

This, the 7th edition of MARA's annual MUD SEASON newsletter, features a year-end summary of MARA activities and finances, current legislative highlights, great photos, and articles on "International Mud Season", a special "Mud Dance" video, and "No Surprises" Leadership.



MUD SEASON

7th Edition, Published April 11, 2021

MARA CONFERENCE 2020

SOCIAL DISTANCE LIVE and ZOOM ATTENDANCE

**MAPLE HILL FARM INN & CONFERENCE CENTER
October 3, 2020**



Attorneys Denison and Cunningham; our own Roberta Manter in action during the morning session. (clockwise)



Our new Treasurer, Jim Bunting, and 3 others (Right and below) after receiving token gifts from MARA for speaking and for work behind the scenes making Conference possible.



John Maclain from the DEP spoke on road maintenance issues in the afternoon



Betsy Connor Bowen
MARA Founder



Sandy Allen
Conference Moderator



In-person attendees masked at
social distance.



Souvenirs for all at Maple Hill:
Stones from Mrs. Bagg's Beach,
Thread of Life, South Bristol, ME.

PRESIDENT'S LETTER

Sandy Allen

Welcome Members,

The sun is shining today and the temperature above freezing this afternoon in late March. What a year it has been. COVID be gone! I hope you and yours have been spared from tragedy. Thanks to rapid development of a vaccine there is hope for a merciful lifting of the deadly viral fog in the coming weeks and months.

This edition features a year-end summary of MARA activities and finances, current legislative highlights, great photos, and articles on "International Mud Season" and "No Surprises" Leadership.

I'm pleased to report that the Maine Alliance for Road Associations is doing well. Our membership is now 120 MARA Members up from about 80 last year. Google Analytics tells me that we had 2,791 "hits" on our website from Mar 6 through Apr 4. There were 136 Downloads --83 PDFs and 49 WORD.docx. The MARA Manual and MUDSEASON 2020 won top honors in the PDFs with 13 and 10 Downloads, respectively. WORD.docs were spread out --lots of sample by-laws!

Jim Bunting has replaced Peter Dunn as Treasurer. Jim's Treasurer's Report is attached. He assures me that we are currently solvent with good prospects of staying that way. Our main expense is Website software provided by Wild Apricot. Peter, thankfully, remains with us on the Board and as a Discussion Forum contributor. Peter's experience with road association debt collection is legendary.

A successful Road Association Conference at Maple Hill Farm Inn and Conference Center has helped us tremendously. Betsy and Roberta's new MARA Brochure has been well received. Check out the new content on our Resources Page and recent postings on our Discussion Forum.

We welcome submission of articles and bits of information of interest to our members for our newsletter. Please send to Betsy or me at info@maineroads.org. I have enjoyed email exchanges with members; several have turned into Discussion Forum posts.

We will soon be making plans for our Road Conference in the fall. It is a pleasure to begin to know individual MARA Members. Please keep in touch.

INTERNATIONAL MUD SEASON

Betsy Bowen, Founder

We Mainers can get a little overbearing when it comes to things we're famous for. Blueberry pie, lighthouses, beautiful ocean sunsets, the view from the top of Katahdin. And oh yes, mud season!

Lest we burst our breeches and appear arrogant, even a tad insular, it's important to know that although Maine is rightly famous for its mud season, other places in the world have mud season too.

The Russian bear can make the mother of all mud holes. The German army (below) bogged down in Russian mud, hastening the end of WWII. Russian roads, few in number and not built for traffic, proved the downfall of around 40% of the German truck fleet.



In the U.K., two gallant Britishers brought gentlemanliness to a new level trying to pull an elephant out of a mud hole by its trunk.





In South Sudan, a bad mud season can bring on famine. South Sudan has a rainy season which lasts from May to November.



The rainy season massively limits roads and other transportation due to South Sudan's roads being dirt tracks and in the rainy season, they turn into mud tracks. The only paved roads South Sudan has are in major cities like Juba and Rumbek.



But a skilled artist can make even a Russian mud season look beautiful!

MUD DANCE!

A Performance
by
Roberta Manter

"A masterful work of art!" --Peter E. Dunn

Sandy, recently: Did you write the lyrics and choose the melody? How did you come up with this song?

Roberta: I wrote the lyrics AND the melody. It all started because I'd be walking across the parking lot headed into a store and would stop to try to knock the mud out of my boots before going inside, so as not to leave a trail of dried mud behind me. When people would give me funny looks, I'd tell them it was the "mud dance."

Sandy: Thank you, Roberta. All enjoy much mud fun!

https://www.facebook.com/Maine-ROADWays-588714017873781/videos/?ref=page_internal

TREASURER'S REPORT

Thanks to the support of its loyal membership, MARA has concluded a successful year, as shown by the figures provided at the end of this report. MARA's fiscal year began on April 1, 2020 and ended a short while ago on March 31, 2021.

After substantial discussion over the spring and summer, the MARA Board of Directors determined to go ahead with our conference on issues of importance to road association members throughout the state. We held the conference both in-person at the Maple Hill Inn and Conference Center in Hallowell and virtually through Zoom with expert assistance from Tom Gordon of AV Portland Sound and Audiovisual Services. With good turnout both in-person and virtually, we were able to basically "break even" with our conference expenses and registration income.

As Peter Dunn, our outgoing treasurer mentioned (Peter is still Vice President and a Board member), in last year's *Mud Season*, "the small Board of Directors group is working hard for you and will do its best to assist if possible." As a non-profit volunteer organization, all revenues received come from our membership and are used to benefit, as best we can, road associations throughout Maine.

Income and Expenses - April 1, 2020 to March 31, 2021

Starting Balance as of April 1, 2020	\$803.37
--------------------------------------	----------

Income:

MARA Member Dues	\$2807.50
Conference Registration Payments	<u>\$1700.00</u>
Total Income for the fiscal year	\$4507.50

Expenses:

Administrative - Annual Report to the Secretary of State; Board Conference Calls	\$320.67
Website Software and Related Expenses	\$1016.42
MARA Conference October 2020	
-- Facility (Conference room, meals, beverages)	\$1107.93
-- Audio Visual/ZOOM for Conference	\$800.00
Total Expenses for the fiscal year	<u>\$3245.02</u>
Ending Balance as of March 31, 2021	<u>\$2065.85</u>

Respectfully submitted,
Jim Bunting, Treasurer

LEGISLATIVE REPORT

Roberta Manter

Legislature is back in session, and we have been dealing with the two bills that were held over from last session.

The one that appeared to be for small road associations with four or fewer residences turned out to be a bit different than we thought. The actual goal was to satisfy lenders who don't want to approve a loan for the purchase of property on a private road unless there is some assurance that the road will be kept passable. The bill covers the "gap" of fewer than four benefitted properties, which isn't covered under 23 MRSA 3101, but it also applies to roads with any number of properties.

As originally proposed, the bill raised a number of concerns about ambiguous language as well as conflicts with the existing road association laws. Andrew Cashman, attorney for the Maine Realtors' Association, did an excellent job of listening to our concerns and working to find solutions. The Committee on Judiciary gave us plenty of time to re-draft the bill.

The final draft moves the statute into a chapter of its own, away from section 3101 - 3106; allows considerable flexibility, including even informal verbal agreements; offers a default position of each resident owing an equal amount, which is imposed only where the residents have no other agreement; and applies to private roads, avoiding the controversial public easements. The logging industry asked for two additional provisions, one that would exempt roads built primarily for logging use, and one that would exempt "ground leases," which refers to where timber company land is leased out for camp lots.

This bill went before the Judiciary Committee last year, and all were in favor except one, who wanted a "carve-out" for Aroostook County due to concerns about timber land. I sent him an email trying to explain how the exemptions should cover that, but he didn't change his vote. The bill would have gone forward with a divided report, opening it up to further discussion in the full legislature, but then the legislature got shut down.

When it reconvened this year, the legislator who had voted against it was no longer on the Judiciary Committee, and this time we got a unanimous "ought to pass!" That meant that when it went before the full legislature, it "went under the gavel," meaning that the House and Senate trusted the recommendation of the Committee and passed it without further discussion. It was then signed into law by the Governor, and will go into effect 90 days after the Legislature adjourns.

The second bill is one presented by the Small Woodland Owners regarding abandoned roads. They were hoping to get abandonment repealed, but Maine Municipal Association (MMA) has fought for years to keep abandonment in place in spite of mounting concerns. A legislative subcommittee worked hard on this one between sessions, doing a wonderful job of listening to all the concerned parties, and last year came up with a bill that would keep abandonment as an option but provide some due process.

Under current law, there is no notice or appeal when a road is abandoned. This bill would require that anyone who depends on the road for access must be notified of the intent to abandon a road, and they can request a hearing. It would also provide for appeal to the town's Board of Appeals or to the County Commissioners before resorting to Superior Court.

The bill came out of the subcommittee with unanimous support, and the State and Local Government Committee voted to give it their unanimous support as well, without risking trying to change anything. However, when the bill went through review, it was flagged as possibly needing to have a fiscal note attached. The Committee voted to argue that it did not require significant expenditure, and send it forward with their objections to the fiscal note.

This bill was headed to the full legislature for a vote last year when everything got shut down. It was resubmitted this year, and as of this writing it has had its public hearing before the State and Local Government Committee but has not yet been through its work session. We're hoping it will again get a unanimous "ought to pass" vote.

There is another bill of interest that we're keeping an eye on. So far, it is only a "concept draft" with no actual language. But the intent is to provide state funding to assist private roads that are damaged by climate events. I have spoken with the bill's sponsor, and her original intent was to address roads along the Maine coast that are damaged by storm surges and rising sea level. When I mentioned the fact that inland roads can also be damaged by climate events such as torrential rains, she was quite interested, and seemed open to drafting a bill that would include those as well. We will keep in touch and see how this bill shapes up.

NO SURPRISES

Sandy Allen

Experience has taught me to eliminate unwelcome surprises when possible. Life then becomes less difficult. I have been President of our 10-parcel road association since 2015. We formed a statutory association in 2016 mostly to enforce cost-sharing of road maintenance. Now in retirement, I make a welcome hobby of my neighborhood duties and look for ways to eliminate unwelcome surprises for our members. It also pleases me to be able to help MARA members who are forming their own statutory associations. I believe "No Surprise" leadership can emerge from close adherence to the Private Ways Statute, a well-chosen set of By-laws, clear and timely communication, and careful record keeping. Documents and aids for record keeping noted below may be found on our Resources Page.

MAINE PRIVATE WAYS STATUTE (PWS): This document offers a template for formation, organization, and administration of a road association to provide "fair and equitable" results using the democratic principles we hold dear.

In Section 3101, Call to meeting, all owners must be notified at addresses given in municipal tax records at least 30 days before any association meeting. The notice must include all items to be voted on including items "that will determine the amount of money to be paid by each owner...". No exclusive meetings and unwelcome financial surprises here!

Voting privileges to include "in person or by written proxy or absentee ballot" are given by Sections 3101 and 3103 guaranteeing no taxation without representation. Even an owner who is delinquent in payment of maintenance fees cannot be denied a vote at association meetings.

I have grown to appreciate the transparency provided by the PWS. Nothing of consequence can be decided intentionally or unintentionally without prior notification. Close adherence to the PWS will virtually eliminate unwelcome surprises for all owners.

WELL CHOSEN BY-LAWS: According to my MARA Board colleague, Peter Dunn, it is possible to be a statutory association without by-laws by keeping "rock solid minutes", i.e., voting approval of rules or owner decisions on various issues at meetings and keeping detailed minutes (also subsequently approved) in the records of the association.

I firmly believe, however, that time spent with owners making and approving by-laws is time well spent. By-laws may be seen as rules or regulations previously agreed by the owners. All the agreed rules are in one place. If the chosen by-laws are tailored to the association and the owners originally debated the choice and wording of each, then most concerns raised at meetings are addressed in the by-laws and are easily put to rest by citing the applicable article or section. Unanswered questions or concerns may be addressed by subsequent amendment. Well-chosen by-laws make for smooth meetings —providing answers; reducing surprises.

CLEAR COMMUNICATION - NOTIFICATIONS and BUDGET: The PWS sets much of the content and timing for the initial Notification of Meeting and the Notification of Maintenance Fees after the meeting. I prefer email notification where possible. The PWS requires USPS mailing to the address in the municipal tax records without owner permission to receive email notices and materials. Consent for email use has been obtained from all but one of our owners. The following two notices with attachments clarify the agenda, budget, the voting process, amount to be paid by each owner, and the consequences of late payment. I use the PDF format for attachments.

Attachments to email Notification of Meeting are: Agenda, Treasurer's Report, minutes of previous meeting, proposed budget, Estimate for road repairs, proposed Slate of Officers, Proxy voting/Absentee ballot.

Attachments to post-meeting email Notification of Maintenance Fees are: Agenda and minutes of recent meeting including results of all voted items. This email also lists the individual shares of approved maintenance fees for each parcel. The date the email is sent is the NOTIFICATION Date. The DUE Date is indicated in our Late Payment Penalties policy also included in the body of the email Notification of Maintenance Fees.

Our by-laws give the President the responsibility for proposing a budget (maintenance fees) for member approval at each Annual Meeting. After a few "difficult", time-consuming approvals, I decided to run the numbers through our five-member Board first and send the proposed budget along with the previous year's income and expenses in a comparable format to members in the 30-day Notice of Annual Meeting. Providing comparable formats for the proposed budget and last year's income and expenses gives the membership the information they need to decide ([Proposed Budget.TMPLT.docx](#)). We have had much smoother sailing with budget approval since implementing the above procedure.

There is often a need for “educational” materials to prepare members for voting decisions. I plan to make a handout of Mary Denison’s explanatory post on the Discussion Forum for the “Registry Notice of Statutory Road Association” in preparation for a vote at our Annual meeting in September on recording our own “Registry Notice”. I have also received a proposed amendment to our by-laws. Both the handout on the “Notice” and DRAFT Amendment will be sent to the membership in April with a request for member questions and concerns. I hope to be able to address any concerns so we will have both documents ready for mailing 30 days in advance that will garner 2/3 voter approval at our Annual Meeting —no member surprises!

Several years ago, we had two competing contracts for road repair. We had asked for estimates on a culvert replacement, drainage ditch repair, and grading. One contractor submitted a total estimate. He was asked to break down his total estimate to three components so that each contract would contain the same items to permit clear comparative estimates.

Member preparation reduces uncertainty for decision making at our Annual meeting in September. Ideally, controversial issues are raised prior to the meeting, members given information necessary for deciding, different viewpoints aired, and the wording of agenda items chosen accordingly so that the issue can be approved by majority without divisive, lengthy discussion.

CAREFUL RECORD KEEPING: The following ideas and formats for record keeping have been developed through my own trial and error and are meant as suggestions for your possible use. Please accept what may work for you and disregard what may not.

Minutes, clear and detailed, are important records. Minutes serve as documentation of statutory compliance for any civil action and as a reference for past votes on issues before the membership. Unfortunately, no one seems to want to take minutes these days. I am an officer in three organizations and have found that I must often take this responsibility. Even members who are willing to assume the office of Secretary don’t want to take minutes. I now use a template ([Meeting Minutes.TMPLT.docx](#)) based on the agenda with fill-in blanks for makers of motions, seconds, and discussions before voting. The Secretary or I can easily pencil in live comments and type quickly after the meeting.

This next item may sound like a waste of time, it did to me at first. We find, after the initial greeting and catch-up, that reading last year’s minutes at the beginning of the Annual Meeting is a great way to settle the attendees into the business at hand. Good Minutes inform the membership, reduce uncertainty, and often quell surprise interruptions.

I prefer hanging files for the following 3 applications. Please choose what works for you.

Dedicate a hanging file to each Annual or Special Meeting: In the hanging file for each meeting, I include three manila folders labeled: (1) Notification of Meeting, (2) Meeting Agenda, Minutes, and attachments (3) Notification of Maintenance Fees. Hard copies of corresponding documents are placed in the three folders. Any documents related to the meeting but not fitting the labels on the three folders are stored loosely in the hanging file. Occasionally, I’ll label and add another manila folder. The above organization allows easy retrieval of relevant documents at future meetings and for use in civil actions—no surprises!

Dedicate a hanging file to each owner in delinquency: In my experience, owners in delinquency remain so until forced to make restitution at the sale or other legal event involving their parcel. Your experiences may vary. Thus, we have an owner whose hanging file now has 8 manila folders, one folder for each meeting in delinquency. Each folder contains my worksheet ([Collections Worksheet.docx](#)), 20-Day Collection Notice, Notice of Claim (NOC), Extensions of NOC, correspondence, certified mailing and recording documentation, and a 6 x 9-inch manila envelope labeled "Costs of Collection" for collectable receipts with a "running total" penciled outside in clear view.

Dedicate a hanging file to: Delinquent Claims NEXT! Make copies of the first page of each worksheet (one for each meeting in delinquency) and store them in order so the next date for recording, penciled in the upper right-hand corner, is on top of the pile for ready reference. I also put the projected recording dates for the year in my calendar as a double check. After the claim on top is completed, I erase the meeting-specific worksheet "next recording date", place the date for the subsequent extension recording in the upper right, make a copy, and put it at the bottom of the pile.

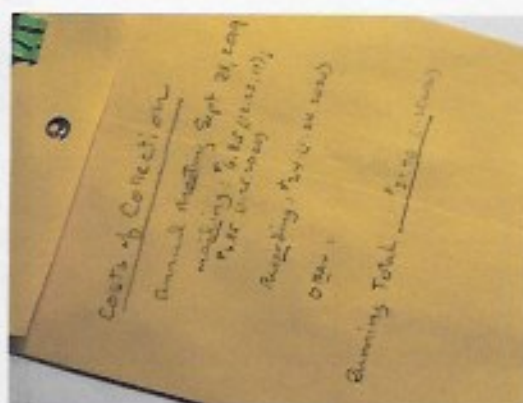
~~~~~

I have found the above record-keeping system worth the effort. Often at meetings, an owner will have a question about who said what or a past decision or maintenance cost. I bring a portable plastic file container with recent records for easy reference. Also, I prepare for those present at the annual meeting, a letter to be sent to the delinquent owner(s) after the meeting detailing each approved maintenance fee in arrears, including late penalties and costs of collection. Our careful records, including delinquency dates and the "Costs" envelope with running total, are invaluable in preparing this letter.

Road association members dislike surprises that cost them money or discount their influence. The fewer surprises of this nature at the annual meeting, the smoother the meeting will proceed, the more trust members will have in leadership, and the better able members are to connect with each other and form good relationships. I believe "No Surprise" leadership is a worthy goal made possible by close adherence to the Private Ways Statute, a well-chosen set of By-laws, clear and timely communication, and careful record keeping.



Hanging files for:  
"Delinquent Claims - NEXT!" and  
each delinquent owner. (see text)



Envelope for:  
"Costs of Collection" with a  
"Running Total" penciled in clear  
sight. (see text)



## GET INVOLVED!

**Roberta Manter**

For anyone who is interested in getting involved with the legislative process, it's easier than ever now that the Legislature is working remotely. The Legislative website, <http://legislature.maine.gov/> has a ton of information on it, and is fairly easy to navigate. You can search for a bill by its L.D. number (Legislative Document) or click on the link for Advanced Search to look for a word or phrase.

If you subscribe to the MARA forum, I try to post a notice there when I see a bill coming up that may be of interest to the membership. Or, you can go to the Legislative website and sign up for any of various mailing lists, here:

<https://lists.legislature.maine.gov/sympa/>

Each committee has its own YouTube channel where you can watch hearings live, or tune in later and watch the recorded hearing, here:

[https://www.youtube.com/channel/UCx7hJbrB\\_-t8KJgDiAbPuwg/channels](https://www.youtube.com/channel/UCx7hJbrB_-t8KJgDiAbPuwg/channels)

If you want to submit written testimony on a bill, there is a form online where you can do that, here:

<https://www.mainelegislature.org/testimony/>

Just read the instructions carefully, and follow them step by step.

It gives you a choice of attaching a file with your testimony, or typing your testimony and then pasting it into the text box. (Make sure you don't put anything other than your testimony into the text box, because the system automatically posts it online!) Your testimony should address the appropriate committee, give your name and where you live, identify the bill, state whether you are testifying for or against, and then give your thoughts about the bill. It can be as brief as simply asking them to vote for or against, or you can tell them your own story. But try to keep it fairly brief and to the point.

If you want to testify live, you can now do that via Zoom instead of having to go to the State House. Use the same form as for written testimony:

<https://www.mainelegislature.org/testimony/> (If you want to do both, you only need to submit the form once - just check the box that says you want to testify live, and then also submit your written testimony.) They will send you a Zoom link, and they will let you into the meeting a few minutes before it's your turn to speak. Each speaker is usually limited to just three minutes, so it's wise to write it out and time yourself reading it aloud. I find that three minutes allows you about one typewritten page.

So few people get involved with this process that it really makes an impression on the legislators when they hear from people. It only takes the input from a few people to influence their vote. So get involved!