutionally-protected free speech, is baseless.

6. Counts II and III of the Amended Complaint claim breach of fiduciary duty against all seven Commissioner Defendants and unjust enrichment against all seven Commissioner Defendants. As to one Defendant, who did not participate in the vote on February 4, 2015, there is no good ground to support those claims. As to all Defendant Commissioners other than Makas and Bell, who did nothing more than express opinions on matters of public interest, there is no good ground to support such a claim.
7. On November 19, 2014, the Commissioners then in office voted unanimously “to seek legal opinion regarding Charter adoption of 2015 proposed budget”. That opinion was provided to the Commissioners prior to the action they took on November 25, 2014 to set County Commissioner salaries and benefits and adopt the County budget. (Ex. 5B) Attorney Dench’s legal opinion stated, among other things: “This will confirm my advice that the board of commissioners has the authority to enact the final county budget under Section 5.5.4 and all action of the budget committee are advisory only.” (Ex. 5B)
8. Accordingly, when Commissioners Makas and Bell voted on November 25, 2014, to set commissioner salaries and benefits at different levels than those recommended by the Budget Committee and when all three Commissioners enacted a county budget different than that recommended by the budget committee, those Commissioners were acting in accordance with, and in reliance on, the written legal opinion of the county’s general counsel.

As a result, the Amended Complaint is ripe for dismissal for failure to state a claim.³

As it relates to Count II, which purports to state a cause of action against the Commissioners for breach of fiduciary duty, the Amended Complaint does not even attempt to allege facts sufficient to state a cause of action against *any* of the Commissioners. In *Bryan R. v. Watchtower Bible & Tract Soc. of New York, Inc.*, 1999 ME 144, ¶ 19, 738 A.2d 839, 846, the Law Court set forth the necessary elements for a breach of fiduciary duty: “(1) the actual placing of trust and confidence in fact by one party in another, and (2) a great disparity of position and influence between the parties at issue.” (*Citing Morris v. Resolution Trust Corp.*, 622 A.2d 708, 712 (Me. 1993)). However, a fiduciary duty will only exist as a matter of law, if a court has “before it specific facts regarding the nature of the relationship that is alleged to have given rise to a fiduciary duty.” *Id.* at ¶ 20. As a result, the Law Court held that the

³ In the alternative, Defendants ask the Court to order Plaintiffs to provide a more definite statement under M.R.Civ.P. 12(e) because the individual Commissioners cannot frame a responsive pleading when the allegations against them fail to make clear which ones apply to them, what conduct is faulted and what remedy is sought against them individually. Defendants ask the Court to order Plaintiffs to make clear which allegations are alleged against each Commissioner and what individual actions they are alleged to have taken.

“factual foundations of an alleged fiduciary relationship must be pled with specificity....In order to survive a motion to dismiss a claim for breach of fiduciary duty, *the plaintiff must set forth specific facts constituting the alleged relationship with sufficient particularity to enable the court to determine whether, if true, such facts could give rise to a fiduciary relationship.*” *Id.* at ¶¶ 20-21 (emphasis added). See also *Leighton v. Fleet Bank of Me.*, 634 A.2d 453, 457–58 (Me. 1993).

No allegation in the Amended Complaint sets forth any facts that a court could use to determine the Commissioners have a fiduciary duty, assuming for the moment that Plaintiffs could even bring such a claim on the “public’s” behalf. Plaintiffs do not allege any specific trust or confidence placed in the Commissioners by the Plaintiffs or the public that would give rise to a fiduciary duty, or any allegation referencing a disparity of position and influence between the parties at issue. All that Plaintiffs do is baldly allege that “The Defendant Commissioners owe a fiduciary duty to the public.” (Am. Compl. at ¶ 70.) This is plainly insufficient and, in fact, is even more deficient than the pleading rejected by the Law Court in *Bryan*, where the Court noted that “[r]ecitation of those basic elements [of fiduciary duty] cannot substitute for an articulation in the complaint of the specific facts of a particular relationship.” *Bryan R.*, 1999 ME at ¶ 22. Plaintiffs have failed to satisfy their burden to plead specific facts to support their cause of action for breach of fiduciary duty, mandating dismissal of Count II.

3. **Even If the Amended Complaint Did State a Claim for Breach of Fiduciary Duty, Under the Maine Tort Claims Act, As a Matter of Law the Individual Commissioners Are Entitled to Be Defended As to the Claims Against Them as Individuals, and As to Those Claims, They Are Immune From Suit.**

Under the Maine Tort Claims Act, governmental entities are generally immune from suit based on tort claims. 14 M.R.S.A. § 8103.⁴ In order to bring a tort claim under the Act, a person must serve a notice of claim on the governmental entity within 180 days after the cause of action accrues, *id.* § 8107 (1). The Amended Complaint fails to allege that Plaintiffs did that. In addition to the immunities

⁴ None of the exceptions to immunity under § 8104-A apply to this case.

extended to municipalities under the Act, the following absolute immunities apply to individual employees:

§ 8111. Personal immunity for employees; procedure

1. Immunity. Notwithstanding any liability that may have existed at common law, *employees of governmental entities shall be absolutely immune from personal civil liability for the following:*

A. Undertaking or failing to undertake any legislative or quasi-legislative act, including, but not limited to, the adoption or failure to adopt any statute, charter, ordinance, order, rule, policy, resolution or resolve;

....

C. Performing or failing to perform any discretionary function or duty, whether or not the discretion is abused; and whether or not any statute, charter, ordinance, order, resolution, rule or resolve under which the discretionary function or duty is performed is valid;

....

E. Any intentional act or omission within the course and scope of employment; provided that such immunity does not exist in any case in which an employee's actions are found to have been in bad faith; or

....

The absolute immunity provided by paragraph C shall be applicable whenever a discretionary act is reasonably encompassed by the duties of the governmental employee in question, regardless of whether the exercise of discretion is specifically authorized by statute, charter, ordinance, order, resolution, rule or resolve and shall be available to all governmental employees, including police officers and governmental employees involved in child welfare cases, who are required to exercise judgment or discretion in performing their official duties.

(Emphasis added). Individual Commissioners are considered “employees” for purposes of this absolute statutory immunity according to the definition in the Act. See 14 M.R.S.A. §8102 (“Employee” means a person acting on behalf of a governmental entity in any official capacity, whether temporarily or permanently, and whether with or without compensation from local, state or federal funds, including

elected or appointed officials;...”⁵ In circumstances such as those presented by this case, the governmental entity is required to defend employees as provided in section 8112 (1) of the Act.⁶

The claims made in Plaintiffs’ Count II, breach of fiduciary duty, are tort claims. According to the complaint itself, Plaintiffs failed to give the notice required by statute, and for that reason alone these claims must be dismissed. In addition, the Board of Commissioners’ action to adopt an interpretation of the Charter (with advice of counsel) and to approve the final budget were legislative actions and acts of discretion and judgment, entitling them to absolute immunity. Only a legislative body had the power to adopt a budget, and Section 5.5.4 of the Charter expressly requires the Board of Commissioners to “act” on the proposed budget. In interpreting the Charter with respect to their authority, the Board of Commissioners was necessarily exercising discretion and carrying out the type of governmental functions typically considered to fall under the “discretionary function” immunity of the Act. *See, e.g., Hilldebrand v. Washington County Commissioners*, 2011 ME 132, 33 A. 3d 425 (2011); *Tolliver v. Dept. of Transportation*, 2008 ME 83, 948 A. 2d 1223 (2008); *Rodriguez v. Town of Moose River*, 2007 ME 68, 922 A. 2d 484 (2007).

Plaintiffs’ Count I has the further allegation that the “county is prohibited from paying the Defendant Commissioners’ personal legal expense.” This claim, too, must be dismissed because the individual defendants have a statutory right to be defended by the County in accordance with 14 M.R.S.A. § 8112(1).

4. Plaintiffs’ Amended Complaint Fails to State a Claim for Unjust Enrichment Because the Unjust Enrichment Claim Is Merely a Restatement in Different Words of Plaintiffs’ Deficient Tort Claim for Breach of Fiduciary Duty and Plaintiffs’ Other Legal Claims.

⁵ The Amended Complaint does not allege any negligent act by any individual, and so the limited non-immunity of government employees under § 8104-D of the Act is not applicable.

⁶ See 17 M.R.S.A. §8112. Defense and indemnification of employees 1. When a governmental entity is not liable. A governmental entity, with the consent of the employee, shall assume the defense of and, in its discretion, may indemnify any employee against a claim which arises out of an act or omission occurring within the course and scope of employment and for which the governmental entity is not liable. * * *

A party cannot plead a claim for unjust enrichment when the party has an adequate claim in law, as this is an equitable claim only available when there is no adequate remedy at law. *Fisher v. Dame*, 433 A.2d 366, 371 (Me. 1981). And the Law Court has held that parties whose behavior has prevented them from obtaining a remedy at law may not seek solace in a claim under equity, as Plaintiffs do in Count III. Rule 80B is the exclusive remedy for review of governmental action, unless it is inadequate. *See Colby v. York County Com's*, 442 A.2d 544, 547-48 (1982) (“When direct review is available pursuant to Rule 80B it is exclusive unless inadequate.”) The measure of adequacy in this context is not whether Plaintiffs’ have a remedy at law after utterly failing to seek recourse within the time required by Rule 80B. It is whether Plaintiffs could have had a remedy at law if their dilatory behavior and counsel’s failure to comply with Rule 80B(i) had not foreclosed this suit, which they have. *See id.* at 548 (explaining that plaintiff’s failure to follow procedures under Rule 80B does not make the remedy of 80B inadequate). As Rule 80B is the exclusive, adequate remedy under law, Plaintiffs are barred as a matter of law from seeking relief in equity, and Count III should be dismissed.

5. Plaintiffs Do Not Have Standing to Bring the Amended Complaint.

The Plaintiffs do not have standing. They make no claim of any particularized injury that would set them apart from any other citizens or instrumentalities of Androscoggin County. To have standing a party must have more than a generalized interest in the subject matter or some theoretical injury.

Whether a party has standing to bring a claim is a jurisdictional question. *North East Ins. Co. v. Young*, 2011 ME 89, ¶11, 26 A.3d 794, 799 (citing to *Stull v. First Am. Title Ins. Co.*, 2000 ME 21, ¶11, 745 A.2d 975, 979). Litigants normally may not assert the rights of third parties. *Stull* at ¶11. The party must demonstrate that the party, itself, has received some particularized injury in order to have standing. *Id.* This injury in fact suffered by the plaintiff must be an invasion of a legally-protected interest which is concrete, particularized, actual or imminent, rather than conjectural or hypothetical. *Lujan v.*

Defenders of Wildlife, 504 U.S. 555, 561(1992) This injury must also be caused by conduct complained of in order to ensure that the injury is fairly traceable to the challenged action of the defendant, and not the result of the independent action of some third party who is not before the court. *Id.* at 560-561. The injury must be likely, rather than speculative, to be redressed by a favorable decision. *Id.* at 561. Each of these elements of standing is not merely a pleading requirement, but an indispensable part of the Plaintiffs' case. *Id.* Plaintiffs lack standing to bring their action as they make no claim of any particularized injury.

First, it is the County to whom the Commissioners owe any duty, not the plaintiff municipal entities. The mere fact that the Plaintiffs are towns and cities within the County does not cause a fiduciary duty to arise between them and individual County Commissioners and, as discussed above, Plaintiffs have utterly failed to plead sufficient facts to establish such a relationship. *See Bryan*, 1999 ME at ¶20, 738 A.2d at 843. Even if Plaintiffs had pled any facts to support their fiduciary duty claim, Plaintiffs have no standing to allege the County, and by extension the Commissioners, breached a fiduciary duty to them.

Second, the Plaintiffs lack standing to pursue their claim in Count III, unjust enrichment against the Commissioners.⁷ It is the County who conferred the benefit upon the Commissioners of their salaries and benefits, not the Plaintiffs. Although Plaintiffs may claim that the municipalities pay to fund County government, based on the county assessment, it is the County that pays salaries and benefits to the Commissioners and other employees. Thus, only the County could maintain an action against its Commissioners for unjust enrichment.

Third, the gist of the Amended Complaint is the actions of the Legislature and the Governor in 2013 in enacting Chapter 62, which ordered the Board of Commissioners to change the language of the Charter. Assuming Plaintiffs can allege some sort of injury with respect to the language of the Charter,

⁷ The County is not named as a defendant in Count III for unjust enrichment.

it is fairly traceable to the actions of the Legislature and Governor, not the County or the Commissioners, and Plaintiffs do not have standing to challenge such actions.

6. Plaintiffs' Amended Complaint Presents a Non-justiciable Political Question.

A central element of this lawsuit is Chapter 62, enacted by the Maine Legislature in 2013 (*see* Am. Compl. at ¶¶ 30-37), by which the Legislature addressed certain flaws in the Charter as originally enacted by the voters. The Legislature exercised its authority by directing the County Commissioners, as a ministerial act, to produce a corrected document as the County Charter, reflecting the changes specified by the legislature. The Board of Commissioners duly effected the legislatively-mandated changes.

All legislative power is vested in the Maine Legislature under the Maine Constitution. ME. CONST. Art. IV, Part Second, § 1 and Part Third, § 1. The Legislature is free to establish the existence of counties under any terms and conditions it chooses, as in fact it did when it created Androscoggin County in 1854 by combining towns from Cumberland, Oxford, Lincoln, and Kennebec Counties to form the new Androscoggin County. 1854 LAWS OF MAINE, Private and Special Acts ch. 60, pages 74-77. The Legislature has enacted certain general laws that relate to counties and county government. *See* 30-A M.R.S. Ch. 1-17, §§ 1-1955. In some instances it has also enacted specific legislation aimed at particular counties, such as different budget approval procedures, and in one unique instance legislation to state the office of County Treasurer in Androscoggin County is to be a full time job. *See* 30-A M.R.S.A. § 155.

The Legislature, in short, has full authority to do whatever it chooses to do with respect to county government in all counties, subject only to the Constitution, which contains no limitations on legislative authority pertinent to this case. The Legislature could abolish the existence of Androscoggin County, just as it created Androscoggin County, or any other county. It could expand or reduce the territory of

Androscoggin County or any other county. It could establish whatever form of government within the territorial limits of Androscoggin County it determines.

Despite this, after alleging how Chapter 62 clarified the language of the Charter in paragraphs 32 and 33 of their Amended Complaint, Plaintiffs go on to ignore its obvious controlling significance. Chapter 62 made it clear, if there were any doubt before, that under section 5.5.3 of the Charter the “budget committee only approves a final proposed budget to be submitted to the board [of Commissioners] for its approval, rather than adopting a final budget that is transmitted to the board.” (Am. Compl. ¶ 32.) Further, Chapter 62 mandates that “The charter must be amended in subsection 5.5.4 to give the board [of Commissioners] the authority to modify the proposed budget and to adopt the final budget and to require the board [of Commissioners] to vote to adopt the final budget.” (Am Compl. ¶ 33; Ex. 3.)

Thus, on its face, the Amended Complaint acknowledges that the Legislature has acted to address the very questions Plaintiffs seek to raise, and on which they ask the Court to issue its declaration. In effect they ask this Court to overrule the legislative act of the State of Maine.⁸

To the extent that Plaintiffs complain that the Legislature either had no authority to enact Chapter 62, didn't know what it was doing when enacting Chapter 62, or should not have enacted Chapter 62, all of these are political questions not subject to adjudication in the courts. The Legislature is presumed to know perfectly well what it is doing when it makes its enactments and their significance in relation to other laws. *See, e.g., Sweeney v. Dahl*, 34 A. 2d 673, 140 Me. 133 (Me. 1943); *Acheson v. Johnson*, 86 A. 2d 628, 147 Me. 275 (Me. 1952); *Stockly v. Doil*, 2005 ME 47, ¶ 14, 870 A. 2d 1208,

⁸ In attacking the validity and effect of Chapter 62, the Plaintiffs ignore the impact of their own assertions. The Charter as originally enacted, (Ex. 1C; Section 3.1.3) required that the new seven member Board of Commissioners would all be elected to one year terms in November of 2014, with existing Commissioners forfeiting the remainder of their existing terms. Charter 62 (Ex. 3), grandfathered existing Commissioners for the balance of their terms and did not elect a new board of seven Commissioners to take office until January, 2015. The County adhered to the revised Charter in the conduct of 2014 elections. But if the Plaintiffs' claims have merit, and Chapter 62 is a nullity, Commissioners Bell and Greenwood are no longer Commissioners, as they were not elected in 2014. Apparently, this inevitable consequence of the Plaintiffs' own assertions have completely escaped the attention of Plaintiffs and their counsel.

1213 (holding that the Legislature is presumed to be aware of state of the statutory and decisional law when it enacts new legislation); *In re Dustin C.*, 952 A. 2d 993, 2008 ME 89 (Me. 2008).

Is the court now supposed to say that the Legislature ought not have enacted Chapter 62? What remedy could the Court provide to Plaintiffs? Do the Plaintiffs' expect the Court to say that the Legislature had not the power to enact anything it wished with regard to county government in Androscoggin County? Do the Plaintiffs expect the Court to rule that the Legislature lacked the power to enact more specific provisions for Androscoggin County than it did in the general statutes relating to county charters—even though the Legislature did exactly that in 30-A M.R.S.A. § 155 by specifically providing the Androscoggin County Treasurer's job is full time? The fact that the Plaintiffs are displeased with the Legislature and with the legislated allocation of responsibility under the County Charter does not make the Charter or the Legislature's actions either justiciable or invalid.

Do Plaintiffs' really seek an order from this Court limiting the County's budget to 80% of the 2014 budget level? What process do they seek for the firing of employees whose salaries were budgeted for 2015? Do they intend to ask the court to order County employees to pay back 20% of their salaries? Under what statute could such recoupment be mandated by a municipality? Do Plaintiffs want to force the layoff of many County employees, including corrections personnel who operate the County jail, the very jail where the municipalities deliver their own arrested persons and prisoners? Do the Plaintiffs want that jail shut down? Will Lewiston and Auburn then confine their prisoners somewhere in City Hall? Candidly, it is difficult to take the Plaintiffs' complaint seriously or to believe they really seek the relief they request and are not simply using the court's resources to make a political statement.⁹

⁹ The schizophrenic character of Plaintiffs' claims are illustrated by the following: In 2014, the salary of the Commission Chair was \$8,392.09 and the salary of the other Commissioners was \$7,273.15. In addition, the county paid 100% of the cost of family health insurance for each commissioner (Ex. 9A). In enacting a 2015 budget, the Commissioners reduced these salaries to \$5,500 for the Chair and \$5,000 for the other Commissioners and reduced the County's payment for health insurance to pay for the Commissioner alone, not his or her family. (Ex. 5B) Plaintiffs argue that the County must operate at 80% of its 2014 budget in 2015 because no budget was lawfully enacted. If that is true, the Commission Chair salary is currently 80% of \$8,392.09 or \$6,713.67 and the salary of the other Commissioners is currently 80% of \$7,273.15 or

7. *Even If There Is a Justiciable Controversy, It Is Not Yet Ripe for Adjudication.*

Although it is completely common for legislative bodies, including the Lewiston City Council¹⁰, Auburn City Council¹¹ and the Board of Commissioners for Cumberland County,¹² to set their own compensation, the Plaintiffs characterize this as an act of serious misconduct, calling it, “an obvious conflict of interest,” (Am. Compl. ¶ 42), “prohibited,” (Am. Compl. ¶ 61), a breach of the board of Commissioners’ duty to the public, (Am. Compl. ¶¶ 72-74), “ultra vires and in violation of Section 3.7 of the Charter,” “unjust and harmful,” and “inequitable.” (Am. Compl. ¶¶ 79, 82- 83.) Apparently they believe it is perfectly fine to set their own salaries, just not for the Board of Commissioners to do that.

Ironically, the Commissioners have already agreed that they are willing to have any increase in their compensation approved by the Budget Committee in order to take effect. Incidentally, this is

\$5,818.52. In addition, the County should be paying 80% of health insurance for each Commissioner and his/her family, a cost far greater than what is presently furnished. Thus, if Plaintiffs are correct, the Commissioners are being underpaid, not overpaid, and claims for breach of fiduciary duty or unjust enrichment fail completely. Clearly, Plaintiffs and their counsel need to decide from which side of their mouths they wish to speak.

¹⁰ City of Lewiston Charter, Section 2.02. “Compensation, expenses. The mayor and each of the councilors shall receive an annual salary as set by ordinance.” The Council also approves its own budget under section 6.07, “Adoption. The council shall by resolution adopt the budget not later than one (1) month prior to the end of the then current fiscal year.”

¹¹ City of Auburn Charter, section 2.2, “The City Council shall, not later than June 30, 2006, determine the annual salary of the Councilors by ordinance, but no ordinance increasing such salary shall become effective until the date of commencement of the terms of Councilors elected at the next regular election. The Councilors shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties of office.” It also approves its own budget under section 8.5, “Adoption. The City Council shall, after at least one (1) public hearing held at the time the City Council considers its “first reading” of the annual appropriation resolve, adopt the budget on or before the last day of the last month of the fiscal year currently ending.”

¹² Cumberland County Charter, section 3.7, “Compensation: Changes in salaries and available benefits of all commissioners shall be set by the Board and approved by a majority plus one vote of a full Finance Committee; said salary shall constitute full compensation for all services.” The ultimate authority for adoption of the budget is the Board of Commissioners and the finance committee role is merely advisory, except that as noted changes in the compensation of Commissioners must be approved by the finance committee. *Id.* section 5.6.5 “Annual Budget Acceptance: The Board [of Commissioners] shall meet to accept and/or modify the provisional budget [from the finance committee]. They may reinstate any or all of the proposed FC’s changes to the preliminary budget by a recorded majority vote of a full Board; the Board shall provide written definitive reasons to the public for each of their revisions and decisions.”

exactly the same as the provisions of the Cumberland County Charter.¹³ As explained *supra*, there is currently a referendum question pending for the election this November asking voters:

Do you favor amending the Androscoggin County Charter, Article 3.7, Compensation as follows:

Add the following: “Notwithstanding the final authority of the Board of Commissioners over the adoption of the County budget under Section 5.5.4, no increase in the salaries or expansion of benefits of elected officials is effective without the approval of a majority plus one vote of the full Budget Committee.

Until the people have spoken on that referendum question to amend the Charter, this litigation is not ripe. If the voters approve the change, that will moot the most significant claims in the Plaintiffs’ case.

When a lawsuit relates to pending or proposed legislation, the effects of which are material to the outcome of the question, courts will not exercise jurisdiction over the case before the legislative body has spoken. If it did, a court would be engaging in advisory, hypothetical or speculative decision-making. *E.g., Wagner v. Secretary of State*, 663 A. 2d 564, 567 (Me. 1995) (“The plaintiffs nonetheless argue that the initiative would, in effect, be an amendment to the Constitution because it is an attempt to limit future state legislation. This argument concerns the future effect, enforceability, and constitutionality of the initiative if enacted. We agree with the Superior Court that this issue is not ripe for judicial review.”) The courts do not decide hypothetical cases. For that reason alone, this suit should be dismissed.

B. THE COMPLAINT SHOULD BE DISMISSED FOR FAILURE TO JOIN A NECESSARY PARTY UNDER M.R.Civ.P. 12(b)(7).

Because Plaintiffs question the validity of a State legislative enactment, Chapter 62, , the State of Maine is a necessary party to the suit. M.R.Civ.P. 19. *See, e.g., Equifax Services, Inc. v. Cohen*, 420 A. 2d 189 (Me. 1980) (attorney general party to a suit challenging the validity of a state statute). The

¹³ Cumberland County Charter, section 3.7, *supra*.

Plaintiffs' failure to join the State requires that the Complaint be dismissed, pursuant to M.R.Civ.P. 12(b)(7).

CONCLUSION

For the foregoing reasons, Defendants respectfully requests that the Court dismiss the Amended Complaint pursuant to M.R.Civ.P. 12(b)(6), 12(b)(7) and 19, and take any other and further action as the Court deems appropriate.

DATED: August 19, 2015



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NOTICE

OPPOSITION TO THIS MOTION PURSUANT TO M.R.CIV.P. 7(C) AND 12, MUST BE FILED NO LATER THAN 21 DAYS AFTER THE FILING OF THE MOTION UNLESS ANOTHER TIME IS PROVIDED BY THE M.R.CIV.P. OR SET BY THE COURT. FAILURE TO FILE TIMELY OPPOSITION WILL BE DEEMED A WAIVER OF ALL OBJECTIONS TO THE MOTION, WHICH MAY BE GRANTED WITHOUT FURTHER NOTICE OR HEARING.

PROPOSED ORDER

This matter came before the Court on the Motion of all Defendants to dismiss Plaintiffs' Amended Complaint, and it is HEREBY ORDERED that the Motion to Dismiss is GRANTED. The Amended Complaint is hereby dismissed against all Defendants. The Clerk is instructed to incorporate this Order by reference on the docket for this case.

DATED: _____

JUSTICE, SUPERIOR COURT

CITY OF LEWISTON, ET AL V. ANDROSCOGGIN COUNTY, ET AL
Docket No. CV-15-118

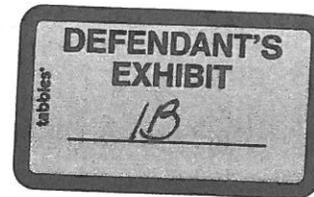
EXHIBIT LIST OF DEFENDANTS
ON MOTION TO DISMISS
August 19, 2015

- 1B. Governor's Proclamation dated November 26, 2012 proclaiming the Androscoggin County Charter to have been adopted by the voters of Androscoggin County on November 6, 2012
- 1C. Androscoggin County Charter as adopted by the voters on November 6, 2012
- 3. Resolve Chapter 62 adopted by the Maine Legislature and approved by the Governor on June 21, 2013 directing the Androscoggin County Commissioners to make certain changes to the Androscoggin County Charter
- 3A. Minutes of the meeting of the Androscoggin County Commissioners of August 14, 2013 taking action to amend the County Charter in accordance with the order of the Legislature and Governor
- 3B. Androscoggin County Charter as amended in accordance with the order of the Legislature and Governor on June 21, 2013
- 4A. Minutes of the Androscoggin County Budget Committee meeting of October 29, 2014
- 5A. Minutes of the Androscoggin County Board of Commissioners meeting of November 19, 2014
- 5B. Minutes of the Androscoggin County Board of Commissioners meeting of November 25, 2014
- 8A. Certificate of Qualification as County Commissioner of Elaine C. Makas, dated January 8, 2015
- 8B. Certificate of Qualification as County Commissioner of Ronald E. Chicoine, dated January 8, 2015
- 8C. Certificate of Qualification as County Commissioner of Matthew P. Roy, dated January 8, 2015

- 8D. Certificate of Qualification as County Commissioner of Alfreda M. Fournier, dated January 8, 2015
- 8E. Certificate of Qualification as County Commissioner of Sally A. Christner, dated January 8, 2015

- 9A. Minutes of the Androscoggin County Board of Commissioners meeting of February 4, 2015
- 9B. Minutes of the Androscoggin County Board of Commissioners meeting of April 15, 2015

H:\DOCS\DENCH\Androscoggin County Commissioners\Lewiston vs\Pleadings\Exhibit List of Defendant attached to Motion to Dismiss (8-19-15).docx



Referendum Proposing Adoption of the Androscoggin County Charter

WHEREAS, the Androscoggin County Charter Commission, pursuant to the Maine Revised Statutes Title 30-A, section 1324, proposed to the electors of Androscoggin County the following question:

"Shall the county approve the new Charter for Androscoggin County drafted and recommended by the Androscoggin County Charter Commission?"; and

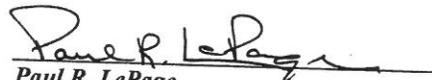
WHEREAS, it appears by the return of votes cast by the electors of the various cities and towns in Androscoggin County voting upon said county charter on November 6, 2012, and reviewed by the Governor on November 26, 2012, that a majority of said votes were in favor of adoption of the county charter; namely,

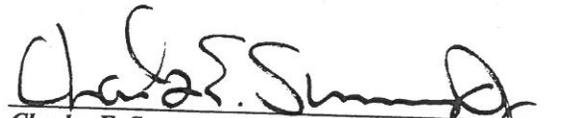
27,838 for, and
19,354 opposed;

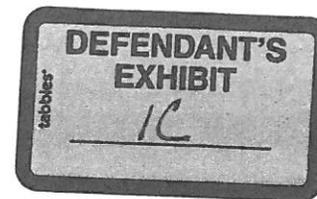
NOW, THEREFORE, I, PAUL R. LePAGE, Governor of the State of Maine, in pursuance of the provisions of the laws of Maine in such case provided, declare said county charter adopted, to take effect and become law thirty days after the date of this proclamation.



IN TESTIMONY WHEREOF, I have caused the Great Seal of the State to be hereunto affixed given under my hand at Augusta this 26th day of November in the year Two Thousand and Twelve.


Paul R. LePage
Governor


Charles E. Summers, Jr.
Secretary of State



ANDROSCOGGIN COUNTY CHARTER

We, the people of Androscoggin County, Maine, in recognition of the dual role of the County as an agency of the State of Maine and as a unit of local government, and in order to provide for self-determination in county affairs to the full extent permissible under the Constitution and laws of the State, by this Charter, confer upon the County the following power subject to the following restrictions, and prescribe for it the following procedures and governmental structures:

ARTICLE 1 AUTHORITY

1.1 NAME

The name of the county as it operates under this Charter shall be Androscoggin County.

1.2 NATURE AND LEGAL CAPACITY

From the time this Charter takes effect, the County shall continue to be an agency of the State and a body politic and corporate and shall be vested with all rights and powers of self-government which are now, or hereafter may be, provided by the Constitution and laws of Maine and this Charter. In addition, it shall be vested with all the rights and programs from the Federal Government that are available either directly or through the State.

1.3 BOUNDARIES

The boundaries of the County shall be the boundaries now or hereafter prescribed for the County by the laws of the State of Maine.

1.4 COUNTY SEAT

The seat of government of the County shall continue to be the City of Auburn.

1.5 ELECTED OFFICIALS

Pursuant to the Constitution and laws of the State of Maine, the county shall have an elected Board of County Commissioners, hereafter referred to as "the Board." If authorized by State law, any and/or all of following elected official positions may be permanently transferred to appointed professional positions by a majority vote of the County electorate.

- Sheriff (listed in state constitution)
- Judge of Probate (listed in state constitution)
- Register of Probate (listed in state constitution)

ARTICLE 2 POWERS AND DUTIES

2.1 TRANSFER OF POWERS

Whenever a municipality, special district or agency shall request the performance or transfer of any power, privilege, authority, or function to the County, the Board has the authority, at its discretion, to exercise that power, privilege, authority, or function, if permitted by law, except that nothing herein shall be construed to allow the County to levy taxes other than as allowed by law.

2.2 INTERGOVERNMENTAL COOPERATION

The Board may, on such terms as it deems to be in the best interest of the County, arrange by contract for one or more functions of the County to be performed in cooperation with one or more other counties, or for one or more functions of the County to be transferred to and performed by one or more municipalities, the State of Maine, federal agencies, special districts, or public and private entities if permitted by state law.

2.3 DIVISION OF POWERS

This Charter establishes the separation between the legislative and administrative functions of county government. The establishment and adoption of policy shall be the responsibility of the Board and the execution of that policy shall be the responsibility of the County Administrator.

2.4 CONSTRUCTION OF POWERS

The powers granted by this Charter shall be construed broadly in favor of the charter form of government and toward the end of enabling the County to implement municipal programs and services on behalf of its municipalities, while avoiding the creation of special districts or other legal or administrative entities to accomplish these purposes.

ARTICLE 3 BOARD OF COUNTY COMMISSIONERS

3.1 CREATION OF DISTRICTS

3.1.1 Seven Districts Established: There shall be seven (7) districts, with a single Commissioner elected from each district.

3.1.2 Apportionment Into Districts: In 2013, after receipt of the decennial census data from the U.S. Census, the County Commissioners shall request the State Apportionment Commission to prepare a description of each of the seven (7) geographical districts to ensure the division of the County into contiguous and nearly equally populated areas.

Each apportionment shall start as a new construct within the County's boundaries with each district following existing municipal boundaries insofar as possible. The creation of new districts shall not disqualify a Commissioner who is presently serving from finishing his or her term.

3.1.3 Special Election For One Year Transitional Terms: Commissioners shall be elected in a special election to be held in 2014 to serve for one year transitional terms beginning January 1, 2015.

3.1.4 Initial Full Terms: Beginning in 2014, Commissioners shall be elected in primary and general elections for terms of four years except that the Commissioners in districts 2, 4, and 6 shall initially be elected for transitional terms of two (2) years and thereafter for 4-year terms. Commissioners shall serve until their successors are elected and assume their offices.

3.1.5 Term Limits: No Commissioner shall serve for more than three (3) consecutive 4-year terms.

3.2 QUALIFICATIONS

3.2.1 Residence: An individual is eligible to be nominated and elected as a County Commissioner only if he or she is a resident of the district from which nominated and is also a registered voter in that district.

3.2.2 Non-residence: The office of any member of the Board shall immediately become vacant if the Commissioner ceases to be a resident of his or her district, is no longer a registered voter of the County, or is subject to any other disqualification imposed by this Charter or the Constitution and laws of the State.

3.3.2 Time Restriction: For a trailing period 18 months, no former Commissioner shall hold any compensated or appointed County position and must obtain authorization in writing from the County Administrator approved by the Board in order to be employed by an organization having any business relationship with the County.

3.4 VACANCIES

When a vacancy occurs in a County Commissioner position, members of the same political party who reside in the same district as the vacating member shall caucus and choose an interim replacement within thirty (30) days of the occurrence of the vacancy. The interim appointment shall be for the period until the next general election, at which time the position shall be filled for the remainder of the unexpired term. The name of the person selected shall be submitted to the Board which may require confirmation that appropriate procedures were followed in the nomination process. In order for the nomination of an interim replacement to be valid, the caucus at which the nomination was made shall have been conducted in accordance with the internal rules of the political party involved, or, if no such rules exist, in accordance with accepted parliamentary procedure. In the event that the caucus of enrolled voters fails to produce

a valid nomination within thirty (30) days after public notice of the vacancy was given by the County Administrator, the vacancy shall be filled by a majority vote of the remaining County Commissioners.

If the Commissioner whose position has become vacant was not enrolled in a political party at the time of the primary election prior to the election at which he or she was elected, the County Administrator shall give notice of the vacancy by publication in a newspaper having a general circulation within the county. The published notice shall encourage unenrolled voters from the district in which the vacancy occurred who were also unenrolled at the time that the vacancy occurred, to submit their names as candidates to fill the vacant position. At least thirty (30) days after the publication of the vacancy was given, the Board shall appoint an unenrolled voter from the district in which the vacancy occurred to fill the position until the next general election.

3.5 EXCLUSION

After due process of formal charges and a hearing in which the challenged member shall not participate, and upon finding that a commissioner-elect is not entitled to a seat because of a failure to meet the requirements in section 3.3.1 or 3.3.2, or if a commissioner-elect was not "duly elected," the Board, by a majority vote of the remaining members of the Board, may deny the commissioner-elect a seat on the Board.

3.6 CENSURE AND EXPULSION

After due process including formal charges and a hearing, a Commissioner may be involuntarily removed from office before the normal expiration of his or her term. The Board may determine the rules of its proceedings and punish Commissioners by immediate expulsion for cause including non-attendance, disorderly behavior, and moral turpitude with the concurrence of a majority plus one of the full Board.

3.7 COMPENSATION

Salaries and benefits of all County elected officials shall be recommended by the Board and approved by a majority plus one vote of the full Budget Committee. Said salary shall constitute full compensation for all services. Reimbursement for reasonable expenses incurred in performance of the officials' duties may be allowed upon formal review and approval by the Board.

3.8 POWERS OF THE BOARD

The Board shall be the policy-determining body of the County. The Board may exercise all the powers granted to the County from any source.

3.8.1 Specific Powers: The Board shall appoint by a majority of a full Board and remove by majority plus one vote of a full Board:

3.8.1.1 The County Administrator, County Treasurer, Register of Deeds, and any of the other positions listed in Section 1.5 that may later become appointive.

3.8.1.2 Other Appointments: The County Administrator shall follow the process prescribed in the Board's Bylaws and may present any appointments to the Board for its confirmation.

3.8.2 Departmental Structure: The Board and/or the County Administrator, - with the approval of the Board, may from time to time establish additional administrative departments, combine any two or more administrative departments into a single department, separate departments thus combined, abolish any administrative department and prescribe the duties and functions of any administrative department. A function of the County prescribed by State law, but not allocated to any County office or agency, shall be allocated to such department or committee of the County as the Board shall determine.

3.8.3 Finance: In order to insure transparency, the Board shall require the highest professional standards for its accounting and for the comprehensive annual financial report as prescribed in the Bylaws.

3.8.4 Revenues: The Board shall apply for available public and private grants to assist the needs of citizens, to provide required services, and to fund capital improvements. It shall establish and charge reasonable fees and assessments to offset all expenditures. In addition, and pursuant to State law, it shall appropriate funds as necessary to support its budget and pay debt services.

3.8.5 Audit: The Board shall cause independent audits by a certified public accountant of all government operations and functions of the County annually and more often if the Board deems necessary.

3.8.6 Committees: The Board may create and abolish such committees as it deems necessary to assist in the performance of its duties, may appoint the membership necessary, and may serve as ex officio committee members. A committee shall be a Standing Committee or an Ad Hoc Committee. All committees shall have a clearly written charge and have their budgets approved by the Board. At the annual meeting, the Board shall review and vote to authorize each Ad Hoc committee or by default it shall be abolished.

3.8.6.1 Standing Committees: Standing committees are named County committees that may have an ongoing, operating, and capital budget. Their governance shall be described and referenced in the Bylaws.

3.8.6.2 Ad Hoc Committees: Ad Hoc Committees are temporary committees developed for the County by its Board or County Administrator that perform limited singular assignments of limited duration, generally less than 18 months. They have neither an ongoing, operating, nor a capital budget and are not covered by the Bylaws.

3.9 BOARD ORGANIZATION

At its initial organizational meeting, and annually thereafter, as determined by the Bylaws, the Board shall elect from among its members a chair and a vice-chair to serve for such terms as the bylaws or, if none, the Board, shall determine. The chair shall preside over the meetings of the Board, have a vote on all questions before it, and have authority to preserve order at all Board meetings. The Procedural Rules of the Board shall be determined in the Bylaws.

3.9.1 Bylaws: Within six (6) months of its election the Board shall adopt Bylaws that set forth the County's rules of governance, its procedures, and rules for change. At least decennially, the bylaws shall be formally reviewed by an independent group of the electorate selected by the Commissioners, one per district.

3.9.1.1 Bylaw Changes: The adoption, amendment, or repeal of a bylaw shall require a reading at two (2) formal Board meetings and the concurrence of the majority plus one vote of the full Board.

3.10 MEETINGS

3.10.1 Regular Meetings: The Board shall meet regularly and publicly in the County at least once each month. The Board shall provide for the manner, time, and place for holding all regular Board meetings.

3.10.1.1 Quorum: Four (4) members of the Board shall constitute a quorum. A lesser number or the County Administrator may only adjourn the meeting to another place or time.

3.10.1.2 Special Meetings: Special meetings may be held at the call of the chair or three (3) or more members of the Board. Upon call for a special meeting, adequate public notice shall be given of the time, place, and purpose of the meeting in accordance with the procedures established by the Board's Bylaws. The only actions that can be taken at a special meeting are items specified in the notice for that meeting.

3.10.1.3 Emergency Meetings: An emergency meeting of the Board may be called at the Chair's, or in the absence of the Chair, the Vice-Chair's discretion. A complete record of the meeting, the Chair's justification for such action, and a roll call vote regarding the same shall be expressed, vetted, and recorded in the minutes of the meeting to be presented and approved at the next formal Board meeting.

3.10.1.4 Non-meetings: Chance meetings or planned social gatherings of the Board members, at which no substantive discussion, action, vote, or poll regarding the County's business is taken, do not constitute public meetings.

3.11 BONDING

The Board shall designate which officers and employees shall be bonded and fix the amount and approve the form of the bond.

3.12 RECORDS

The Board shall cause a public record of its proceedings to be kept in accordance with the Bylaws. A written copy of such records shall be maintained by, or under the direction of, the County Administrator and shall be available to the public prior to the next regular meeting of the Board. The individual votes on questions before the Board shall be recorded.

ARTICLE 4 ADMINISTRATION

4.1 GENERAL PROVISIONS

All functions and duties required of the County or County officials by this Charter or by the Constitution and laws of the State of Maine shall be the responsibility of the Board. Duties and functions shall be distributed among such committees, departments, offices, and agencies as the law, the Board, or this charter may establish. All entities, services, and functions are under the direction and the supervision of the County Administrator, subject to the approval and control of the Board. The Board shall use its powers to operate the County in an optimal businesslike manner and to provide services that are in the best interest of the County's citizens.

4.2 COUNTY ADMINISTRATOR

The County Administrator shall be appointed solely on the basis of executive and administrative qualifications.

4.2.1 Administration: The County Administrator shall carry out the Board's policies and be delegated with and responsible for the County's entire management functions, including planning, organizing, staffing, direction, and control. In addition, the County Administrator is responsible for the preparation of and enforcement of personnel policies, budgetary documents, control of the budget after its acceptance, administrative codes, purchasing, provision of central services, maintenance of buildings and grounds, and any other functions the Board may prescribe. The County Administrator shall assume responsibility for all County elected or appointed professional positions and their entities, services, and function and may delegate such by agreement of the Board, except as provided by law. In the event that the County Administrator position should become vacant, the Board shall promptly name a replacement although it may appoint an interim successor while it is seeking to fill the position on a permanent basis.

4.2.2 Appointments: All administrative officers and employees of the County other than elected administrative officers and those designated in Section 3.8.1.1 shall be appointed by the County Administrator except that the Sheriff shall appoint and supervise the Chief Deputy as provided by law. The qualifications for appointments as administrative

officers or employees shall be on a non-partisan and professional basis and may be prescribed by the Board.

4.2.3 Administrative Code: The County Administrator shall prepare an administrative code that shall establish the committee and departmental organization of County government, including the nature and scope of each department together with all required rules and procedures for their operation , except as otherwise provided by statute. The administrative code shall be submitted to the Board for adoption, review, amendment, or repeal. It may be formally amended or repealed by a vote of a majority plus one of a full Board. At least decennially the administrative code shall be formally reviewed by an independent group of the electorate selected by the Board, one per District.

4.2.4 Elected Officials: The respective offices of Sheriff, District Attorney, Judge of Probate, and Register of Probate shall continue to be under the elected official's supervision and control as provided by law for as long as these positions remain elective, except that all actions relating to personnel, fiscal matters, and general administration of the County shall be accomplished in cooperation with and subject to the review and approval of the County Administrator.

ARTICLE 5 FINANCE

5.1 BUDGET

The Board is responsible for the review of the County Administrator's preliminary budget, its submission to the Budget Committee, and for the preparation and presentation of the final annual operating budget and capital improvement plan to the citizens prior to its adoption. The annual County budget process shall be transparent and as detailed as necessary to ensure a knowledgeable understanding by the electorate of the entire County's expenditures and revenues.

5.2 FISCAL YEAR

The fiscal year of the County shall be the calendar year, initially, but the Board shall have the authority to change said year by an appropriate order following consultation with the Budget Committee.

5.3 APPROPRIATION AUTHORITY

The Board shall have the authority to appropriate money, according to the budget. In the event the budget is not approved before the start of a fiscal year, the county shall, until a budget is finally adopted, operate on an interim budget which shall be no more than 80% of the previous year's budget.

5.4 OPERATING BUDGET AND CAPITAL BUDGET PROCESS

5.4.1 Departmental Budget Request: Each county department shall submit to the County Administrator a budget in such detail as may be required for the ensuing year's operation, plus such additional information as may be required by the County Administrator.

5.4.2 The County Administrator shall review and compile all operational and capital budget requests, including a budget for his or her own office, prepare a preliminary budget, including revenue estimates, and submit the same to the Board for its review and approval. The capital program shall include a five (5) year Capital Improvement Plan.

5.4.3 Adoption of Preliminary Budget: Prior to the Board adopting the preliminary budget, it shall hold one or more public hearings in the County on the County Administrator's preliminary budget.

5.4.4 Preliminary Budget Review: After said hearing, the Board shall review the preliminary budget as submitted by the County Administrator, together with the County Administrator's recommendations, and shall make such additions, deletions or changes as it deems necessary to insure the proper funding of all operations of county government and shall submit the preliminary budget to the Budget Committee.

5.5 BUDGET COMMITTEE

5.5.1 General Procedures: The Board shall submit its proposed budget to the Budget Committee in a timely fashion and, in no event, later than 90 days prior to the beginning of the fiscal year. The Board shall provide the Committee with necessary clerical assistance, office expenses, and with meeting space, as well as access to County files and information needed to carry out its functions. Requests for such assistance shall be channeled through the County Administrator.

5.5.2 First Meeting of the Budget Committee: On the call of the Board, the Budget Committee shall, after public notice, hold a meeting at the County Building or at such other location as is designated in the call, at least 90 days prior to the commencement of the fiscal year. All meetings of the Budget Committee shall be open to the public except that the Budget Committee may hold executive sessions where permitted by 1 M.R.S.A. § 405 (the Freedom of Access Law). The Committee shall elect a chairperson from its membership and may also appoint such other officers as it may deem necessary. The Budget Committee may create such sub-committees as may be necessary to effectively perform its duties. A majority of the entire membership of the Budget Committee shall constitute a quorum.

The Budget Committee shall have the authority to reject or modify any line item in the budget by the affirmative vote of 11 of its members. The Budget Committee's proposed budget shall include proposed salaries and benefits for elected officials.

5.5.3 Submission of Proposed Budget to Board: When the Budget Committee has completed its deliberations, it shall hold a public hearing to present its proposed budget

not less than 30 days before the beginning of the fiscal year. Notice of the hearing must be given in all newspapers of general circulation within the County at least 10 days before the hearing. Written notice of the hearing and a copy of the proposed budget shall also be sent by regular or electronic mail or delivered in person to each of the municipal clerks in the county who shall be responsible for notifying the municipal officials in their municipalities of the proposed budget as well as the date and time of the budget hearing. After the public hearing, the Budget Committee shall adopt a final budget and transmit the same to the Board.

5.5.4 Adoption of Budget; Tax Levy: The Board shall act on the proposed budget in a timely fashion and, in any event, not later than 15 days prior to the end of the fiscal year. The budget as adopted shall be the final authorization for the assessment of county taxes which shall be apportioned and collected in accordance with 30-A M.R.S.A. § 706. A copy of the final approved budget shall be filed with the State Auditor as provided by law.

5.5.5 Membership: There shall be two Budget Committee members from each district whose terms will begin 120 days prior to the beginning of the fiscal year. A Budget Committee vacancy will occur when a representative no longer qualifies for membership.

5.5.5.1 Nominating Caucus: The Board shall notify all municipal officers in the County to caucus by County Commissioner District at a specified date, time, and place for the purpose of nominating two (2) residents of the district of voting age as candidates for the County Budget Committee. At least one (1) of the persons nominated must be a municipal official as defined in 30-A M.R.S.A. § 722(2). A County Commissioner shall serve as the nonvoting moderator for his or her district caucus. Nominations shall be received from the floor and require a majority vote of those present to be approved. The names of those duly nominated shall be recorded and forwarded to the Board to be placed on a written ballot.

5.5.5.2 The Board shall have written ballots printed with the names of those candidates selected in each County Commissioner District. Each Commissioner District shall require a separate ballot and each ballot shall specify each candidate's full name and municipality. The Board shall distribute the appropriate ballots to each municipality within a Commissioner District. The municipal officers shall vote, as a board, for two (2) Budget Committee members from the candidates on the ballot. The municipal officers must vote for at least one (1) candidate who is a municipal official. After voting, the municipal officers shall return the ballot to the Board by a certain date.

5.5.5.3 The ballots shall be counted at a regular meeting of the Board. Each municipality's vote shall be weighted according to the formula set out in appendix B to this Charter to ensure that each municipality's vote reflects its proportion of the Commissioner District's total population. The candidate with the highest vote total and who is a municipal official and the candidate with the otherwise highest

vote total are elected to membership on the County Budget Committee for each district. The Board shall:

- Notify each municipality, in writing, of the election results;
- Certify the results to the Secretary of State.

5.5.5.4 Appendices: The appendices are not part of the Charter itself and shall be amended after each decennial census to reflect any changes in the Commissioner District boundary descriptions or apportionment figures made necessary by changes in population. The multipliers shall be adjusted after each decennial census.

5.5.5.5 Term of Office: The term of office for Budget Committee members is three (3) years.

5.5.5.6 Term Limits: No member of the Budget Committee shall serve more than three consecutive terms.

5.5.5.7 Vacancies: A vacancy occurring on the Budget Committee must be filled by the Committee for the balance of the unexpired term. The person appointed to fill the vacant office must be from the same municipality and district as the person vacating the office.

5.5.5.8 Expenses: Members shall serve without compensation, but shall be reimbursed from the county treasury for expenses lawfully incurred by them in the performance of their duties.

5.6 EMERGENCY APPROPRIATIONS

Emergency appropriations shall be made by the Board from the contingency account in accordance with state law.

5.7 CAPITAL PROGRAM

The County Administrator shall be responsible for the preparation and presentation of a five (5) year plan of the capital program to accompany the proposed annual budget when it is presented to the Board. The projections shall be considered as informational and not binding upon the future actions of the County Administrator or the Board.

5.8 BORROWING

5.8.1 Authorization: The Board shall have the authority to issue bonds, notes, or other general obligation securities of the County in accordance with state law. The Board may issue any form of tax, grant, or bond anticipation certificate or note as authorized by the Constitution or general laws of the State.

5.8.2 Contracting: The Board may contract with one or more member municipalities for the receipt of funds to accomplish any of the purposes authorized by this Charter and may, except as otherwise provided by law, incur indebtedness in anticipation of the receipt of such funds by issuing negotiable notes of the County payable in not more than one year, which notes may be renewed from time to time by the issuance of other notes, provided that no notes may be issued or renewed in an amount which at the time of issuance or renewal exceeds the amount of funds remaining to be paid under contracts with one or more member municipalities.

5.9 TRANSFER OF APPROPRIATIONS

To the extent permitted by its appropriation and within each fiscal year, on request of the County Administrator, the Board may transfer any unencumbered balance of an appropriation or portion thereof to another account, department, office, or agency of the County in accordance with state law unless such funds were derived from income restricted to the specific purpose for which they were originally appropriated.

ARTICLE 6 ELECTIONS

6.1 PARTISAN ELECTIONS

No provision of this charter or orders adopted under its authority shall alter the partisan nature of the nomination and elections of the Judge of Probate, Sheriff, or Register of Probate, except as those elections are amended by the law of the State. If authorized by State law, any and/or all of the positions listed in the preceding sentence may be permanently transferred to appointed professional positions by a majority vote of the County electorate.

6.2 NOMINATION AND ELECTION OF COMMISSIONERS

No provision of this charter or orders adopted under its authority shall alter the partisan nature of the nomination and election of the County Commissioners, except as it may be amended by the laws of the State.

6.3 ELECTIONS ON COUNTY REFERENDA

Except as this Charter or legislation enacted pursuant to it provide, the manner of conducting an election on referendum questions shall be the manner prescribed by the laws of the State for an election in the County on any proposition.

ARTICLE 7 RECALL

The registered voters of the County shall have the power to recall a County Commissioner, but no recall petition shall be filed within ninety (90) days after the Commissioner takes office or

during the last 90 days of a Commissioner's term, nor, in the case of a Commissioner subjected to a recall election and not removed, until at least six months after that recall election.

7.1 LETTER OF INTENT REQUIRED

A letter of "Intent to Initiate Recall" shall be filed by the initiator of the recall with the County Administrator, and the County Commissioner who is the subject of the recall, and it shall contain the following:

- The name, municipality of residence, and the number of the County Commissioner District in which the County Commissioner who is the subject of the recall proceeding is residing;
- The alleged reason for the recall;
- The signature of the initiator, printed name and address, municipality of residence, and telephone number of the initiator who is the signer of the letter;
- A signed and notarized statement by the registrar of voters in the initiator's place of residence that the initiator is a duly registered voter of the municipality within that County Commissioner District.

7.2 NOTIFICATION TO THE INITIATOR

Within 10 days of receipt of the letter of "Intent to Initiate Recall," the County Administrator shall provide notification in writing to the initiator of the letter to confirm that it is in proper form and that the completed petitions must be filed with the County Administrator within 90 days of the date of notification. The last day that signatures can be collected shall also be the date by which completed petitions must be submitted to the County Administrator. The County Administrator shall also provide a copy of the letter to the County Commissioner who is the subject of the recall proceedings.

7.3 FORM FOR RECALL PETITION

Recall petitions shall be on forms provided by the County Administrator in sufficient numbers so that each circulator can have a copy. The petition shall contain the following information:

7.3.1 Content: A recall petition must contain the name of only one person to be recalled, place of residence, the office held, and the number of the County Commissioner District in which the person to be recalled is residing at the top of each page.

7.3.2 Reason for Recall: Immediately below the foregoing information, the alleged reason or reasons for the recall shall be clearly and concisely stated.

7.3.3 By Whom Signed: Each recall petition may be signed only by registered voters of the County Commissioner District in which the recall is to take place. Other signatures are void.

7.3.4 How Signed: The voter must personally sign his or her name in such a manner as to reasonably satisfy the registrar of the municipality of residence that the name is

recorded as a registered voter. The voter's printed name and address must also be recorded on the same line on the petition by either the voter or the circulator.

7.3.5 Date: The voter must indicate the date of signing which shall be noted on the petition after the municipality of residence.

7.3.6 Number of Signatures Required: Petitions to recall an elected County Commissioner must be signed by the voters of the County Commissioner District in which the person to be recalled is residing totaling at least 10% of the total number of votes cast for the office in the last election, with signatures from each municipality in the district. In the case of an incumbent County Commissioner who is holding over beyond the date on which this Charter was adopted, a petition for recall shall contain the signatures of at least 5% of the total number of persons residing in the district in which the Commissioner to be recalled resides. The County Administrator shall specify the number of valid signatures needed.

7.3.7 When signed: Petitions for recall may be signed only during the period commencing with notification by the County Administrator as provided in section 7.2 and not later than 5:00 p.m. of the day designated in the notification by the County Administrator for filing of the petitions.

7.4 REVIEW AND CERTIFICATION OF PETITIONS

7.4.1 Certification of Petitions: The circulator of each copy of the petition shall verify by oath or affirmation before a notary public or other person authorized by law to administer oaths that all of the signatures on that petition were made in the presence of the particular circulator and, to the best of the circulator's knowledge and belief, each signature is the signature of the person whose name it purports to be and each person is a resident of the County Commissioner District named in the petition.

7.4.2 Certification of Registrar: The registrar of each municipality concerned shall certify which names on the petition appear on the voting list of the municipality as registered voters and shall strike out and thereby cause to be invalid, the names of any unregistered voters.

7.4.3 Filed with County Administrator: After certification by the registrar of each municipality, the initiator shall cause the completed recall petitions to be filed with the County Administrator on or before the date designated in the notification letter sent by the County Administrator to the initiator of the recall petition.

7.4.4 Invalid Petitions: A recall petition which does not conform to this article is void. If a circulator fails to comply with this article with respect to signing or printing a voter's name, address, or date of signing, that voter's name may not be counted, but the entire petition will not be invalid on that account.

7.4.5 Review of Petitions:

When presented with completed recall petitions, the County Administrator shall review them and, if the petitions contain the required number of certified names and are properly completed as required by this article, shall accept and file them, and notify the initiator and the County Commissioner who is the subject of the recall.

7.4.6 Challenge to Petitions: The Commissioner whose recall is being sought shall have 10 days from the date that he or she received the notice required by § 7.4.4 to challenge the validity of the petitions. The County Administrator shall rule on the challenge within 30 days of receiving it.

7.5 CALLING THE RECALL ELECTION

7.5.1 The Board, upon receipt of the certified petitions, shall within ten days order the municipality or municipalities in the District in which the challenged County Commissioner resides to hold a recall election by secret ballot in the manner in which municipal special elections are conducted. The election shall be held on a Tuesday not later than 90 days after the Board's order was issued. If such an election cannot be held on the same date as a statewide election, the County shall reimburse the municipalities involved in the election process for the costs they have incurred in conducting the election.

7.5.2 The official against whom a recall petition has been filed shall continue to perform the duties of the office until the result of the recall vote is officially declared.

7.6 RECALL ELECTION BALLOT

The form of the question on the recall election ballot shall be: "Shall Androscoggin County Commissioner _____ of District _____ be recalled from office?"

7.7 RESULT OF THE ELECTION

The Board shall meet the day following the recall election to certify the vote. In the event of an affirmative vote for recall, the office of the Commissioner being recalled shall be immediately declared vacant. Any vacancy shall be filled in accordance with procedures outlined in section 3.4.

**ARTICLE 8
GENERAL PROVISIONS**

8.1 BALLOT WORDING

The form of the question on the referendum ballot to approve or disapprove the adoption of the proposed Charter shall be:

"Shall the county approve the new Charter for Androscoggin County drafted and recommended by the Androscoggin County Charter Commission?"

8.2 EFFECTIVE DATE

This charter shall become law thirty (30) days after the Governor has proclaimed that it was approved by a majority of the legally registered voters in the County.

8.3 AMENDMENTS

This Charter may be amended by a majority of the county voters pursuant to the laws of the State of Maine.

8.4 CHARTER REVIEW

The Charter shall be formally reviewed by a Charter Commission at least every twenty (20) years.

8.5 CONTINUATION OF OFFICE

8.5.1 The Register of Deeds upon expiration of his or her term, or vacancy in office, shall become an appointed position as set forth herein.

8.5.2 The County Treasurer in office at the time this Charter becomes effective shall remain in office for the remainder of the terms for which they were elected.

8.6 EFFECT ON COUNTY REGULATIONS

All existing orders, regulations, rules, and resolutions of the County shall remain operative except where inconsistent or in direct conflict with this Charter or repealed until amended by the Board.

8.7 EXISTING CONTRACTS AND BONDS

All rights, actions, proceedings, prosecutions, and contracts of the County or any of its departments, pending or unexecuted when this charter goes into effect and not inconsistent herewith, shall be enforced, continued or completed in all respects as though begun or executed hereunder. All outstanding bonds issued by former governments including the Board of County Commissioners of Androscoggin County and all special districts or authorities abolished or altered under this charter are to remain obligations of County government; however, payment of such obligations and the interest thereon shall be made solely from and charged solely against funds derived from the same sources from which such payment would have been made had this charter not become effective.

8.8 SEVERABILITY

If any part of this charter is determined by a court of competent jurisdiction to be unconstitutional or invalid, the remainder thereof shall remain in full force and effect.



MAINE

Department of the Secretary of State
Bureau of Corporations, Elections and Commissions

Corporate Name Search

Search Results

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Keyword from name to be searched:

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APPROVED

CHAPTER

JUNE 21, 2013

62

BY GOVERNOR

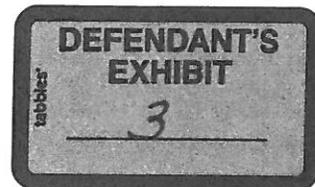
RESOLVES

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND AND THIRTEEN

S.P. 366 - L.D. 1084



Resolve, Directing the Androscoggin County Commissioners To Make Changes to the Androscoggin County Charter

Sec. 1. Androscoggin County Commissioners to make changes to the Androscoggin County charter. Resolved: That, notwithstanding the Maine Revised Statutes, Title 30-A, section 1324, the Androscoggin County Commissioners are directed to make the following changes to the Androscoggin County charter.

1. The charter must be amended in section 2.2 to add language that allows the board to arrange by contract to have functions of one or more municipalities, the State, federal agencies, special districts or public or private entities to be transferred to and be performed by the county.

2. The charter must be amended in section 3.1 to indicate that new commissioners elected take office January 1, 2015, except that a commissioner elected prior to the establishment of the new commissioner districts serves the remainder of that commissioner's term representing the commissioner district that contains that commissioner's place of residence; to eliminate the subsection establishing a special election for transitional terms; and to provide that, beginning January 1, 2015, terms of the commissioners are for 4 years, except that commissioners originally elected for terms extending beyond December 31, 2013 serve the balance of their terms, and one newly elected commissioner in district 2, 4 or 6 serves a transitional term of 2 years and commissioners elected to succeed those 3 serve 4-year terms.

3. The charter must be amended in subsection 5.5.3 to provide that the budget committee only approves a final proposed budget to be submitted to the board for its approval, rather than adopting a final budget that is transmitted to the board.

4. The charter must be amended in subsection 5.5.4 to give the board the authority to modify the proposed budget and to adopt the final budget and to require the board to vote to adopt the final budget.



STATE OF MAINE

ANDROSCOGGIN, SS.

August 14, 2013
Regular Meeting 6:00 P.M.

Commissioner Greenwood called the meeting to order at 6:00 p.m.

Present at the meeting were:

Randall Greenwood, Chairman
Beth Bell, Commissioner
Robert Poulin, Treasurer
Guy Desjardins, Sheriff
Nelson Peters, Chief Deputy
John Lebel, Jail Administrator
Bryan Dench, County's Attorney

Motion: to accept and approve with a waiver of reading the minutes of July 25, 2013.
Bell-Greenwood 2-0

Motion: to approve all bills, part-time deputies' payroll, Warrants #22 and 23, Correction
Division Warrants # 3 and 4.
Bell-Greenwood 2-0

Reports:

Commissioner Greenwood - Maine County Commissioners Association.
Nothing to report.

Commissioner Makas - Central/Western Maine Workforce Investment Board.
Nothing to report.

Commissioner Makas - Safety Committee.
Nothing to report.

Commissioner Bell - AVCOG
Nothing to report.

Public Comments: None

Motion: to accept the correspondence from Paul Richard from Probate Court resigning
his position as part-time preservation clerk effective July 19, 2013.
Bell-Greenwood 2-0

Motion: to approve the correspondence from the Sheriff's Department requesting the
transfer of corrections officer Timothy Stevens to dispatcher at \$17.41 per hour going to
level 3 elimination his 4 years of previous experience as a corrections officer effective
August 18, 2013.
Bell-Greenwood 2-0

Motion: to review the pilot program for the Criminal Investigation Division work
schedule.
Bell-Greenwood

Motion: to continue with the pilot program for the Criminal Investigation Division
through December 31, 2013.
Bell-Greenwood 2-0

Motion: to approve the County Charter as amended by the legislative delegation into
the legislation to make this document the official Charter for Androscoggin County.
Bell-Greenwood 2-0

Consent Agenda: accept the consent agenda as presented:

Accept the Sheriff's Department Civil Division report for July.

Accept the Sheriff's Department Law Enforcement report for June.

Accept the Sheriff's Department Professional leave for Guy Desjardins, Nelson Peters, Raymond Lafrance and Glenn Holt.

Accept the Registry of Deeds cash report for June and July.

Bell-Greenwood 2-0

Motion: to accept the correspondence from the Sheriff's Department accepting dispatcher Devon Bohacik resignation effective August 24, 2013 authorize that he remains a part-time dispatcher and to post the position of a full-time Dispatcher.

Bell-Greenwood 2-0

Motion: to post the vacancy position of Corporal within the Corrections Division as soon as possible.

Greenwood – Bell 2-0

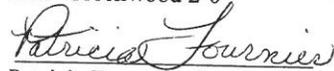
Motion: to go into executive session with council pursuant to Title 1 M.R.S.A. Section 405 Subsection 6 (E).

Bell-Greenwood 2-0

Commissioners return to regular session at 8:05 pm.

Motion: to adjourn at 8:06 pm.

Bell- Greenwood 2-0



Patricia Fournier, County Clerk



ANDROSCOGGIN COUNTY CHARTER

We, the people of Androscoggin County, Maine, in recognition of the dual role of the County as an agency of the State of Maine and as a unit of local government, and in order to provide for self-determination in county affairs to the full extent permissible under the Constitution and laws of the State, by this Charter, confer upon the County the following power subject to the following restrictions, and prescribe for it the following procedures and governmental structures:

ARTICLE 1 AUTHORITY

1.1 NAME

The name of the county as it operates under this Charter shall be Androscoggin County.

1.2 NATURE AND LEGAL CAPACITY

From the time this Charter takes effect, the County shall continue to be an agency of the State and a body politic and corporate and shall be vested with all rights and powers of self-government which are now, or hereafter may be, provided by the Constitution and laws of Maine and this Charter. In addition, it shall be vested with all the rights and programs from the Federal Government that are available either directly or through the State.

1.3 BOUNDARIES

The boundaries of the County shall be the boundaries now or hereafter prescribed for the County by the laws of the State of Maine.

1.4 COUNTY SEAT

The seat of government of the County shall continue to be the City of Auburn.

1.5 ELECTED OFFICIALS

Pursuant to the Constitution and laws of the State of Maine, the county shall have an elected Board of County Commissioners, hereafter referred to as "the Board." If authorized by State law, any and/or all of following elected official positions may be permanently transferred to appointed professional positions by a majority vote of the County electorate.

- Sheriff (listed in state constitution)
- Judge of Probate (listed in state constitution)
- Register of Probate (listed in state constitution)

ARTICLE 2 POWERS AND DUTIES

2.1 TRANSFER OF POWERS

Whenever a municipality, special district or agency shall request the performance or transfer of any power, privilege, authority, or function to the County, the Board has the authority, at its discretion, to exercise that power, privilege, authority, or function, if permitted by law, except that nothing herein shall be construed to allow the County to levy taxes other than as allowed by law.

2.2 INTERGOVERNMENTAL COOPERATION

The Board may, on such terms as it deems to be in the best interest of the County,

2.2.1 arrange by contract for one or more functions of the County to be performed in cooperation with one or more other counties,

2.2.2 arrange for one or more functions of the County to be transferred to and performed by one or more municipalities, the State of Maine, federal agencies, special districts, or public and private entities if permitted by state law, or

2.2.3 arrange for one or more functions of one or more municipalities, the State of Maine, Federal agencies, special districts, or public and private entities to be transferred to and performed by the County if permitted by state law.

2.3 DIVISION OF POWERS

This Charter establishes the separation between the legislative and administrative functions of county government. The establishment and adoption of policy shall be the responsibility of the Board and the execution of that policy shall be the responsibility of the County Administrator.

2.4 CONSTRUCTION OF POWERS

The powers granted by this Charter shall be construed broadly in favor of the charter form of government and toward the end of enabling the County to implement municipal programs and services on behalf of its municipalities, while avoiding the creation of special districts or other legal or administrative entities to accomplish these purposes.

ARTICLE 3 BOARD OF COUNTY COMMISSIONERS

3.1 CREATION OF DISTRICTS

3.1.1 Seven Districts Established: There shall be seven (7) districts, with a single Commissioner elected from each district to take office beginning January 1, 2015, except as otherwise provided herein for Commissioners in office at the effective date of this Charter.

3.1.2 Apportionment Into Districts: In 2013, after receipt of the decennial census data from the U.S. Census, the County Commissioners shall request the State Apportionment Commission to prepare a description of each of the seven (7) geographical districts to ensure the division of the County into contiguous and nearly equally populated areas. Each apportionment shall start as a new construct within the County's boundaries with each district following existing municipal boundaries insofar as possible. The creation of new districts shall not disqualify a Commissioner who is presently serving from finishing his or her term. After the seven new Commission districts are established as provided in this Charter, and effective January 1, 2015, the Commissioners then serving the remainder of their terms shall represent the Commission district that contains their place of residence.

3.1.3 Initial Full Terms: Beginning in 2014, Commissioners shall be elected in primary and general elections for terms beginning January 1, 2015, and thereafter of four years except that the Commissioners originally elected for terms extending beyond December 31, 2013, shall serve the balance of their terms and one newly elected Commissioner in district 2, 4, or 6, in that order, in which the incumbent Commissioners do not reside shall initially be elected for a transitional term of two (2) years and thereafter the Commissioners elected to succeed those three shall serve for 4-year terms. Commissioners shall serve until their successors are elected and assume their offices.

3.1.4 Term Limits: No Commissioner shall serve for more than three (3) consecutive 4-year terms.

3.2 QUALIFICATIONS

3.2.1 Residence: An individual is eligible to be nominated and elected as a County Commissioner only if he or she is a resident of the district from which nominated and is also a registered voter in that district.

3.2.2 Non-residence: The office of any member of the Board shall immediately become vacant if the Commissioner ceases to be a resident of his or her district, is no longer a registered voter of the County, or is subject to any other disqualification imposed by this Charter or the Constitution and laws of the State.

3.3.2 Time Restriction: For a trailing period 18 months, no former Commissioner shall hold any compensated or appointed County position and must obtain authorization in writing from the County Administrator approved by the Board in order to be employed by an organization having any business relationship with the County.

3.4 VACANCIES

When a vacancy occurs in a County Commissioner position, members of the same political party who reside in the same district as the vacating member shall caucus and choose an interim replacement within thirty (30) days of the occurrence of the vacancy. The interim appointment shall be for the period until the next general election, at which time the position shall be filled for the remainder of the unexpired term. The name of the person selected shall be submitted to the Board which may require confirmation that appropriate procedures were followed in the nomination process. In order for the nomination of an interim replacement to be valid, the caucus at which the nomination was made shall have been conducted in accordance with the internal rules of the political party involved, or, if no such rules exist, in accordance with accepted parliamentary procedure. In the event that the caucus of enrolled voters fails to produce a valid nomination within thirty (30) days after public notice of the vacancy was given by the County Administrator, the vacancy shall be filled by a majority vote of the remaining County Commissioners.

If the Commissioner whose position has become vacant was not enrolled in a political party at the time of the primary election prior to the election at which he or she was elected, the County Administrator shall give notice of the vacancy by publication in a newspaper having a general circulation within the county. The published notice shall encourage unenrolled voters from the district in which the vacancy occurred who were also unenrolled at the time that the vacancy occurred, to submit their names as candidates to fill the vacant position. At least thirty (30) days after the publication of the vacancy was given, the Board shall appoint an unenrolled voter from the district in which the vacancy occurred to fill the position until the next general election.

3.5 EXCLUSION

After due process of formal charges and a hearing in which the challenged member shall not participate, and upon finding that a commissioner-elect is not entitled to a seat because of a failure to meet the requirements in section 3.3.1 or 3.3.2, or if a commissioner-elect was not "duly elected," the Board, by a majority vote of the remaining members of the Board, may deny the commissioner-elect a seat on the Board.

3.6 CENSURE AND EXPULSION

After due process including formal charges and a hearing, a Commissioner may be involuntarily removed from office before the normal expiration of his or her term. The Board may determine the rules of its proceedings and punish Commissioners by immediate expulsion for cause

including non-attendance, disorderly behavior, and moral turpitude with the concurrence of a majority plus one of the full Board.

3.7 COMPENSATION

Salaries and benefits of all County elected officials shall be recommended by the Board and approved by a majority plus one vote of the full Budget Committee. Said salary shall constitute full compensation for all services. Reimbursement for reasonable expenses incurred in performance of the officials' duties may be allowed upon formal review and approval by the Board.

3.8 POWERS OF THE BOARD

The Board shall be the policy-determining body of the County. The Board may exercise all the powers granted to the County from any source.

3.8.1 Specific Powers: The Board shall appoint by a majority of a full Board and remove by majority plus one vote of a full Board:

3.8.1.1 The County Administrator, County Treasurer, Register of Deeds, and any of the other positions listed in Section 1.5 that may later become appointive.

3.8.1.2 Other Appointments: The County Administrator shall follow the process prescribed in the Board's Bylaws and may present any appointments to the Board for its confirmation.

3.8.2 Departmental Structure: The Board and/or the County Administrator, - with the approval of the Board, may from time to time establish additional administrative departments, combine any two or more administrative departments into a single department, separate departments thus combined, abolish any administrative department and prescribe the duties and functions of any administrative department. A function of the County prescribed by State law, but not allocated to any County office or agency, shall be allocated to such department or committee of the County as the Board shall determine.

3.8.3 Finance: In order to insure transparency, the Board shall require the highest professional standards for its accounting and for the comprehensive annual financial report as prescribed in the Bylaws.

3.8.4 Revenues: The Board shall apply for available public and private grants to assist the needs of citizens, to provide required services, and to fund capital improvements. It shall establish and charge reasonable fees and assessments to offset all expenditures. In addition, and pursuant to State law, it shall appropriate funds as necessary to support its budget and pay debt services.

3.8.5 Audit: The Board shall cause independent audits by a certified public accountant of all government operations and functions of the County annually and more often if the Board deems necessary.

3.8.6 Committees: The Board may create and abolish such committees as it deems necessary to assist in the performance of its duties, may appoint the membership necessary, and may serve as ex officio committee members. A committee shall be a Standing Committee or an Ad Hoc Committee. All committees shall have a clearly written charge and have their budgets approved by the Board. At the annual meeting, the Board shall review and vote to authorize each Ad Hoc committee or by default it shall be abolished.

3.8.6.1 Standing Committees: Standing committees are named County committees that may have an ongoing, operating, and capital budget. Their governance shall be described and referenced in the Bylaws.

3.8.6.2 Ad Hoc Committees: Ad Hoc Committees are temporary committees developed for the County by its Board or County Administrator that perform limited singular assignments of limited duration, generally less than 18 months. They have neither an ongoing, operating, nor a capital budget and are not covered by the Bylaws.

3.9 BOARD ORGANIZATION

At its initial organizational meeting, and annually thereafter, as determined by the Bylaws, the Board shall elect from among its members a chair and a vice-chair to serve for such terms as the bylaws or, if none, the Board, shall determine. The chair shall preside over the meetings of the Board, have a vote on all questions before it, and have authority to preserve order at all Board meetings. The Procedural Rules of the Board shall be determined in the Bylaws.

3.9.1 Bylaws: Within six (6) months of its election the Board shall adopt Bylaws that set forth the County's rules of governance, its procedures, and rules for change. At least decennially, the bylaws shall be formally reviewed by an independent group of the electorate selected by the Commissioners, one per district.

3.9.1.1 Bylaw Changes: The adoption, amendment, or repeal of a bylaw shall require a reading at two (2) formal Board meetings and the concurrence of the majority plus one vote of the full Board.

3.10 MEETINGS

3.10.1 Regular Meetings: The Board shall meet regularly and publicly in the County at least once each month. The Board shall provide for the manner, time, and place for holding all regular Board meetings.

3.10.1.1 Quorum: Four (4) members of the Board shall constitute a quorum. A lesser number or the County Administrator may only adjourn the meeting to another place or time.

3.10.1.2 Special Meetings: Special meetings may be held at the call of the chair or three (3) or more members of the Board. Upon call for a special meeting, adequate public notice shall be given of the time, place, and purpose of the meeting in accordance with the procedures established by the Board's Bylaws. The only actions that can be taken at a special meeting are items specified in the notice for that meeting.

3.10.1.3 Emergency Meetings: An emergency meeting of the Board may be called at the Chair's, or in the absence of the Chair, the Vice-Chair's discretion. A complete record of the meeting, the Chair's justification for such action, and a roll call vote regarding the same shall be expressed, vetted, and recorded in the minutes of the meeting to be presented and approved at the next formal Board meeting.

3.10.1.4 Non-meetings: Chance meetings or planned social gatherings of the Board members, at which no substantive discussion, action, vote, or poll regarding the County's business is taken, do not constitute public meetings.

3.11 BONDING

The Board shall designate which officers and employees shall be bonded and fix the amount and approve the form of the bond.

3.12 RECORDS

The Board shall cause a public record of its proceedings to be kept in accordance with the Bylaws. A written copy of such records shall be maintained by, or under the direction of, the County Administrator and shall be available to the public prior to the next regular meeting of the Board. The individual votes on questions before the Board shall be recorded.

ARTICLE 4 ADMINISTRATION

4.1 GENERAL PROVISIONS

All functions and duties required of the County or County officials by this Charter or by the Constitution and laws of the State of Maine shall be the responsibility of the Board. Duties and

functions shall be distributed among such committees, departments, offices, and agencies as the law, the Board, or this charter may establish. All entities, services, and functions are under the direction and the supervision of the County Administrator, subject to the approval and control of the Board. The Board shall use its powers to operate the County in an optimal businesslike manner and to provide services that are in the best interest of the County's citizens.

4.2 COUNTY ADMINISTRATOR

The County Administrator shall be appointed solely on the basis of executive and administrative qualifications.

4.2.1 Administration: The County Administrator shall carry out the Board's policies and be delegated with and responsible for the County's entire management functions, including planning, organizing, staffing, direction, and control. In addition, the County Administrator is responsible for the preparation of and enforcement of personnel policies, budgetary documents, control of the budget after its acceptance, administrative codes, purchasing, provision of central services, maintenance of buildings and grounds, and any other functions the Board may prescribe. The County Administrator shall assume responsibility for all County elected or appointed professional positions and their entities, services, and function and may delegate such by agreement of the Board, except as provided by law. In the event that the County Administrator position should become vacant, the Board shall promptly name a replacement although it may appoint an interim successor while it is seeking to fill the position on a permanent basis.

4.2.2 Appointments: All administrative officers and employees of the County other than elected administrative officers and those designated in Section 3.8.1.1 shall be appointed by the County Administrator except that the Sheriff shall appoint and supervise the Chief Deputy as provided by law. The qualifications for appointments as administrative officers or employees shall be on a non-partisan and professional basis and may be prescribed by the Board.

4.2.3 Administrative Code: The County Administrator shall prepare an administrative code that shall establish the committee and departmental organization of County government, including the nature and scope of each department together with all required rules and procedures for their operation, except as otherwise provided by statute. The administrative code shall be submitted to the Board for adoption, review, amendment, or repeal. It may be formally amended or repealed by a vote of a majority plus one of a full Board. At least decennially the administrative code shall be formally reviewed by an independent group of the electorate selected by the Board, one per District.

4.2.4 Elected Officials: The respective offices of Sheriff, District Attorney, Judge of Probate, and Register of Probate shall continue to be under the elected official's supervision and control as provided by law for as long as these positions remain elective, except that all actions relating to personnel, fiscal matters, and general administration of the County shall be accomplished in cooperation with and subject to the review and approval of the County Administrator.

ARTICLE 5 FINANCE

5.1 BUDGET

The Board is responsible for the review of the County Administrator's preliminary budget, its submission to the Budget Committee, and for the preparation and presentation of the final annual operating budget and capital improvement plan to the citizens prior to its adoption. The annual County budget process shall be transparent and as detailed as necessary to ensure a knowledgeable understanding by the electorate of the entire County's expenditures and revenues.

5.2 FISCAL YEAR

The fiscal year of the County shall be the calendar year, initially, but the Board shall have the authority to change said year by an appropriate order following consultation with the Budget Committee.

5.3 APPROPRIATION AUTHORITY

The Board shall have the authority to appropriate money, according to the budget. In the event the budget is not approved before the start of a fiscal year, the county shall, until a budget is finally adopted, operate on an interim budget which shall be no more than 80% of the previous year's budget.

5.4 OPERATING BUDGET AND CAPITAL BUDGET PROCESS

5.4.1 Departmental Budget Request: Each county department shall submit to the County Administrator a budget in such detail as may be required for the ensuing year's operation, plus such additional information as may be required by the County Administrator.

5.4.2 The County Administrator shall review and compile all operational and capital budget requests, including a budget for his or her own office, prepare a preliminary budget, including revenue estimates, and submit the same to the Board for its review and approval. The capital program shall include a five (5) year Capital Improvement Plan.

5.4.3 Adoption of Preliminary Budget: Prior to the Board adopting the preliminary budget, it shall hold one or more public hearings in the County on the County Administrator's preliminary budget.

5.4.4 Preliminary Budget Review: After said hearing, the Board shall review the preliminary budget as submitted by the County Administrator, together with the County Administrator's recommendations, and shall make such additions, deletions or changes as

it deems necessary to insure the proper funding of all operations of county government and shall submit the preliminary budget to the Budget Committee.

5.5 BUDGET COMMITTEE

5.5.1 General Procedures: The Board shall submit its proposed budget to the Budget Committee in a timely fashion and, in no event, later than 90 days prior to the beginning of the fiscal year. The Board shall provide the Committee with necessary clerical assistance, office expenses, and with meeting space, as well as access to County files and information needed to carry out its functions. Requests for such assistance shall be channeled through the County Administrator.

5.5.2 First Meeting of the Budget Committee: On the call of the Board, the Budget Committee shall, after public notice, hold a meeting at the County Building or at such other location as is designated in the call, at least 90 days prior to the commencement of the fiscal year. All meetings of the Budget Committee shall be open to the public except that the Budget Committee may hold executive sessions where permitted by 1 M.R.S.A. § 405 (the Freedom of Access Law). The Committee shall elect a chairperson from its membership and may also appoint such other officers as it may deem necessary. The Budget Committee may create such sub-committees as may be necessary to effectively perform its duties. A majority of the entire membership of the Budget Committee shall constitute a quorum.

The Budget Committee shall have the authority to reject or modify any line item in the budget by the affirmative vote of 11 of its members. The Budget Committee's proposed budget shall include proposed salaries and benefits for elected officials.

5.5.3 Submission of Proposed Budget to Board: When the Budget Committee has completed its deliberations, it shall hold a public hearing to present its proposed budget not less than 30 days before the beginning of the fiscal year. Notice of the hearing must be given in all newspapers of general circulation within the County at least 10 days before the hearing. Written notice of the hearing and a copy of the proposed budget shall also be sent by regular or electronic mail or delivered in person to each of the municipal clerks in the county who shall be responsible for notifying the municipal officials in their municipalities of the proposed budget as well as the date and time of the budget hearing. After the public hearing, the Budget Committee shall approve a final proposed budget and transmit the same to the Board for its approval.

5.5.4 Adoption of Budget; Tax Levy: The Board has the authority to modify the proposed budget and the authority to adopt the final budget for the County. The Board shall act on the proposed budget in a timely fashion and, in any event, shall vote to adopt the final budget not later than 15 days prior to the end of the fiscal year. The budget as adopted shall be the final authorization for the assessment of county taxes which shall be apportioned and collected in accordance with 30-A M.R.S.A. § 706. A copy of the final approved budget shall be filed with the State Auditor as provided by law.

5.5.5 Membership: There shall be two Budget Committee members from each district whose terms will begin 120 days prior to the beginning of the fiscal year. A Budget Committee vacancy will occur when a representative no longer qualifies for membership.

5.5.5.1 Nominating Caucus: The Board shall notify all municipal officers in the County to caucus by County Commissioner District at a specified date, time, and place for the purpose of nominating two (2) residents of the district of voting age as candidates for the County Budget Committee. At least one (1) of the persons nominated must be a municipal official as defined in 30-A M.R.S.A. § 722(2). A County Commissioner shall serve as the nonvoting moderator for his or her district caucus. Nominations shall be received from the floor and require a majority vote of those present to be approved. The names of those duly nominated shall be recorded and forwarded to the Board to be placed on a written ballot.

5.5.5.2 The Board shall have written ballots printed with the names of those candidates selected in each County Commissioner District. Each Commissioner District shall require a separate ballot and each ballot shall specify each candidate's full name and municipality. The Board shall distribute the appropriate ballots to each municipality within a Commissioner District. The municipal officers shall vote, as a board, for two (2) Budget Committee members from the candidates on the ballot. The municipal officers must vote for at least one (1) candidate who is a municipal official. After voting, the municipal officers shall return the ballot to the Board by a certain date.

5.5.5.3 The ballots shall be counted at a regular meeting of the Board. Each municipality's vote shall be weighted according to the formula set out in appendix B to this Charter to ensure that each municipality's vote reflects its proportion of the Commissioner District's total population. The candidate with the highest vote total and who is a municipal official and the candidate with the otherwise highest vote total are elected to membership on the County Budget Committee for each district. The Board shall:

- Notify each municipality, in writing, of the election results;
- Certify the results to the Secretary of State.

5.5.5.4 Appendices: The appendices are not part of the Charter itself and shall be amended after each decennial census to reflect any changes in the Commissioner District boundary descriptions or apportionment figures made necessary by changes in population. The multipliers shall be adjusted after each decennial census.

5.5.5.5 Term of Office: The term of office for Budget Committee members is three (3) years.

5.5.5.6 Term Limits: No member of the Budget Committee shall serve more than three consecutive terms.

5.5.5.7 Vacancies: A vacancy occurring on the Budget Committee must be filled by the Committee for the balance of the unexpired term. The person appointed to fill the vacant office must be from the same municipality and district as the person vacating the office.

5.5.5.8 Expenses: Members shall serve without compensation, but shall be reimbursed from the county treasury for expenses lawfully incurred by them in the performance of their duties.

5.6 EMERGENCY APPROPRIATIONS

Emergency appropriations shall be made by the Board from the contingency account in accordance with state law.

5.7 CAPITAL PROGRAM

The County Administrator shall be responsible for the preparation and presentation of a five (5) year plan of the capital program to accompany the proposed annual budget when it is presented to the Board. The projections shall be considered as informational and not binding upon the future actions of the County Administrator or the Board.

5.8 BORROWING

5.8.1 Authorization: The Board shall have the authority to issue bonds, notes, or other general obligation securities of the County in accordance with state law. The Board may issue any form of tax, grant, or bond anticipation certificate or note as authorized by the Constitution or general laws of the State.

5.8.2 Contracting: The Board may contract with one or more member municipalities for the receipt of funds to accomplish any of the purposes authorized by this Charter and may, except as otherwise provided by law, incur indebtedness in anticipation of the receipt of such funds by issuing negotiable notes of the County payable in not more than one year, which notes may be renewed from time to time by the issuance of other notes, provided that no notes may be issued or renewed in an amount which at the time of issuance or renewal exceeds the amount of funds remaining to be paid under contracts with one or more member municipalities.

5.9 TRANSFER OF APPROPRIATIONS

To the extent permitted by its appropriation and within each fiscal year, on request of the County Administrator, the Board may transfer any unencumbered balance of an appropriation or portion thereof to another account, department, office, or agency of the County in accordance with state law unless such funds were derived from income restricted to the specific purpose for which they were originally appropriated.

ARTICLE 6 ELECTIONS

6.1 PARTISAN ELECTIONS

No provision of this charter or orders adopted under its authority shall alter the partisan nature of the nomination and elections of the Judge of Probate, Sheriff, or Register of Probate, except as those elections are amended by the law of the State. If authorized by State law, any and/or all of the positions listed in the preceding sentence may be permanently transferred to appointed professional positions by a majority vote of the County electorate.

6.2 NOMINATION AND ELECTION OF COMMISSIONERS

No provision of this charter or orders adopted under its authority shall alter the partisan nature of the nomination and election of the County Commissioners, except as it may be amended by the laws of the State.

6.3 ELECTIONS ON COUNTY REFERENDA

Except as this Charter or legislation enacted pursuant to it provide, the manner of conducting an election on referendum questions shall be the manner prescribed by the laws of the State for an election in the County on any proposition.

ARTICLE 7 RECALL

The registered voters of the County shall have the power to recall a County Commissioner, but no recall petition shall be filed within ninety (90) days after the Commissioner takes office or during the last 90 days of a Commissioner's term, nor, in the case of a Commissioner subjected to a recall election and not removed, until at least six months after that recall election.

7.1 LETTER OF INTENT REQUIRED

A letter of "Intent to Initiate Recall" shall be filed by the initiator of the recall with the County Administrator, and the County Commissioner who is the subject of the recall, and it shall contain the following:

- The name, municipality of residence, and the number of the County Commissioner District in which the County Commissioner who is the subject of the recall proceeding is residing;
- The alleged reason for the recall;
- The signature of the initiator, printed name and address, municipality of residence, and telephone number of the initiator who is the signer of the letter;

- A signed and notarized statement by the registrar of voters in the initiator's place of residence that the initiator is a duly registered voter of the municipality within that County Commissioner District.

7.2 NOTIFICATION TO THE INITIATOR

Within 10 days of receipt of the letter of "Intent to Initiate Recall," the County Administrator shall provide notification in writing to the initiator of the letter to confirm that it is in proper form and that the completed petitions must be filed with the County Administrator within 90 days of the date of notification. The last day that signatures can be collected shall also be the date by which completed petitions must be submitted to the County Administrator. The County Administrator shall also provide a copy of the letter to the County Commissioner who is the subject of the recall proceedings.

7.3 FORM FOR RECALL PETITION

Recall petitions shall be on forms provided by the County Administrator in sufficient numbers so that each circulator can have a copy. The petition shall contain the following information:

7.3.1 Content: A recall petition must contain the name of only one person to be recalled, place of residence, the office held, and the number of the County Commissioner District in which the person to be recalled is residing at the top of each page.

7.3.2 Reason for Recall: Immediately below the foregoing information, the alleged reason or reasons for the recall shall be clearly and concisely stated.

7.3.3 By Whom Signed: Each recall petition may be signed only by registered voters of the County Commissioner District in which the recall is to take place. Other signatures are void.

7.3.4 How Signed: The voter must personally sign his or her name in such a manner as to reasonably satisfy the registrar of the municipality of residence that the name is recorded as a registered voter. The voter's printed name and address must also be recorded on the same line on the petition by either the voter or the circulator.

7.3.5 Date: The voter must indicate the date of signing which shall be noted on the petition after the municipality of residence.

7.3.6 Number of Signatures Required: Petitions to recall an elected County Commissioner must be signed by the voters of the County Commissioner District in which the person to be recalled is residing totaling at least 10% of the total number of votes cast for the office in the last election, with signatures from each municipality in the district. In the case of an incumbent County Commissioner who is holding over beyond the date on which this Charter was adopted, a petition for recall shall contain the signatures of at least 5% of the total number of persons residing in the district in which the Commissioner to be recalled resides. The County Administrator shall specify the number of valid signatures needed.

7.3.7 When signed: Petitions for recall may be signed only during the period commencing with notification by the County Administrator as provided in section 7.2 and not later than 5:00 p.m. of the day designated in the notification by the County Administrator for filing of the petitions.

7.4 REVIEW AND CERTIFICATION OF PETITIONS

7.4.1 Certification of Petitions: The circulator of each copy of the petition shall verify by oath or affirmation before a notary public or other person authorized by law to administer oaths that all of the signatures on that petition were made in the presence of the particular circulator and, to the best of the circulator's knowledge and belief, each signature is the signature of the person whose name it purports to be and each person is a resident of the County Commissioner District named in the petition.

7.4.2 Certification of Registrar: The registrar of each municipality concerned shall certify which names on the petition appear on the voting list of the municipality as registered voters and shall strike out and thereby cause to be invalid, the names of any unregistered voters.

7.4.3 Filed with County Administrator: After certification by the registrar of each municipality, the initiator shall cause the completed recall petitions to be filed with the County Administrator on or before the date designated in the notification letter sent by the County Administrator to the initiator of the recall petition.

7.4.4 Invalid Petitions: A recall petition which does not conform to this article is void. If a circulator fails to comply with this article with respect to signing or printing a voter's name, address, or date of signing, that voter's name may not be counted, but the entire petition will not be invalid on that account.

7.4.5 Review of Petitions:

When presented with completed recall petitions, the County Administrator shall review them and, if the petitions contain the required number of certified names and are properly completed as required by this article, shall accept and file them, and notify the initiator and the County Commissioner who is the subject of the recall.

7.4.6 Challenge to Petitions: The Commissioner whose recall is being sought shall have 10 days from the date that he or she received the notice required by § 7.4.4 to challenge the validity of the petitions. The County Administrator shall rule on the challenge within 30 days of receiving it.

7.5 CALLING THE RECALL ELECTION

7.5.1 The Board, upon receipt of the certified petitions, shall within ten days order the municipality or municipalities in the District in which the challenged County

Commissioner resides to hold a recall election by secret ballot in the manner in which municipal special elections are conducted. The election shall be held on a Tuesday not later than 90 days after the Board's order was issued. If such an election cannot be held on the same date as a statewide election, the County shall reimburse the municipalities involved in the election process for the costs they have incurred in conducting the election.

7.5.2 The official against whom a recall petition has been filed shall continue to perform the duties of the office until the result of the recall vote is officially declared.

7.6 RECALL ELECTION BALLOT

The form of the question on the recall election ballot shall be: "Shall Androscoggin County Commissioner _____ of District _____ be recalled from office?"

7.7 RESULT OF THE ELECTION

The Board shall meet the day following the recall election to certify the vote. In the event of an affirmative vote for recall, the office of the Commissioner being recalled shall be immediately declared vacant. Any vacancy shall be filled in accordance with procedures outlined in section 3.4.

ARTICLE 8 GENERAL PROVISIONS

8.1 BALLOT WORDING

The form of the question on the referendum ballot to approve or disapprove the adoption of the proposed Charter shall be:

"Shall the county approve the new Charter for Androscoggin County drafted and recommended by the Androscoggin County Charter Commission?"

8.2 EFFECTIVE DATE

This charter shall become law thirty (30) days after the Governor has proclaimed that it was approved by a majority of the legally registered voters in the County.

8.3 AMENDMENTS

This Charter may be amended by a majority of the county voters pursuant to the laws of the State of Maine.

8.4 CHARTER REVIEW

The Charter shall be formally reviewed by a Charter Commission at least every twenty (20) years.

8.5 CONTINUATION OF OFFICE

8.5.1 The Register of Deeds upon expiration of his or her term, or vacancy in office, shall become an appointed position as set forth herein.

8.5.2 The County Treasurer in office at the time this Charter becomes effective shall remain in office for the remainder of the terms for which they were elected.

8.6 EFFECT ON COUNTY REGULATIONS

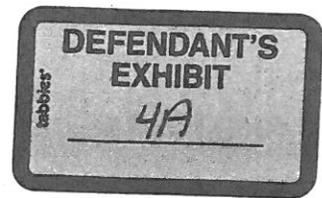
All existing orders, regulations, rules, and resolutions of the County shall remain operative except where inconsistent or in direct conflict with this Charter or repealed until amended by the Board.

8.7 EXISTING CONTRACTS AND BONDS

All rights, actions, proceedings, prosecutions, and contracts of the County or any of its departments, pending or unexecuted when this charter goes into effect and not inconsistent herewith, shall be enforced, continued or completed in all respects as though begun or executed hereunder. All outstanding bonds issued by former governments including the Board of County Commissioners of Androscoggin County and all special districts or authorities abolished or altered under this charter are to remain obligations of County government; however, payment of such obligations and the interest thereon shall be made solely from and charged solely against funds derived from the same sources from which such payment would have been made had this charter not become effective.

8.8 SEVERABILITY

If any part of this charter is determined by a court of competent jurisdiction to be unconstitutional or invalid, the remainder thereof shall remain in full force and effect.



**State of Maine
Androscoggin County**

**Minutes of Budget Committee
Meeting of
October 29, 2014**

MEMBERS PRESENT: Norman Beuparlant, Ralph Caldwell, Don Fournier, Joseph Grube, Michael Lachance, Mark Lunt, Michael Marcotte, Tony Reny, Nancy Richard, Andrew Titus, Emily Tuttle, Jeffrey Wakeman,

MEMBERS ABSENT: Donald D'Auteuil, Vacant Seat District 5 – Auburn.

OTHERS PRESENT: County Commissioner Randall Greenwood, County Commissioner Beth Bell, County Commissioner Elaine Makas, Treasurer Robert Poulin, and County Clerk Patricia Fournier, Dan Hartill, Sun Journal reporter, Richard Gross, Chairman of the County Charter Commission, Tina Chouinard, Register of Deeds, Melissa Brackley, Registry of Deeds Clerk, Michael Dubois, Judge of Probate, Leslie Dubois, Matt Roy, Candidate for County Commissioner, Alfreda Fournier, Candidate for County Commissioner, Sally Hebert, Greene Deputy Town Clerk, Anna Bell.

Meeting was called to order at 6:04 p.m. by Chairman Marcotte.

On motion of Mr. Beuparlant, seconded by Mr. Reny, it was

VOTED:

(050-2014) To accept the minutes of October 15, 2014 as presented.

**VOTE:
12-0**

Emily Tuttle wanted to bring attention to a letter from October 24, 2014 regarding the intent of the charter. Ms. Tuttle pointed out the ability of a super majority of 11 to override County Commissioners on individual line items.

Mr. Gross, chairman of the Charter Commission stated that it was the Charter Commission's intent, that by a vote of 11 members of the budget committee, the Budget Committee could change a line item in the budget, and the commissioners would have to accept that.

Commissioner Greenwood offered to ask all of the charter commission members (board of 9 members) to clarify the intent of 5.5.4.

At this time, Department 1020 County Commissioners was reviewed

On motion of Mr. Titus, seconded by Mr. Reny, it was

VOTED:

(051-2014) To set line 1020/Salaries and Wages/3120 at \$154,393.00. Friendly amendment to set line 1020/Salaries and Wages/3120 at \$159,643.00, which would set the Commissioners' annual salary at \$2,750.00 and \$500.00 additional for the Chairperson.

**VOTE:
10-2**

Richard – Beuparlant opposed

On motion of Tuttle, seconded by Reny, it was

VOTED:

(000-2014) To reduce 3120 by \$5,000.00 from the salary of the administrator.
Motion withdrawn.

On motion of Mr. Lachance, seconded Mr. Reny, it was

VOTED:

(052-2014) To set the following budget lines to:

4315/Telephone	\$1,000.00
4110/Meals	\$ 500
4115 Lodging	\$1,500
4105 Auto	\$1,000

It was moved and seconded to move the question

VOTED:
12-0

On motion of Ms. Tuttle, seconded by Mr. Reny, it was

VOTED:

(053-2014) To set line 1020/Office Equipment/7325 to 9,000.00.

VOTE:
12-0

On motion of Mr. Lachance, seconded by Mr. Fournier, it was

Voted:

(054-2014) To set 1020/Printing and reproducing/5345 at \$800.

VOTE:
12-0

On motion of Mr. Lachance seconded by Mr. Wakefield, it was

VOTED:

(055-2014) To set 1020/Office Supplies/5335 at \$500.

VOTE:
11-1
Marcotte opposed

At this time, Department 1025 Treasurer was reviewed

On motion of Mr. Beuparlant, seconded by Mr. Lachance, it was

Voted:

(056-2014) To set line 1025/Salaries and Wages/3120 at \$134,296.

VOTE: 9-3
Reny, Grube, Wakeman opposed

At this time, Department 2025 Employee Benefits was reviewed

On motion of Mr. Wakeman, seconded by Mr. Titus, it was

Voted:

(057-2014) To set line 2025/Health and Dental Insurance/4724 to \$1,200,420.

Tuttle requests specific health and dental information regarding how many family plans, how many single, what is specified by union contract, elected officials, and retired elected officials.

It was moved and seconded to move the question

VOTE: 10-2
Caldwell, Richard opposed

On motion of Mr. Wakeman, seconded by Ms. Tuttle, it was

Voted:

(058-2014) To increase 1020/Salaries and Wages/3120, by adding \$1,750.00, which would be \$250.00 more per Commissioner, making the stipend \$3,000.00 per Commissioner.

VOTE: 9-3
Fournier, Titus, Lachance opposed

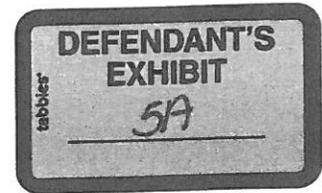
On motion of Reny, seconded by Fournier, it was

Voted:

To adjourn at 9:15p.m.



Patricia Fournier, County Clerk



STATE OF MAINE

ANDROSCOGGIN, SS.

November 19, 2014
Regular Meeting 5:00 P.M.

Commissioner Greenwood called the meeting to order at 5:00 p.m.

Present at the meeting were:

Randall Greenwood, Chairman
Beth Bell, Commissioner
Elaine Makas, Commissioner
Robert Poulin, Treasurer
Patricia Fournier, County Clerk
Judge Michael Dubois
Joanna Said, Register of Probate
Guy Desjardins, Sheriff
Eric Samson, Sheriff elect.
Stavros Mendros, citizen
Dick Clark, Assistant Systems Admin.

Absent from the meeting: N/A

Motion: to accept and approve with a waiver of the reading of the minutes of November 5, 2014.
Makas-Bell 3-0

Motion: to approve all bills, part-time deputies' payroll, Warrants #40, #41.
Corrections Division Warrant #51 and P.O. 34195, 34208.
Makas-Bell 3-0

Reports:

Commissioner Bell - Maine County Commissioners Association
No Report.

Commissioner Makas - Central/Western Maine Workforce Investment Board

We worked closely with Manufacturers Association of Maine to support and highlight the manufacturing sector through participating in a national event in October. Staff helped to collaborate, coordinate, and deliver a very successful manufacturing day in Maine, and especially in Region three. We had over 340 students visit over 16 manufacturers in our five county region; from over 100 students that visited both Thomas Moser Cabinet Making and Mountain Machine Works in Auburn to well over another 100 that visited Formtek in Clinton from three different regional technical centers. In addition, we are on the CLEO board, (which is the chief elected officials, and we oversee the workforce investment award money locally). CLEO recently approved the nomination of Don Mondor, Manufacturing Manager of S.F. Pathways, to serve on our Central Western Maine Workforce Investment Board. We are also working with MDOL on the Job-Driven National Emergency Grant; working with career centers and two hospitals, specifically St. Mary's and Maine General, to begin implementation of the grant in the roll-out of the Ready-to-Work Workforce Academy to help develop well-qualified entry level hospital health care employees. We are also collaborating on employer-driven work based training for welding occupations with S.F. Pathways Inc., Lewiston, WIA funded, six graduated & working, six more in class will graduate December 19, 2014, and all are doing well.

Commissioner Makas - Safety Committee
No Report

Public Comments: None

Motion: to accept the correspondence from the Register of Probate dated October 27, 2014 regarding payment for Judge Michael Dubois' attendance at the National College of Probate Judges Conference from November 12th -15th, 2014, in the amount of \$403.70 for

airfare, \$410.93 for the hotel, \$450.00 for the conference registration, and car rental cost not to exceed \$340.99.

Makas-Bell 3-0

Motion: to accept the correspondence from the Register of Probate dated November 13, 2014, requesting a step increase for Julie Bertrand from Grade 6 Step A to Grade 6 Step B to an hourly rate of \$16.85 effective on December 9th, 2014.

Bell-Makas 3-0

Motion: to accept correspondence from the Register of Probate dated November 13, 2014, requesting a step increase for Sandra Potvin from Grade 4 Step D to Grade 4 Step E to an hourly rate of \$16.27 effective on December 31st, 2014.

Makas-Bell 3-0

Discussion with the Judge of Probate, Michael Dubois, in regards to health insurance:

Judge Michael Dubois stated that there seems to be some confusion as to which entity (the board or the finance committee) has ultimate authority regarding health insurance. After being informed that the family plan was being cut from the Probate Judge's insurance, leaving individual coverage, Judge Michael Dubois referenced the Sagadahoc health insurance issue challenged by Judge Voorhees in 2006. As a result, the Law Court essentially said, "That no legislative body, whether it be this board or the finance committee, can... diminish a judge's salary or compensation while in office." Hence, by diminishing the health coverage available to the Judge of Probate, it affects the compensation packet, and is a violation of both the Maine and Federal Constitution.

Motion: to recommend to the budget committee, that the Judge of Probate's health insurance family coverage continue for an additional amount of \$9221.00, with the commissioners support.

Makas-Bell 3-0

Motion: to approve amending the section Other Benefits D. Medical Coverage #2., of the Personnel Policy effective January 1, 2015. Increasing the buyout for single coverage to \$4,000, parent with dependent child/children to \$5000, and full family coverage to \$6,000.

Makas-Bell 3-0

Motion: to accept the correspondence from the Facility Department dated November 19, 2014 recommending awarding the contract for painting in the Registry of Deeds to Rodrigue and Son Painting Inc. in the amount of \$11,424.00, being the lowest bidder meeting specifications.

Makas-Bell 3-0

Motion: to accept correspondence from the Facility Department dated November 19, 2014 recommending awarding the contract for construction and painting of the new Probate Courtroom (including room 113) to Bisson Painting and Carpentry in the amount of \$27,234.00.

Makas-Bell 3-0

Motion: to accept correspondence from the Facility Department dated November 19, 2014 recommending awarding the contract for flooring in the Registry of Deeds, Probate Courtroom and Commissioners' Conference room (rooms 108, 110, 113, 117, 118, 123, B22, B26) to Floor Systems in the amount of \$23,625.15.00.

Makas-Bell 3-0

Motion: to accept correspondence from the Facility Department dated November 19, 2014 recommending the awarding the contract for removing the asbestos (VAT) tile flooring in room 113 to Acadia Contractors in the amount of \$3,900.00.

Makas-Bell 3-0

Consent Agenda: to approve the consent agenda as presented:

To approve the Registry of Deeds September Monthly Cash Report.

To approve the Civil Division October Report.

To approve the Sheriff Department's October Mileage Report.

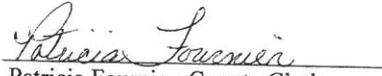
To approve the Sheriff Department's request for professional leave for Officer Nathan Dugay to attend a class.

To approve the Sheriff Department's evaluation of Thomas Slivinski.

Motion: to continue the meeting 30 minutes after the budget committee adjourns their meeting and presents the budget back to the commissioners.
Makas-Bell 3-0

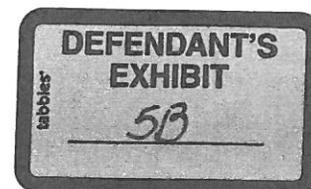
Reconvened meeting at 9:38.

Motion: to seek legal opinion regarding charter adoption of 2015 proposed budget, and reconvene on Tuesday, November 25, 2014 at 5:00p.m. Meeting ended at 9:40p.m.
Makas-Bell 3-0



Patricia Fournier, County Clerk

STATE OF MAINE



ANDROSCOGGIN, SS.

Continuation of November 19, 2014
November 25, 2014
Regular Meeting 5:00 P.M.

Commissioner Greenwood called the meeting to order at 5:02 p.m.

Present at the meeting were:

Randall Greenwood, Chairman
Beth Bell, Commissioner
Elaine Makas, Commissioner
Robert Poulin, Treasurer
Patricia Fournier, County Clerk
Mary Roussel, Citizen
Dan Hartill, Sun Journal
Matt Roy, Commissioner elect.
Sally Christner, Commissioner elect.

Elaine Makas: Noted the memo received by Bryan Dench, County Attorney, dated November 19, 2014 regarding the charter. In summary, the memo stated, "This will confirm my advice that the board of commissioners has the authority to enact the final county budget under Section 5.5.4 and all actions of the budget committee are advisory only."

Discussion and Approval of the 2015 Budget

Motion: to change 1005-4835 Superior Court/Postage to \$200.00.
Makas-Bell 3-0

Motion: to set 1015-5345 District Attorney/Printing and Reproducing at \$4,300.00.
Makas-Bell 3-0

Motion: to set 1015-4099 District Attorney/Misc. Professional Services at \$2,350.00.
Makas-Bell 3-0

Motion: to set 1070-5335 Registry of Probate/Office Supplies at \$2,250.00.
Makas-Bell 3-0

Motion: to set 1070-5650 Registry of Probate/Misc. Minor Equipment at \$800.00.
Makas-Bell 3-0

Motion: to set 1078-4110 Communications/Meals at \$350.00.
Bell-Makas 3-0

Motion: to set 1075-5405 Sheriff's Department/Clothing Uniforms at \$15,000.00.
Makas-Bell 3-0

Motion: to set 1020/4105 County Commissioners/Automobile Mileage at \$1,250.00.
Makas-Bell 3-0

Motion: to set 1020/4110 County Commissioners/Meals at \$1,750.00.
Makas-Bell 3-0

Motion: to set 1020-7325 County Commissioners/Furniture & Fixtures at \$12,700.00.
Motion: to increase revenue line 9000 Transfer office equipment reserve by \$3,700.00.
Makas-Bell 3-0

Motion: to set 1020-4315 County Commissioners/Telephone at \$4,400.00.
Makas-Bell 2-1
Greenwood abstained

Motion: to set 1020-5345 County Commissioners/Printing and Reproducing at \$1,100.00.
Makas-Bell 3-0

Motion: to set 1020-5335 County Commissioners/Office Supplies at \$550.00.
Makas-Bell 3-0

Motion: to set 1020-3120 County Commissioners/Salaries & Wages at \$168,017.51, which set Commissioners' salaries at \$5,000.00, \$500 stipend for the Chair, Administrator's salary at \$50,000.00 for 8 months, the County Clerk at \$51,467.52, Assistant to County Clerk at \$29,432.00 and a 2% stipend for the Clerk and Assistant Clerk.

Makas-Bell 2-0
Greenwood abstained

Motion: to set 2025-4724 Employee Benefits/Health and Dental Insurance at \$1,256,470.00.

Bell-Makas 2-0
Greenwood abstained

Motion: that unencumbered surplus from the 2013 audit of \$288,868.00 be committed as follows:

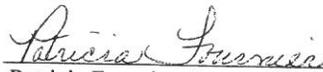
\$200,000.00 offset the 2015 Tax Levy.
\$5,000.00 Treasurer's Capital Improvement for new computer system
\$83,868.00 Building Reserve Account
Makas-Greenwood 3-0

Motion: approve expenditures of \$10,659,738.00, project revenues at \$2,300,470.00, leaving the amount to be raised by taxation at \$8,359,268.00 for Budget Year 2015.

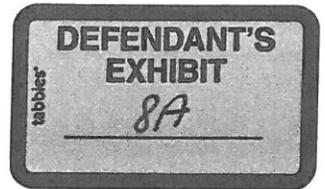
Makas-Bell 3-0

Motion: to adjourn.
Makas, Bell 3-0

Adjourned at 7:50p.m.



Patricia Fournier, County Clerk



Certificate of Qualification, County Commissioner

State of Maine

I, **Elaine Christine Makas**
do swear, that I will support the Constitution of the United States, and of this State, so long as I shall continue a citizen thereof.

So Help Me God.

Elaine Christine Makas

Elaine Christine Makas
County Commissioner

I, **Elaine Christine Makas**
do swear, that I will faithfully discharge, to the best of my abilities, the duties incumbent on me as County Commissioner for the County of Androscoggin, District 1, according to the Constitution and Laws of this State.

So Help Me God.

Elaine Christine Makas

Elaine Christine Makas
County Commissioner

~~~~~  
On the 8<sup>th</sup> day of January in the year 2015, personally appeared Elaine Christine Makas of Lewiston and took and subscribed the oaths prescribed by the Constitution of the State, to qualify her to discharge and execute the duties of County Commissioner, District 1, for the County of Androscoggin.

*Patricia Lounie*

Dedimus Justice



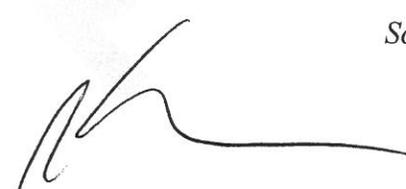
Certificate of Qualification, County Commissioner

State of Maine

I, **Ronald E. Chicoine**  
do swear, that I will support the Constitution of the United States, and of this State, so long as I shall continue a citizen thereof.

 So Help Me God.  
\_\_\_\_\_  
Ronald E. Chicoine  
County Commissioner

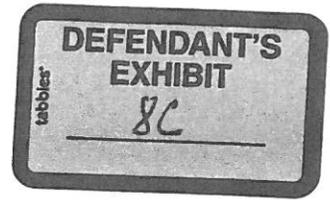
I, **Ronald E. Chicoine**  
do swear, that I will faithfully discharge, to the best of my abilities, the duties incumbent on me as County Commissioner for the County of Androscoggin, District 2, according to the Constitution and Laws of this State.

 So Help Me God.  
\_\_\_\_\_  
Ronald E. Chicoine  
County Commissioner

~~~~~  
On the 8th day of January in the year 2015, personally appeared Ronald E. Chicoine of Lewiston and took and subscribed the oaths prescribed by the Constitution of the State, to qualify him to discharge and execute the duties of County Commissioner, District 2, for the County of Androscoggin.



Dedimus Justice



Certificate of Qualification, County Commissioner

State of Maine

I, **Matthew Paul Roy**
do swear, that I will support the Constitution of the United States, and of this State, so long as I shall continue a citizen thereof.

So Help Me God.

Matthew P Roy
Matthew Paul Roy
County Commissioner

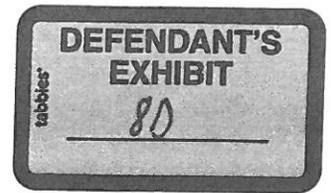
I, **Matthew Paul Roy**
do swear, that I will faithfully discharge, to the best of my abilities, the duties incumbent on me as County Commissioner for the County of Androscoggin, District 3, according to the Constitution and Laws of this State.

So Help Me God.

Matthew P Roy
Matthew Paul Roy
County Commissioner

~~~~~  
On the 8th day of January in the year 2015, personally appeared Matthew Paul Roy of Lewiston and took and subscribed the oaths prescribed by the Constitution of the State, to qualify him to discharge and execute the duties of County Commissioner, District 3, for the County of Androscoggin.

Patricia Fournier  
Dedimus Justice



Certificate of Qualification, County Commissioner

**State of Maine**

I, **Alfreda M. Fournier**  
do swear, that I will support the Constitution of the United States, and of this State, so long as I shall continue a citizen thereof.

So Help Me God.

Alfreda M. Fournier  
Alfreda M. Fournier  
County Commissioner

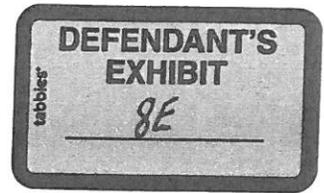
I, **Alfreda M. Fournier**  
do swear, that I will faithfully discharge, to the best of my abilities, the duties incumbent on me as County Commissioner, District 5, for the County of Androscoggin, according to the Constitution and Laws of this State.

So Help Me God.

Alfreda M. Fournier  
Alfreda M. Fournier  
County Commissioner

~~~~~  
On the 8th day of January in the year 2015, personally appeared Alfreda M. Fournier of Auburn and took and subscribed the oaths prescribed by the Constitution of the State, to qualify her to discharge and execute the duties of County Commissioner, District 5, for the County of Androscoggin.

Patricia Fournier
Dedimus Justice



Certificate of Qualification, County Commissioner

State of Maine

I, **Sally A. Christner**
do swear, that I will support the Constitution of the United States, and of this State, so long as I shall continue a citizen thereof.

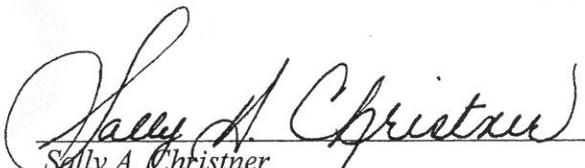
So Help Me God.



Sally A. Christner
County Commissioner

I, **Sally A. Christner**
do swear, that I will faithfully discharge, to the best of my abilities, the duties incumbent on me as County Commissioner, District 7, for the County of Androscoggin, according to the Constitution and Laws of this State.

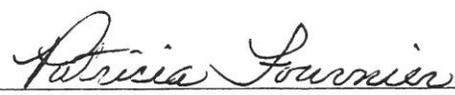
So Help Me God.

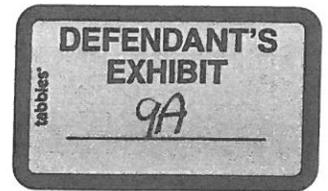


Sally A. Christner
County Commissioner

~~~~~

On the 8<sup>th</sup> day of January in the year 2015, personally appeared Sally A. Christner of Turner and took and subscribed the oaths prescribed by the Constitution of the State, to qualify her to discharge and execute the duties of County Commissioner, District 7, for the County of Androscoggin.

  
\_\_\_\_\_  
Dedimus Justice



## STATE OF MAINE

ANDROSCOGGIN, SS.

February 4, 2015  
Regular Meeting 5:15 P.M.

Commissioner Bell called the meeting to order at 5:15 p.m.

Present at the meeting were:

Beth Bell, Chair  
Elaine Makas, Commissioner  
Sally Christner, Commissioner  
Matthew Roy, Commissioner  
Ronald Chicoine, Commissioner  
Patricia Fournier, County Clerk  
Bryan Dench, Attorney  
Justice Kennedy  
Justice Clifford  
Ted Glessner, State Court Administrator  
Ray LaFrance, Patrol Captain  
Jeff Chute, Jail Captain  
Dick Clark, WGLT-TV7  
Eric Samson, Sheriff  
William Gagne, Chief Deputy  
Steve Sherlock, Sun Journal  
Randall Greenwood, Commissioner

Absent from the meeting:  
Alfreda Fournier, Commissioner

Motion: to accept and approve with a waiver of the reading of the minutes of January 8, 2015 and January 21, 2015.

Makas-Roy 5-0

Motion: to table agenda items VIII b. & IX a. Sheriff's Correspondence.

Friendly amendment: to change agenda to discuss items VIII b. & IX a. now (to accommodate Sheriff Samson and Chief Gagne who have a meeting to attend in Poland)

Christner-Makas 5-0

Motion: to accept correspondence from Sheriff Eric Samson, dated January 28, 2015, requesting that Detective Timothy Gamache be temporarily assigned to the vacant Patrol position and that Records Clerk Randy Williams be temporarily assigned to the vacant Dispatcher's position.

Makas-Roy 5-0

Sheriff Eric Samson – The temporary assignments help to compensate for the budget shortfalls within the jail. The employees are qualified for these vacant positions. Moving one employee from a corrections budgeted position to a patrol budgeted position, creating a savings in the corrections budget. The other employee is moving from the records department to dispatch. Both, involve no training and result in a savings by leaving those positions vacant until the shortfall is over.

Motion: to table until the next meeting, correspondence from Sheriff Eric Samson, dated January 28, 2015, requesting that Assistant Jail Administrator Lieutenant Jeffrey Chute be promoted to the position of Jail Administrator to replace Captain John Lebel at \$1,154.41 per week, per the personnel officer, effective Sunday, February 8, 2015.

Makas-Chicoine 5-0

Motion: to review and approve all bills, part-time deputies' payroll, Warrant #1503, 1504, 1504a. Corrections Division Warrant #15595, requisitions: 1118, 11121, 11127, 1131.

Makas-Roy 5-0

Motion: to approve the Tax Levy.

At a Court of County Commissioners held in Auburn, within and for the County of Androscoggin, on the 4<sup>th</sup> day of February, 2015, the undersigned County Commissioners have assessed as a County Tax the sum of Eight Million, Three Hundred Fifty-nine Thousand, Two Hundred Sixty-Eight Dollars and No Cents (\$8,359,268.00) for the year 2015 upon the several Cities and Towns in said County it being assessed in accordance with the provision of Title 30-A M.R.S.A., Section 725 and Section 706 this fact being hereby certified in the records of said apportionment, and we have apportioned the same agreeably to the valuation of the several Cities and Towns, in said County as shown by the reports of the Board of Assessors of the State of Maine, acting as a Board of Equalization, as a basis on which the State and County Taxes shall be levied for the year 2015, as provided by law, to wit:

Cities and Towns Rate \$.00109101763

|                 | VALUATION     | TAX               |
|-----------------|---------------|-------------------|
| Auburn          | 1,963,550,000 | 2,142,267.67      |
| Durham          | 351,850,000   | 383,874.55        |
| Greene          | 311,400,000   | 339,742.89        |
| Leeds           | 167,800,000   | 183,072.76        |
| Lewiston        | 2,174,800,000 | 2,372,745.15      |
| Lisbon          | 534,000,000   | 582,603.42        |
| Livermore       | 184,450,000   | 201,283.20        |
| Livermore Falls | 151,500,000   | 165,289.18        |
| Mechanic Falls  | 144,350,000   | 157,488.40        |
| Minot           | 180,600,000   | 197,037.78        |
| Poland          | 656,900,000   | 716,689.48        |
| Sabattus        | 281,800,000   | 307,448.77        |
| Turner          | 454,550,000   | 495,922.06        |
| Wales           | 104,350,000   | <u>113,847.69</u> |
| TOTAL           |               | \$8,359,268.00    |

The foregoing being a true and correct statement of the County Taxes for the year 2015 IT IS ORDERED, that the same be paid into the County Treasurer on or before the first day of September, A.D. 2015

Beth Bell, Chair  
Ronald E. Chicoine, Vice-Chair  
Sally A. Christner, Commissioner  
Alfreda M. Fournier, Commissioner  
Randall A. Greenwood, Commissioner  
Elaine Makas, Commissioner  
Matthew P. Roy, Commissioner  
Makas-Roy 5-0

Reports:

Commissioner Bell - Maine County Commissioners Association  
The next meeting is on February 11, 2014.

Commissioner Makas - Central/Western Maine Workforce Investment Board  
No report.

Commissioner Makas - Safety Committee  
No report.

Public Comments:

Motion: to accept correspondence from Register of Deeds Tina Chouinard, dated January 29, 2015, requesting that a check be cut for a credit balance of \$321.50 for Atlantic National Trust LLC.

Makas-Chicoine 5-0

Motion: to accept correspondence from District Attorney Andrew Robinson, dated February 2, 2015, regarding compensation to Franklin and Oxford Counties for employee coverage.

Makas-Christner 5-0

EMS training rescheduled for March 4, 2015 at 2:30 p.m. at Emergency Management Agency Office in Lewiston.

Commissioner Greenwood joined the meeting.

Motion: to approve the request of the State Judicial Justices to renovate the law library into a second courtroom.

Makas-Chicoine 6-0

Justice Kennedy – There is a new criminal docket coming into place. This will help streamline things. It's going to allow us to have one docket, and will move things along in an efficient way.

Justice Kennedy also noted that the State of Maine is paying the bill for renovating the law library into a second court room.

Consent Agenda: to approve the consent agenda as presented:

To approve the inventory list from the Registry of Probate.

To approve the Sheriff Department's request for professional leave for Maurice Drouin to attend a class.

To approve the Sheriff Department's request to re-appoint Dennis Sampson  
Makas-Greenwood 6-0

Commissioner Makas – In response to the letters sent by a number of municipalities regarding the Commissioners' wages and benefits, the Commissioners' drafted the following letter.

February 4, 2015

Dear Municipal Colleagues:

Thank you for the letters and comments from many of you expressing your concerns about the continuing debate over our County Commission decision to retain the reductions in salaries and benefits that we recommended to the Budget Committee prior to their deliberations. We agree with you that we all need to work together to restore and expand the relationships between our municipalities and our county. Many of the services provided to our municipalities (e.g., rural patrol, PSAP and dispatch, EMA, the county jail, the courts) would not be possible without effective county government. We want to assure you that we, as well as you, are strongly committed to a county system that is both highly efficient and fiscally responsible.

It is obvious that the County Charter, like most newly-crafted documents, contains language that is unclear and/or ambiguous. It is our intent as Commissioners to continue to work with our county legislators and with legal advisors to make further corrections to reduce these problems. To this end, we welcome your constructive input as well as that from Budget Committee members, former Charter Commission members, and other county citizens.

In addition to our goal of clarifying the meaning of the Charter, we as Commissioners must also allocate considerable time and effort to the tasks that are clearly spelled out in the Charter: to establish County Commission By-laws; to determine the role of an Administrator for our county, develop a job description for that position, and recruit and hire an individual to fill that role; to define and fill two additional positions, County Treasurer and Register of Deeds, which, prior to the adoption of the Charter, had been elected, but will now be appointed positions. We must also continue to oversee the basic operations of the county, to address on-going concerns (such as labor contract negotiations), and to deal with new challenges as they emerge (including likely changes in the consolidated jail system that may result in the shifting of huge additional costs from the state to the county).

With this busy agenda in mind, we hope to encourage your cooperation and your patience by correcting some of the misinformation associated with the debate over our salaries and benefits.

- 1) The salaries and benefits authorized by the Commissioners in the final 2015 budget (\$5,000 salary, an additional \$500 for the Chair, and a county-paid contribution toward single insurance coverage) represent a significant reduction from the 2014 budget (\$7,273 salary, an additional \$1,119 for the Chair, and a county-paid contribution toward single or family insurance coverage). These reductions were presented in writing by the Commissioners to the Budget Committee prior to that committee's deliberations. The text accompanying the presentation clearly stated that the reductions in salary and benefits for each Commissioner would result in total compensation for the seven-person (2015) Commission that would approximate the total compensation for the three-person (2014) Commission, a goal that had been suggested by members of the Budget Committee in their discussion of the 2014 budget. (It is important to note that there is no record of members of that committee suggesting that total compensation for the 2015 seven-person Commission should be approximately the same as that for one of the 2014 Commissioners.)
- 2) Although a majority of the Budget Committee members failed to approve our recommendations for reductions in the 2015 salaries and benefits, that decision was not unanimous.
- 3) All Androscoggin County employees, including the Commissioners, must pay a portion of their insurance coverage; none receive 100% employer-paid coverage.
- 4) Although it is true that more than a decade ago, Androscoggin County Commissioners received life-time insurance coverage after a specified number of years served, this life-time benefit was eliminated by the 2004 Board of Commissioners, and it has no impact whatsoever on any of the current Commissioners.
- 5) While it may be somewhat less common in the private sector for part-time employees to receive employer-supported insurance coverage, it is customary in many government offices. State legislators, for example, receive 95-100% employer-paid single coverage for the entire year despite receiving a salary for only four to six months of the year. Commissioners in ten of Maine's sixteen counties receive employer-supported insurance coverage. (In seven of the ten, the county pays 100% of the single coverage costs; in six counties, the employer also pays a substantial portion of family coverage.)
- 6) The salary per Androscoggin County Commissioner for 2015 (\$5,000) is considerably lower than that for a commissioner in any other county (the next lowest being \$7,000 in Somerset County, which has five Commissioners and a population that is less than half that of Androscoggin County).
- 7) A County Administrator does not significantly reduce the Commissioners' workload. In fact, twelve of Maine's sixteen counties already have County Administrators, yet Commissioners' responsibilities and compensation packages in those counties remain high (compensation ranging from \$7,000 to nearly \$30,000). The only counties (other than Androscoggin) that do not currently have an administrator all have much smaller populations than ours (Androscoggin -- 107,604, Hancock -- 54,845, Waldo -- 38,940, and Franklin -- 30,495). The salaries and benefits for all elected officials, including Commissioners, are fully reviewed each year prior to

presentation of the budget to the Budget Committee. Since it is anticipated that a County Administrator will be hired no later than the middle of FY 2015, there will be ample opportunity prior to the development of the 2016 budget to determine the actual impact of that position on the role and workload of the Commissioners.

8) The role and responsibilities of a County Commissioner are very different than those of a City Councilor or a Municipal Selectman. Although both municipalities and counties are responsible for addressing their citizens' basic needs, the diversity of needs is much greater when dealing with multiple municipalities ranging in size from Lewiston (which has a primarily urban population of 36,437) to Wales (which has a primarily rural population of 1,616). Much of the work required of the County Commissioners focuses on ensuring equal access to shared resources (e.g., EMA services, PSAP and dispatch services, Workforce Investment Act funds).

9) The bi-monthly meetings of the Androscoggin County Commission represent only a small portion of the time that we spend on our jobs. Much time is allocated to other responsibilities, including workshops, contract negotiations, dispute resolutions, constituent services, additional assigned positions and subcommittees (e.g., the Maine County Commissioners Association, the Workforce Investment Board, the Safety Committee), budget preparation and presentation, and research on other issues of interest to the Commission. Although the addition of a County Administrator may reduce some day-to-day functions, the majority of these duties as well as most of the decision-making and oversight for all of these duties will remain the responsibilities of the Commissioners.

10) There were some major differences of opinion expressed by members of the former Charter Commission as to the intent of the Charter. Although these differences may be useful in identifying sections of the Charter that might need clarification, it is important to remember that law is based on the text of the document adopted by the voters of our county and not on the stated intentions of any particular individual, and any change in the text must result from either a new vote by citizens or by legislative action. The enacted document states that the Budget Committee must approve the salaries and benefits recommended by the Board (of Commissioners). However, the Charter does not say what happens if this compensation is not approved. It is reasonable to assume that the existing language allows the Budget Committee to reject any proposed increase in salary or expansion of benefits, in which case, lack of approval would result in the status quo. Nowhere in the enacted document does it state or even suggest that the Budget Committee has the authority to set the salaries and benefits.

11) The Commissioners first sought legal clarification of the Budget Committee's authority in establishing the annual budget in January 2013, soon after passage of the Charter. The Commissioners were counseled at that time that the Budget Committee's role was advisory only. The Commissioners did not seek legal advice again until November of 2014, when a further clarification was needed. It should be noted that the Budget Committee's first vote to reject the reduction in compensation recommended by the Commissioners and their subsequent proposal for greater reductions in compensation occurred on October 29, six days before the election. Prior to those actions, one can safely assume that the majority, if not all, of the ten candidates running for the five contended seats as well as the two seated Commissioners who would be continuing to serve their four-year terms had no idea that the Budget Committee would propose

an 80-89% reduction in annual compensation from that received by Commissioners in 2014. At most, some may have anticipated the 16-47% reduction recommended by the Commissioners. Seeking another legal opinion prior to these unexpected actions by the Budget Committee would have been premature and an unnecessary expenditure of taxpayer money.

It is obvious that there is a strong difference of opinion as to the relative authority of the Board of Commissioners and the majority of Budget Committee members in establishing the county budget for 2015. We, as Commissioners, take your concerns and theirs seriously, and we will continue our efforts, with the assistance of all parties, to clarify the Charter language to avoid further misunderstandings. In the meantime, however, we must not allow this unfinished issue to interfere with the work that must be done both to maintain county functions and to improve county functioning.

We thank you again for your letters and comments, and we look forward to working with you to restore our mutually beneficial relationship.

Respectfully,

Beth C. Bell  
Chair

Ronald E. Chicoine  
Vice Chair

Sally A. Christner

Alfreda M. Fournier

Randall A. Greenwood

Matthew P. Roy

Elaine Makas

Motion: to officially approve correspondence from the Commissioners', dated February 4, 2015, in response to the municipalities regarding wages and benefits.

Makas-Greenwood 6-0

Ron Chicoine – Stated his belief that when someone runs for public office with the expectation of receiving health care benefits, that it is not fair to deny the benefits. Also, the budget for those benefits should be under budget because the majority of the group chose to opt out of that coverage.

Motion: to enter into Executive session with counsel pursuant to Title 1 M.R.S.A. Section 405, Subsection 6(F).

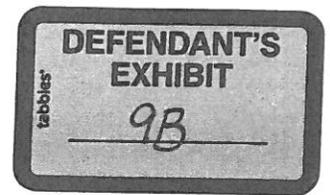
Greenwood, Makas 6-0

Returned from Executive Session at 6:45p.m.

Motion: to adjourn at 6:45p.m.

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Patricia Fournier, County Clerk



STATE OF MAINE

ANDROSCOGGIN, SS.

April 15, 2015  
Regular Meeting 5:15 P.M.

Commissioner Bell called the meeting to order at 5:15 p.m.

Present at the meeting were:

Beth Bell, Chair  
Ronald Chicoine, Commissioner  
Sally Christner, Commissioner  
Alfreda Fournier, Commissioner  
Randall Greenwood, Commissioner  
Elaine Makas, Commissioner  
Matthew Roy, Commissioner  
Patricia Fournier, County Clerk  
Bob Poulin, Treasurer  
Eric Samson, Sheriff  
William Gagne, Chief  
Martin Fournier, Transportation Sergeant  
Brian Bolduc, Register of Probate  
Dick Clark, WGLT-TV7  
Steve Sherlock, Sun Journal  
Andrew Titus

Motion: to accept and approve with a waiver of the reading of the minutes of April 1, 2015.

Roy-Chicoine 7-0

Motion: to review and approve all bills, part-time deputies' payroll. Warrants #1511, #1512, #1512A. Corrections Division Warrants #1565J, #1566J, #1566A-J. Requisitions #1218, #1222, #1225.

Makas-Roy 7-0

Commissioner Greenwood - The discussion with Senator Nate Libby, regarding changes to the Androscoggin Charter, is changed to 7:00p.m. due to the fact that he is at a caucus in Augusta.

Reports:

Commissioner Christner - Maine County Commissioners Association

Commissioner Christner attended the Maine County Commissioners Association meeting and reported the following being discussed: 1. The failure of LD564 (An Act To Establish Appropriate Parameters For County Borrowing Authority). 2. County Day-Wednesday, April 22

from 9:00-1:00 in the Hall of Flags at Maine's State House. 3. LD186 (An Act to Reverse Jail Consolidation). 4. The Emergency Bill. 5. MCCA discussed the tax cap in relation to the jail situation.

Commissioner Makas - Central/Western Maine Workforce Investment Board

Updates on WMWIB: 1. Due to the pending layoffs at United Technologies Corp. Fire and Security in Pittsfield, a contract has been awarded to the CWMWIB to provide a Peer Support Worker for the affected employees for the next six months as the facility begins to shut down. 2. The Disability Resource Coordinator position at the Augusta Career Center is filled. 3. As the Workforce Innovation and Opportunity Act (WIOA) continues to be reviewed by the Maine Bureau of Employment Services and other LWIB's, they are working together on a statewide steering committee to transition Maine from the Workforce Investment Act (WIO) to the Workforce Innovation and Opportunity Act.

Commissioner Makas - Safety Committee

No report.

Commissioner Christner – Report regarding the jail

Some of the proposals for the jail are called soft landing compromises. For instance, one proposes nine million the first year, six million the second year, and three million the third year. Christner also noted that the various county jails did not seem to be working together regarding funding needs.

Sheriff Eric Samson – Discussed jail funding.

Commissioner Fournier - Report regarding her attendance at the Androscoggin Valley Council of Governments (AVCOG) Transportation Day and General Assembly Meeting.

The main issues that were discussed: 1. Rural Transit Plans, 2. Downeaster Service Development Plans, 3. Transportation Needs and Financing, 4. Long-Range Transportation Needs, and 5. Transportation Priorities in Western Maine.

Public Comments: None

Motion: to accept correspondence from Brian Bolduc, dated March 27, 2015, requesting to post the position of part-time Preservation Clerk.

Makas-Roy 7-0

Brian Bolduc – Decision has been made not to post the position of part-time Preservation Clerk.

Discussion regarding Preservation Clerk position.

Amendment to the motion – to authorize the Deputy Register of Probate and the two Probate Clerks to perform the Preservation Clerk duties, adding 2 ½ hours weekly to their 37 ½ hour weekly schedule, up to a maximum of 40 hours weekly.

Roy-Makas 7-0

Main Motion: to authorize two personnel from the Probate Office to perform Preservation Clerk duties for an additional 2 ½ hours each per week, which allows them to work 40 hours per week, to be paid for by surcharge funds.

Roy-Makas 7-0

Motion: to accept the correspondence from Sheriff Eric Samson dated April 8, 2015, regarding Transportation Supervisor, Sergeant Martin Fournier's retirement, effective Sunday, May 31, 2015, with the request that he remain on staff as both a part-time Corrections Officer and a Reserve Patrol Deputy Sheriff, and the position of Transportation Supervisor be posted.

Makas-Roy 7-0

Motion: to accept the correspondence from Sheriff Eric Samson dated April 10, 2015, requesting Erica Booker be hired as a part-time (30-hour) Cook at \$14.10 per hour, per the county's personnel officer, effective Sunday, April 19, 2015.

Makas-Fournier 7-0

Motion: to accept the correspondence from County Clerk Pat Fournier dated April 14, 2015, recommending a step increase for David Parker from Pay Grade 6 Step C to Step D at an hourly wage of \$18.10 retroactive to January 1, 2015.

Makas-Greenwood 7-0

Motion: to place the protocol for the Budget Committee on the next workshop agenda.

Christner-Chicoine 7-0

Commissioner Chicoine requested to place a discussion with a member of Maine Municipal Employees Health on the next workshop agenda.

Motion: to place a discussion with a member of Maine Municipal Employees Health on the May 20, 2015 workshop agenda.

Chicoine-Makas 7-0

Commissioner Fournier requested to place a discussion of a future presentation by Craig Zurhost on the workshop agenda.

Commissioner Greenwood – Reminded the commissioners that the University of Maine Cooperative Extension Office in Lisbon requested an opportunity to meet with the commissioners.

Sheriff Eric Samson – Noted an item of interest regarding cost savings and alternative sentencing, Aroostook County worked cooperatively to lower the head count in the Androscoggin jail by accepting six qualified, appropriate inmates to help work on their farm. On another note, on April 25, 2015 the Sheriff's Association is working on the Drug Take-Back Prescription Medications program.

Consent Agenda: to approve the consent agenda as presented:

To approve the Register of Deeds March Monthly Cash Report.

To approve the Sheriff Department's Civil Division Report.  
To approve the Sheriff Department's part-time reappointment for Martin Fournier as Reserve Patrol Deputy.  
To approve the Sheriff Department's request for professional leave for Jon Guay and Craig MacMillan to attend the Enhancing Law Enforcement Response to Children Exposed to Violence course, and for Maurice Drouin to attend the Managing the Detective Unit course.  
Greenwood-Makas 7-0

Recess at 6:35p.m.

Returned to the meeting at 7:00 p.m.

Present at the 7:00 p.m. session were:

Beth Bell, Chair  
Ronald Chicoine, Commissioner  
Sally Christner, Commissioner  
Alfreda Fournier, Commissioner  
Randall Greenwood, Commissioner  
Elaine Makas, Commissioner  
Matthew Roy, Commissioner  
Patricia Fournier, County Clerk  
Bob Poulin, Treasurer  
Dick Clark, WGLT-TV7  
Steve Sherlock, Sun Journal  
Bryan Dench, attorney  
Andrew Titus  
Amy Dietrich  
Joe Grube  
Ed Barrett  
Nate Libby, Senator

Senator Nate Libby – Regarding changes to the Androscoggin County Charter, back in December, Senator Nate Libby was asked by the City of Lewiston to submit a place holder bill, given the controversy and questions regarding the Charter and the Budget Committee and how to reconcile the differences between the two. The placeholder bill is a concept draft, a blank bill. The bill is sitting in the state and local government committee. In the past, County Charter amendments were usually passed by the legislature when those back home were in agreement. The alternative to making changes to the charter is to go through another public process and have the voters in the 14 towns vote on changes.

Attorney Bryan Dench – Discussion regarding amending the Charter for clarification purposes. Introduced a proposed amendment to the Charter Section 3.7 Compensation. Attorney Dench offered several approaches to amending the Charter.

Chair Bell – Suggested voting tonight to post in order to have a public hearing on May 6, 2015.

Commissioner Chicoine – Would like to have decision go to the voters.

Chair Bell – Would also like the decision to go to the voters.

Senator Nate Libby – Stated that the voters deciding on the Charter is the optimum course.

Motion: to vote to post an order for a public hearing on the proposed amendment to the Androscoggin County Charter to be read “Shall Section 3.7 of the Androscoggin County Charter be amended as follows: 3.7 COMPENSATION - Salaries and benefits of all County elected officials shall be recommended by the Board and approved by a majority plus one vote of the full Budget Committee. Said salary shall constitute full compensation for all services. **Not withstanding the final authority of the Board of Commissioners over the adoption of the County budget under Section 5.5.4, no increase in the salaries of elected officials is effective without the approval of a majority plus one vote of the full Budget Committee.** Reimbursement for reasonable expenses incurred in performance of the officials’ duties may be allowed upon formal review and approval by the Board.”

Greenwood-Fournier 7-0

Ed Barrett – In his opinion, this will probably work. However, it still leaves the question of the authority of the Budget Committee, which for some people, is as big as an issue as the salary issue. He believes that is a difficult issue to address. For instance, why would the Charter require the Budget Committee to have 11 votes if their decision were not binding? The authority of the Budget Committee is still a concern.

Chair Bell – Appreciates the reminder and also mentioned the upcoming protocol in regards to working with the Budget Committee to allow for a smoother budget process before a reasonable resolution is achieved.

Motion: to adjourn 7:35 p.m.  
Greenwood-Fournier 7-0

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Patricia Fournier, County Clerk