

Southern Maine Pine Tree Development Zone

By Chuck Morgan, Director of Economic and Community Development

In March of 2004, the Governor's office selected Southern Maine as a preliminary designee as one of the State's eight Pine Tree Development Zones. SMRPC helped coordinate the application process and work with communities to develop an operational plan. The designations were awarded based on a competitive application process.

Pine Tree Zones provide a significant tax advantage to new and expanding businesses located in the zones. To qualify for Pine Tree Zone benefits businesses must be operating in manufacturing, financial services or one of the state's seven targeted technology sectors which include composites, biotechnology, information technology, environmental technology, precision manufacturing, aquaculture and marine technologies, and advanced technologies in forestry or agriculture. In addition to participating in the Business Equipment Tax Reimbursement program which reimburses taxes paid on qualified personal property, the benefits of locating a new or expanding business in a Pine Tree Zone include:

- ETIF equal to 80% of the net new employees' state income tax withholdings for 10 years
- 100% state income tax credit for the first five years, followed by 50% credit for years six through 10
- 100% sales tax exemption for building materials and for all tangible personal property, starting in July of 2005
- Maine DECD has worked with Maine Public Service Company, Bangor Hydro Electric Company and Central Maine Power to negotiate significant utility discounts for qualified businesses locating in the zones.

Work continues on completing the steps necessary to receive final designation. More communities have joined the Southern Maine Pine Tree Development Zone after receiving preliminary designation and others are contemplating joining. The current list of Pine Tree Zone communities to date includes: Biddeford, Saco, Sanford, Wells, Kennebunk, Waterboro, Limerick, Bridgton, and Naples. The Southern Maine Pine Tree Development Zone is limited to 20 sub-zones totaling 5,000 acres. There still is space available—please contact Chuck Morgan at cmorgan@smrpc.org if you are interested in more information.



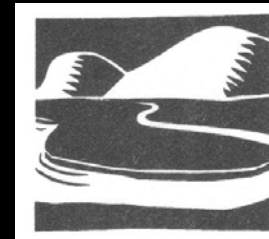
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SOUTHERN MAINE REGIONAL PLANNING COMMISSION

Regional Newsletter

Connecting Communities: A Draft Regional Vision

By David Versel, Senior Planner

As promised in our last newsletter, SMRPC has been working for the past several months on regional visioning issues, under the banner of "Connecting Communities: Planning in Southern Maine." The end result of this effort was the creation of a draft vision statement for each of six different regional planning topic areas: land use, housing, economic development, transportation, natural resources and regional governance. These draft vision statements and their supporting policies and strategies are:

- **Land Use:** "The Southern Maine region promotes effective and proactive growth management policies that are spatially consistent among all municipalities."
 - Develop and analyze composite regional future land use map
 - Create and implement model land use ordinances that encourage regional collaboration
 - Design and conduct educational programs for adults & children
- **Housing:** "Southern Maine offers adequate housing opportunities to people of all ages, income levels and needs and each municipality accepts its fair share of the region's housing."
 - Define fair share for each town and analyze shortage of units
 - Identify and strengthen links between housing and other planning issues
 - Develop model standards and ordinance language for housing issues
 - Build capacity of local and regional groups to develop affordable housing units
- **Economic Development:** "Economic growth in the region is achieved at the appropriate scale and character for the particular area in which it occurs."
 - Invest in all types of infrastructure on a regional level.
 - Increase capacity of smaller communities to attract appropriate types and scales of growth
 - Eliminate regulatory barriers that limit redevelopment of older buildings.
 - Provide affordable incubator space in appropriate locations.
 - Make use of unique resources to attract appropriate economic growth.
- **Transportation:** "Southern Maine's transportation systems are efficient, safe and well balanced, and planning for future needs is done in a proactive and collaborative manner."
 - Use DOT permit process to address transportation issues in larger corridors
 - Use corridor studies as points of entry for regional planning.
 - Measure and address cumulative impacts of smaller developments
 - Encourage public-private collaboration to fund improvements
 - Expand transit options in rural areas of the region.
 - Create uniform standards for access management
- **Natural Resources:** "Critical natural and environmental resources are prioritized and protected through regional cooperation using a balance of regulatory and non-regulatory methods."
 - Define and protect areas of regional critical concern
 - Coordinate activities of regional land trusts with local planning efforts
 - Explore feasibility of regional Transfer of Development Rights programs.
 - Create and help towns implement model ordinances and procedures
- **Regional Governance:** "Municipalities in Southern Maine form interlocal arrangements for specific purposes that are both cost effective and respectful of local identity and authority." and "Elected officials and appointed board members are up to date with state planning statutes and practice good boardsmanship, thus providing a stable environment for making local and regional land use decisions."
 - Develop regional and sub-regional initiatives based on individual functions
 - Determine appropriate sizes of regions for optimal cost savings.
 - Focus regional capital planning efforts on long-term needs
 - Determine items for which cost may not be the predominant issue
 - Support ongoing efforts being conducted at sub-regional levels

For a full copy of the Vision Statement, please visit our website at www.smrpc.org. I urge you to read the whole statement and offer your comments by emailing me at dversel@smrpc.org. A final note: it is our hope that these Vision Statements will be the first step in updating our Regional Plan, which has not been altered since 1992. Stay tuned...

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Executive Director's Column: Thoughts on Regionalism in Southern Maine

With so much discussion going on about regionalism lately I figured it was time to throw in my thoughts on the possibilities and pitfalls of "regionalism" including what is currently going on in the region.

First, it should be pointed out there are a number of regional efforts under way: by communities, non-profits and non-governmental organizations. A partial list (don't be offended if I have missed your effort) includes: the Mt. Agamenticus to the Sea Conservation effort (non-profit and conservation groups); the KEYS Coalition in southwest York County (health care groups, chambers and municipal groups); the Routes 109 and 111 Corridor Committees (municipalities along these roads facilitated by SMRPC); the Ten Town group of northern York County (looking at ways to provide joint services); the Eastern Trail Bike Route; the York County Initiative to End Homelessness; etc. Of course this does not include groups already formed or delivering regional programs such as the Biddeford/Saco Area Economic Development Corporation.

I recently attended a two day seminar on "Regional Collaboration". As the title suggests the goal was more to find ways to collaborate and organize, rather than to legislate or direct regional efforts. It became clear that successful regional efforts usually occur (as can be seen by the above examples) because of a shared concern or function that has been identified (for instance a bike trail, a conservation project, a transportation issue or project, etc). This is quite different than selecting a geographic area and asking people/towns/groups to share resources or services. It requires the upfront work of identifying services or functions where an economy or efficiency can be found. It is more issue based than based on geographic boundaries (although these boundaries will appear once the concern is identified). It also requires a great deal more work as far as identifying the key players who can help and be part of the initial process and possible solutions.

There is no question these growing number of regional efforts can be helpful as far as service delivery is concerned, cost efficiencies, and more coherent land use and municipal planning efforts. We do however, run the risk of looking for regional solutions where they may not exist or even be needed. The Lincoln Institute of Land Policy has developed a diagnostic checklist to determine whether a regional effort is needed or warranted. It attempts to get at that key question - can this issue or concern be solved more efficiently by a regional initiative? Please let me know if you would like to take a look.

SMRPC hopes to aid regional initiatives by supplying technical expertise and support where possible (and where those initiatives can support the goals of our member towns). To that end, we hope to dedicate some funds this year as part of our state contract to help with these efforts. It is important for us however, that we be part of the issue identification and the planning of the process, and target our efforts to those projects where we can play a meaningful role.

Paul Schumacher

Dangerous Intersections—An Update

By Josh Mack, Transportation Planner

As a result of a Federal Highway Administration grant-funded study conducted by SMRPC last fall, two intersections in York County are being considered for experimental Intersection Collision Avoidance Warning System (ICAWS) signage by the Maine DOT. The ICAWS signs, which are currently being used in Virginia and Georgia, warn drivers at minor legs of intersections with poor sight distance of oncoming mainline traffic.

Maine DOT conducted two public meetings in May for the Sanford intersection at School Street and State Route 4 and the Lebanon intersection at Center Road, Long Swamp Road and Route 11. If the two towns agree that the signs are warranted, the Maine DOT is offering to cover the full cost of installation, plus maintenance and utility costs for the first 3 years of operation. Installation of the two signs would occur in the summer of 2004. After the three-year test period, maintenance and utility responsibility would be left with the towns. At this point there is only one ICAWS system in the state, but Maine DOT hopes to expand its application in other appropriate dangerous rural intersections, because of the sign technology's low cost, low maintenance, and its innovative design.

To see the SMRPC study, go to the Transportation page on the SMRPC website. For more information about the sign technology or the intersections contact Josh Mack at jmack@smrpc.org.

SMRPC Selected as Contractor for Next Communities Initiative

By David Versel, Senior Planner

We are pleased to report that SMRPC has been chosen as the Northern New England region contractor for the Next Communities Initiative, an educational outreach program being organized by the New England Environmental Finance Center (NEEFC) at the University of Southern Maine. The Next Communities Initiative is designed to promote responsible growth practices throughout New England.

Its pilot project, for which we have been retained, will be a three-part workshop that will be held somewhere in Southern Maine in the next year, that seeks to educate community leaders about the importance of growing more responsibly. The three workshop topics will be:

- Land Use and Sprawl: The Search for Solutions
- Effecting Change at the Local Level: Law and Politics
- Dealing With Conflict: Community Change and Collaboration

These sessions are being designed by four leaders in the Maine planning world: Evan Richert, Theo Holtwijk, Richard Barringer and Jack Kartez. SMRPC, along with our subcontractor, the Wells National Estuarine Research Reserve, will be working to customize the model curriculum to our region's needs and will then be responsible for organizing the workshop. We will be able to provide more information in our next newsletter. For more information about this project, please visit the NEEFC's website at: <http://efc.muskie.usm.maine.edu>.

York County Hazard Mitigation Plan Update

By David Versel, Senior Planner

At long last, SMRPC has completed a Final Draft version of the York County Hazard Mitigation Plan. We have been working for about 16 months on this plan, which is being done with the York County Emergency Management Agency (YCEMA). We have received initial comments back from FEMA staff and the feedback was quite positive. In response to FEMA's comments, we have made a few changes and are looking forward to having the plan be approved by them.

The one remaining hurdle is for all 29 cities and towns in York County to adopt the plan. Without adoption by each municipality, the plan will not be accepted by FEMA and York County may face the prospect of being denied future federal pre and post-disaster funding. Your town office will be receiving a final version of the plan sometime in June and your council or select board will then be asked to vote on it, so be on the lookout. For more information, please visit our Hazard Mitigation webpage at: www.smrpc.org/hazmitpage.htm.

SMRPC Annual Meeting, June 18, 2004: Let's Loosen Up A Little!

By popular request, SMRPC's 2004 Annual Meeting will be a departure from the usually weighty matters discussed at past annual meetings. Instead of another talk about tax reform, growth caps or regionalization, we've decided to have some fun this time around, with an evening of music and humor (and even some humorous music!)

Our featured guest will be Maine humorist **Joe Perham** who will provide much needed comic relief to all of the overworked selectpersons, planning and appeals board members and planners out there. Also, our own SMRPC house band **Friends of Paul** will be performing a set of our finest music, covering a variety of musical styles. Friends of Paul is comprised of J.T. Lockman, Suzanne LePage, Dave Carpenter, David Versel, Josh Mack and Jamie Oman-Saltmarsh, SMRPC planners who like to show off our musical talents every now and then. We will also be joined on stage by Rick Seeley of the Greater Portland Council of Governments.

This fun-filled extravaganza will be held on **Friday, June 18, 2004 at Gabriel's Restaurant on Route 1 in Wells from 5:30 to 7:30 PM**. If you would like to attend, please send a check for \$24 to SMRPC at 21 Bradeen Street, Suite 304, Springvale, ME 04083, or call 324-2952 for more information.

Report from Land for Maine's Future: Informing the Public About Our Land

The Land for Maine's Future (LMF) Program (www.maine.gov/spo/lmf) was created in 1987 in response to concerns over the loss of critical natural areas and wildlife habitat, along with traditional access to undeveloped lands for hunting, fishing, and outdoor recreation. To date, the Program has protected over 192,000 acres of Maine's best natural areas. It also seeks to protect farmlands through the purchase of development rights, and public access to water for fishing, boating, and commercial marine activities. With public access to these wonderful areas such an essential part of the program, LMF has wrestled with how best to inform Maine citizens and visitors of the location of the properties. In addition, providing advice to visitors on the suitable uses of these lands is important to ensure good stewardship.

LMF had added a feature to its website in 1999 as the Legislature and public were considering the most recent land conservation bond. A map of the state located the individual LMF projects and a list of projects in the margin provided links to more detailed descriptions of each site. However, the map itself was not interactive, the list became unwieldy as the number of projects mounted, few pictures were included, and the individual project descriptions provided no links to additional information. In short the program had outgrown the limitations of this format.

To remedy this situation, LMF recently undertook a comprehensive overhaul of its website including this "project directory" feature. Thanks to the generous support of L.L. Bean and the assistance of the Maine Chapter of The Nature Conservancy, it is now possible to browse, search, and list a comprehensive database of LMF funded land conservation projects. A search engine and interactive locator map allow searches by region and keyword. Each project description includes driving directions, a list of appropriate uses (indicated by widely recognized, standard icons) and a short description of the project and the history of its conservation. Where appropriate, links are provided to additional information which may include site maps and access to the agencies and organizations actually owning the properties.

Another important benefit of this new system to the LMF staff is the ease with which they can now maintain LMF Project Center content. The new LMF Project Center, designed and developed by Digital Goat Consulting Services (www.digitalgoat.net), is driven by a web-enabled database which facilitates site maintenance enormously. Under the old site design, updates required redesign of the locator map every time a project was added and HTML programming was required to actually add the content. With the new system, projects are easily added to the web site using a web based administrative screen. After signing into a secured administrative area, content and photos can be added to the web site without requiring any programming skills. Text, pictures, icons, and locator maps can all be added using automated tools. The new information is stored in the web site's database and automatically appears in the project directory, search results, and regional map without any additional administrative work.

As summer approaches, take a moment to check out the new features of LMF's website and plan an expedition to one of Maine's most treasured natural areas!

Case Notes—Recent Maine Supreme Judicial Court Rulings

By David Versel, Senior Planner and Madge Baker, Esq.

Kittery Retail Ventures, LLC v. Town of Kittery, May 11, 2004, **Retroactive citizen petition**

This is an appeal of a case described in the Fall 2003 Newsletter. The Superior Court decision was upheld.

Facts: Kittery Retail Ventures (KRV) sought to develop a 250,000 square-foot retail outlet mall in the Town's mixed-use district. The project was only legal due to the transfer of retail development rights provision in the district. While the application was under review by the Planning Board, a citizen petition was introduced that would eliminate the transferred rights in the mixed-use district, and would thus render the project illegal. The amendment passed, but did not take effect in time to stop the plan from being deemed complete by the Planning Board. In response, a second citizen petition was introduced to place the effective date of the amendment to a time prior to the completeness finding. After this amendment passed, the project was brought back to the Planning Board, which rejected it as it no longer complied with Kittery's zoning ordinance.

Issues: This case covered a myriad of legal issues. The four most important were:

1. *Did KRV have vested rights in the property?* No. Construction had not begun and no bad faith existed.
2. *Did the Town violate the applicant's due process rights?* No. Its actions furthered legitimate legislative purposes and were rational.
3. *Should the Town have been equitably estopped from making its final decision?* No. The Planning Board never purported to be protecting the project from any future amendments to the zoning ordinance.
4. *Did the retroactive petition violate the Town's Charter?* Yes, but the offending portion is severable.

Fitanides v. City of Saco, March 8, 2004, **Subdivision and zoning**

Facts: Paul Deshaies wants to develop a lot on Route 1 in Saco. He proposed to split the lot of record into one lot with an existing dwelling and the second lot to be developed into a condominium project with 12 dwelling units. At the time Saco was considering rezoning the parcel in such a way as to severely limit residential development. Therefore, before proceeding, Deshaies secured preambles to the zoning amendments grandfathering his project. The project went through several stages of approval. All the while, the abutter, Fitanides, tracked the process and filed several appeals. When the project was finally approved Fitanides appeals were consolidated into this case. Superior Court found for the City on all legal issues raised.

Issues: Many issues were raised in this lengthy case. The ones the Court found had merit are included here.

1. *Did the proposed private road comply with the subdivision regulations?* No. The subdivision regulations require that all subdivision streets be designed as through streets unless the Planning Board waives this requirement. The Court could not find a Final Plan, and therefore, was unable to determine that the Planning Board waived the required regulation, much less whether the board made written findings concerning the waiver as required by the regulations.
2. *Does the Deshaies lot meet the road frontage requirement of the zoning ordinance?* No. The lot does not contain sufficient frontage to meet the ordinance frontage requirement. Deshaies proposed to remedy the problem by building a private road meeting all ordinance standards lying totally within his lot. However, the proposed access did not meet Saco's definition of frontage, so no frontage was actually created along the private road.

Hathaway v. City of Portland and Winter Danforth Corp. v. City of Portland, April 8, 2004, **Contract zoning**

Facts: Winter Danforth Corporation (WDC) operates a bed and breakfast guesthouse on Danforth Street in Portland. Hathaway leases an apartment on the same street in the same zoning district, which is residential. WDC received permission to operate a business pursuant to a contract zoning agreement. The agreement limits WDC to 9 guest rooms. In the event of a breach, the Planning Board shall have the authority to resolve the issue. Hathaway has been accommodating overflow guests in her apartment. When Hathaway learned that the City planning department thought her accommodation of guests amounted a violation of the contract, she filed a complaint seeking declaratory relief. Superior Court dismissed the appeal. Meanwhile, the City Zoning Administrator sent WDC a notice of violation, and ordered WDC to file an appeal with the ZBA. The ZBA upheld the City. WDC appealed. Superior Court affirmed the ZBA's decision. FDC and Hathaway brought appeals to the Maine Supreme Court.

Issues:

1. *Was Hathaway's appeal correctly dismissed?* Yes.
2. *Should the appeal from the Zoning Administrator have gone to the Planning Board, not the ZBA?* Yes.

Corridor Planning—A Truly Regional Transportation Planning Concept

By Suzanne LePage, Transportation Planner

The hot transportation topic in our office has become Corridor Planning. Over the past year we have worked on two major corridor studies and are readying to embark on two more. Here is a summary of our efforts.

Route 111, Biddeford to Sanford

This corridor links the Service Centers of Biddeford and Sanford. The Route 111 Corridor Planning Committee worked with MDOT in 2002-2003 to identify short and long-term transportation and land use planning issues along the highway between Sanford and Biddeford. The Corridor Committee published a Draft Report in July 2003. MDOT published its Traffic Report in December 2003. Over the past year, SMRPC followed up with meetings in each of the five communities (Sanford, Alfred, Lyman, Arundel, and Biddeford) to discuss the initial findings with community officials and to foster the implementation of access management strategies for the corridor through each community's Comprehensive Planning and Zoning update processes. The Corridor Committee reconvened on May 19, 2004 to discuss a Final Report, which will be made available on SMRPC's website upon completion.

Route 109, Wells to Sanford

Route 109 is heavily traveled by local residents, commuters, tourists, and trucks. It connects a service center to the interstate system, two industrial parks to an airport, and many travelers to the train. In November 2003, the Southern Maine Regional Planning Commission (SMRPC) convened a Route 109 Corridor Committee with representatives from the towns of Wells and Sanford and MDOT. The purpose of the committee is to provide coordination between current land use and transportation planning efforts in an effort to build a long-term coalition between the stakeholders and to determine if the road will be able to meet the mobility needs of the anticipated future economic and residential activity in the region. The committee is also analyzing access management as a strategy to preserve road capacity and enhance safety. The Committee's work will not be complete by the end of the Fiscal Year, but an interim report will be published.

Route 236, Kittery to South Berwick

This corridor, which is the primary east-west route in Southern York County, is seeing increased pressure for commercial development, particularly in the Town of Eliot. In response, SMRPC has proposed to oversee a corridor plan for this road. The plan is proposed to examine how to pay for future road improvements, including the possibility of a corridor-based Impact Fee system. It will also look at access management and land use and transportation coordination. This study has been funded by MDOT and work will begin in the summer of 2004.

Route 113, Standish to Fryeburg

This scenic and historic road, also known as the Pequawket Trail, runs from Route 25 in Standish (outside of our region) through the towns of Baldwin and Hiram. It then joins with Route 5 in Hiram and continues through Brownfield and into Fryeburg. SMRPC is teaming up with the Greater Portland Council of Governments to explore how to work on improving mobility in this corridor while preserving natural and historic resources and creating economic development opportunities. An organizational meeting for this effort is planned for July 21 in Hiram. Stay tuned for more details on this study.

A New Member of the SMRPC Family!

Cementing our reputation as the most family friendly regional planning agency in Maine, it is official: all 11 SMRPC employees are parents. David Versel became the last staff member to join this exclusive club, as he and his wife Jennie Aranovitch welcomed their son Josiah Samson Aranovitch on March 25, 2004. Josiah was 8 pounds, 3 ounces and 20 inches long at birth and is a very happy and healthy little boy.

Josiah is anxious to meet all of you at SMRPC's annual meeting on June 18. You won't be able to miss him: he will be the very short gentleman with the chubby cheeks. And his parents will be the ones with the circles under their eyes!

An Overlooked Revenue Source - Maine is Missing the Boat

(Thoughts gleaned from the APA National Planning Conference)

By J.T. Lockman, Planning Director

On April 24-28, the American Planning Association held its National Planning Conference in Washington, DC, with over 5,200 planners in attendance (yes there really are that many of us!) The conferees were from all parts of the profession, representing cities, towns, counties, states, university programs, regional agencies, consulting firms, and included citizen board members and activists. About 900 students were there, looking for job opportunities. All in all, it was a vibrant and lively bunch of people from as far away as Alaska, Hawaii, and the Cayman Islands. There were some enjoyable luncheons and receptions, but most of the event was made up of hundreds of concurrent sessions, each 75 minutes long, on a bewildering array of topics. Sessions ran for four days, Sunday through Wednesday.

Because of my work at SMRPC, I was drawn to the sessions targeted for small towns and rural areas, especially those dealing with comprehensive plans, tourism/second home impacts and affordable housing. There was one common theme that I noticed after hearing several success stories. Every successful municipal program I heard about was helped by funding from locally levied and locally collected sales or real estate transfer taxes. Why don't Maine towns add an additional 1% percent to the hotel bed tax, that they could keep for the Town? Or why aren't towns adding their own small percentage to the real estate transfer tax, to help fund their programs?

The answer is an easy one – our legislature has outlawed the possibility. Aspen, Colorado has built HUNDREDS of affordable housing units, acquired open space and developed recreation facilities from such sales taxes, without hurting local residents, taking away from any state revenues or harming other communities' funding. During the year 2002, Aspen collected \$793,185 from its local 1% tax on hotel rooms. (It's added on top of what the State collects, so nothing is taken from the State's "pot.")

Well that's Aspen. What about a more "average" place in rural America? When I got back from the conference, I looked on the Internet for a good example, to figure out what a typical small town could raise with local sales taxes. I picked Chamberlain, South Dakota, a city of 3,000 people off Interstate 90, on the Missouri River. It is moderately "touristy," as it is a stop on the Lewis & Clark Trail. The AAA Guide lists about a half-dozen hotels and three campgrounds in Chamberlain. According to State reports, they have had "local option" sales taxes since 1979. During 2003, they collected \$845,397.63 from a local 1% tax on hotel rooms and a local 2% sales tax.

They are not the only folks doing this in the upper midwest. Last year, 197 communities in South Dakota alone chose to implement local option taxes of some kind, which are collected and processed by the State along with the state sales taxes. Then the state sends the proper share back to each participating community. The report I stumbled across just happens to mention that in neighboring states, Iowa has 1,175 communities collecting local sales taxes, Minnesota has 13, Nebraska has 130, and North Dakota has 110.

About two thirds of the United States allow localities to collect sales taxes if they choose to. In my opinion, there would be no ill effect on anyone, or any harm to the State's budget or to Mainers, if Maine towns could levy a hotel bed tax (on top of what the State already collects). The funding could be used for open space acquisition, affordable housing, planning, recreation, police protection, or any municipal function the Towns see fit. A portion could even be set aside for State tourism promotion, to assuage the concerns of lodging owners. If administered like the South Dakota program, there wouldn't be much overhead to run the program.

Why is this idea off the table, especially in these difficult budget times? I remember Jill Goldthwaite working on this issue 15 years ago, when she was president of MMA. At that time, there was a legislative proposal that "sweetened" the deal for the communities that had no interest in levying local option taxes, by requiring a portion of the local option taxes in the towns that did collect them, to be redistributed to the other towns in that county or region. I also recall this item was discussed at a York County Municipal Officials Association meeting at Leedy's about four years ago. Maybe it is time to look at this idea again.