

Frederick A. Laskey, Commissioner Joseph J. Chessey, Jr., Deputy Commissioner

# CITY&TOWN

A Publication of the Massachusetts Department of Revenue's Division of Local Services

## Why Become a City?

Although it will officially continue to call itself a town, Weymouth has adopted a city form of government. It becomes the 48th Massachusetts community to change its government structure to that of a city. Of the remaining 303 towns, 41 have moved to representative town meeting and 262 retain the open town meeting form of government. Interestingly, Weymouth is not the only Massachusetts community to adopt a city form of government, with a mayor or manager and a council, yet continue to call itself a town. Amesbury, Barnstable, Easthampton, Franklin, Greenfield, Methuen, Southbridge and Watertown also fall into that category.

The original state constitution contained no mechanism for changing the form of local government. After a Constitutional Convention in 1820 authorized the General Court to create city governments in towns with populations over 12,000, Boston became the first city in 1822.1 The movement to city government paralleled the Industrial Revolution with 30 towns becoming cities between 1822 and 1900. Seven additional towns became cities between 1900 and 1923. Although no new cities came into existence between Gardner in 1923 and Watertown in 1980, 10 additional towns have adopted the city form of government since 1980. Massachusetts law still provides that no town with a population of less than 12,000 may adopt a city form of government and no town with a population of less than 6,000 may adopt a representative town meeting form of government.

Reasons for communities' changing their governments to the city form relate to a number of factors including population, population density, and the percentage of the total property value that is in the commercial and industrial classes. The process of changing from open town meeting to an increasingly representative form of government has been a process of adaptation to meet changing conditions, especially population growth. The median population for communities retaining the open town meeting is 6,295. For communities adopting representative town meeting, the median is 25,900, and for cities, the median is 41,826. We have used

### *Communities choose to become cities for a variety of reasons.*

the 1998 estimated census information for population figures. Communities that have open town meetings range from Andover, with a population of 31,424, to Gosnold, with a population of 97. The communities with representative town meetings range from Framingham, with a population of 64,646, to Lee, with a population of only 5,657. The population range for cities is from the high of Boston at 555,447 to North Adams with only 15,496 people. Clearly, population is not the only criteria for making a change. Andover, above the median for towns with representative town meeting, has retained open town meetings. Lee, below the median population for communities with open town meeting, has adopted a representative form of government. North Adams, well below the median for towns with representative town meeting, is a city. Framingham, well above the median population for cities, has chosen to retain a representative town meeting style of government.

written by Jean McCarthy

Population density is related to the form of government chosen, but again there are exceptions. The median density for towns with open town meetings is 283 people per square mile.<sup>2</sup> For towns with representative town meeting the median is 1,730; for cities, it is 2,819. When arrayed by density, 27 of the top 50 communities are cities. Somerville is the city with the densest population at 18,855 people per square mile. The Town of Mount Washington has the lowest density with six people per square mile. Included in the top 50 communities are 15 towns with representative town meetings and eight towns with open town meetings. The towns with dense populations that still manage to operate with open town meetings are Marblehead, Hull, Stoneham, Nahant, Wakefield, Somerset, Clinton and Whitman. Seventeen cities have densities below the median for communities with representative town meetings. There are two communities with densities less than the median for open town meet-

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## LEGAL

## Special Permit — Final Action

The Supreme Judicial Court in June 1999 ruled on what constitutes final action by a special permit granting authority. The decision is *Board of Aldermen of Newton v. Maniace*.<sup>1</sup>

In December 1995 the petitioners filed an application with the city clerk for a special permit and site plan approval in order to build a Stop & Shop supermarket in Newton. The Newton Board of Aldermen (Board), acting as the city's special permit granting authority, initially held a public hearing in February of 1996. The Board's land use committee then held numerous sessions to debate the merits of the application. The parties agreed to give the Board an extension through September 4. 1996 to render a decision. The city's planning department recommended denial of the application. The land use committee recommended favorable action, and at an August 12, 1996 meeting, the Board voted on a motion to approve the application. Fourteen members voted in favor and nine members opposed the application. The application, however, was deemed denied since a two-thirds majority was required to approve a special permit.<sup>2</sup>

On August 13, 1996 the Board filed the result of the vote with the city clerk. Although this document contained the language "failed to carry" and gave the vote, surprisingly, it included only the land use committee's reasons in favor of the application which did not support the Board's decision. The petitioners timely notified the city clerk that the Board did not provide reasons for the denial as required and, consequently, their application had been constructively approved.<sup>3</sup> In response, the Board appealed to the Land Court.<sup>4</sup> The Land Court judge, relying on *Shea v. Aldermen of Chicopee*, held that the permit had been constructively granted because no reasons for the denial were included.<sup>5</sup> On appeal, the Appeals Court agreed with the judge in Land Court. On further appeal, the dispute came before the Supreme Judicial Court. At issue was whether the document filed by the Board, which gave the vote of each member but did not include reasons supporting the denial of the application, constituted final action under the law.<sup>6</sup>

The state's highest court ruled that the permit was not constructively approved since the Board had complied with the statutory requirements. M.G.L. Ch.40A § 9 requires the special permit granting authority to make its decision within 90 days following the public hearing, unless extended by written agreement. The statute recites that failure to take "final action" within 90 days or such agreed extended time shall be deemed a grant of the special permit. In the court's view, the statute did not require the special permit granting authority to give reasons for its decision at the time the decision was filed. According to the court, the legislative intent in enacting the statute was to compel the special permit granting authority to act promptly, and to give notice to interested parties that the appeal period had started, by filing its decision with the city or town clerk. The court effectively abrogated the earlier Appeals Court decision in Shea which favored the petitioners in the Newton case. In the court's view, the constructive grant of a special permit was a severe penalty which could be averted merely by filing the result of the vote with the city or town clerk.

The Supreme Judicial Court recognized that the law also imposes a duty on a special permit granting authority

## in Our Opinion

to make "a detailed record of its proceedings," including the vote of each member and the reasons for its decision. In the Court's view, the statute does not require the special permit granting authority to file the reasons for its decision at the same time as the vote was reported. According to the Court, two documents could be employed since the statute merely states that copies of the detailed record must be filed in the office of the city or town clerk within 14 days of the vote. Ruling in favor of the City of Newton, the Court held that there was no constructive approval of the special permit since the Board had timely notified all parties of its decision.

The Court's decision was not unanimous. Three justices dissented since they interpreted M.G.L. Ch.40A § 9 as requiring the special permit granting authority to provide reasons contemporaneously with its decision. According to the dissent, the Court's ruling in *Maniace* would lead to more delay in resolving such disputes. ■

written by James Crowley

1. 429 Mass. 726 (1999). 2. M.G.L. Ch.40A § 9. 3. M.G.L. Ch.40A § 9. 4. M.G.L. Ch.40A § 17. 5. 13 Mass. App. Ct. 1046 (1982).





## Focus

## Create Your Own Custom Reports

Local officials can now easily compare their communities to other similar communities by average tax bills, expenditures by category, and other socioeconomic, financial and property tax related criteria. The Community Report Builder that allows web users to build their own reports was added to the DLS website at the end of September.

The Community Report Builder allows web users to select comparable communities to include in reports by a number of different criteria. Socioeconomic criteria include population, per capita income, labor force, school district structure, and unemployment rate. Other criteria include the amount of state aid, tax rates and/or tax levies by class, assessed values of property, revenues, expenditures and bond ratings. Revenues and expenditures can be broken down by classification, allowing a comparison of spending for public safety, for example. Figure 1 shows the entire list of selection criteria.

#### Generating Reports

The Community Report Builder can generate either At-A-Glance Reports for individual cities and towns or a Community Comparison Report including selected municipalities. At-A-Glance Reports are summaries of key socioeconomic, financial and property tax data by community. The Municipal Data Bank has produced these reports for several years and made them available through the DLS website. Community Comparison Reports are new. They are summaries of socioeconomic, financial or property tax information for multiple communities. The types of Community Comparison Reports currently available are:

Socioeconomic Tax Rates FY99 Cherry Sheets Revenue Sources Proposition 2½ Levy Capacity Actual Revenues by Fund Actual Expenditures by Fund Reserves Average Single Family Tax Bill

Additional types of comparison reports will be added in the coming months.

#### Using the Report Builder

The following is an example of how to create a customized Community Comparison Report. Let's assume that your community has a population of about 26,500 and you want to produce a report comparing the average singlefamily tax bill in your community with those of similarly-sized communities. To do this, Step #1 in the Community Report Builder asks you to select either At-A-Glance or Community Comparison Reports. Step #2 asks you to choose the type of report (socioeconomic, tax rates, etc.). Select the "Average Tax Bill" report. Then Step #3, as shown in Figure 1, asks you to select the criteria for the comparison. Since you are interested in comparing the tax burden in communities with populations similar to yours, you select a population range between 25,000 and 28,000. Figure 2 shows a list of the 14 cities and towns with a population between 25,000 and 28,000. You can then choose to include all 14 communities or a subset of them in your final report. The final step is to click on the "SUBMIT" report button to generate the comparative average tax bill report shown in Figure 3.

Whenever comparisons are made between communities, they usually show a surprising amount of variability between communities that are similar in

### on Municipal Finance

one or two ways. The examples used here are no exceptions. Figure 3 shows a copy of the report on average single family tax bill with the total number of single family parcels and the total assessed value of single family parcels for 13 of the 14 cities and towns in the selected population group. Chelsea's information was not included since it has a residential exemption which allows some portion of the tax levy to be shifted from owner-occupied homes to non-owner occupied properties making an accurate calculation of average bill impossible. Average single family tax bills for these communities vary from a low of \$1,885 in Agawam to a high of \$4,866 in Wellesley.

*Figure 4* shows the Revenue Sources report for these same communities indicating both the amount raised by each major revenue source (tax levy, state aid, local receipts, and other) and its percentage of the total amount of revenue raised. Chelsea is the least dependent on the tax levy for raising revenue, with only 22.4 percent of the total raised through property taxes. Wellesley is the most dependent with 72.6 percent. Chelsea depends on state aid for 60.3 percent of total revenues. Needham, with only 8.5 percent, is the least dependent on state aid.

The Actual Expenditures by Fund report shows expenditures for police, fire, education, public works, and all other, as well as total expenditures, for each of the communities selected. *Figure 5* shows the Education Expenditures for the same 14 communities. It shows that educational expenditures vary considerably.

Local officials can now analyze their own communities in comparison with other cities and towns using their own

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## *Community Comparison Reports*

The Community Report Builder can be used to generate various reports to compare multiple communities based on specific criteria. The example below illustrates the last two steps in the report building process, and three of the types of reports available. To create Community Comparison Reports, visit the Division of Local Services' website at www.state.ma.us/dls.

Report Crite	ria: l'	996 Population	- From 25000 To	28000			
		As of 9-17-9	9				
Average Tax Bills Communities with Residential Exemptions will not contain Average Tax Bill information							
Community	FY	Number of Single Family Parcels	Assessed Value of Single Family	Average Single Family Tax Bill			
Agawam	99	7,250	860,275,630	1,88			
Chelsea	99						
Dracut	99	6,756	903,383,100	2,27			
Franklin	99	7,017	1,368,422,600	2,71:			
Melrose	99	6,292	1,242,038,400	3,10			
Milford	99	5,295	783,201,800	2,44			
Milton	99	7,003	1,473,516,650	3,85			
Needham	99	8,239	2,510,107,900	3,924			
North Attleborough	99	5,752	879,026,600	2,21'			
Saugus	99	6,813	1,157,103,900	2,00			
Shrewsbury	99	7,952	1,340,116,000	2,26			
Stoughton	99	6,272	961,517,650	2,52			
Wellesley	99	7,204	3,555,392,000	4,86			
West Springfield	99	6,191	744.315.100	2,12			

Figure 3

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Report	Report Criteria: 1996 Population - From 25000 To 28000									
		As of 9-17-99								
		Actual E	spenditu	res by F	und					
		E	duca	tion						
Community	FY	General Fund	Special Revenue	Capital Projects	Enterprise Fund	Trust Revenue	Total All Funds			
Agawam	98	22,776,225	2,084,764	14,961,119			39,822,10			
Chelsea	98	32,516,923	6,900,020	365,550			39,782,49			
Dracut	98	20,778,277	1,937,145	957,562			23,672,98			
Franklin	98	29,293,820	1,624,363	566,425			31,484,60			
Melrose	97	18,548,203	1,624,029				20,172,23			
Milford	98	23,763,731	3,281,154	531,863			27,576,74			
Milton	98	20,430,428	1,391,693				21,822,12			
Needham	98	24,475,250	3,056,108	5,661,037			33,192,39			
North Attleborough	98	20,871,047	1,489,934	13,978,828			36,339,80			
Saugus	98	18,811,473	1,551,840	222,643			20,585,95			
Shrewsbury	98	22,354,542	2,166,245	1,613,514			26,134,30			
Stoughton	98	24,302,044	2,014,670	448,748			26,765,46			
Wellesley	98	29,073,984	2,356,110	295,398			31,725,49			
West Springfield	98	20,649,775	2,725,413				23,375,18			

Figure 5

#### Create Your Own Custom Reports → continued from page three

criteria. Searches can be defined and refined as needed. This article has demonstrated a few of the possible reports. The reports can be used in conjunction with information available through the Property Tax spreadsheets accessed from the Municipal Data Bank home page on the web. The new Community Report Builder will be an invaluable asset in analyzing financial data and in reviewing revenues and expenditures.

#### How to Access the Community Report Builder

The Community Report Builder can be accessed directly from the Division of Local Services home page (www.state. ma.us/dls) by clicking on the high-

#### Why Become a City? → continued from page one

ings that have elected representative town meetings: Montague and Lee.

Having a strong business component also seems to be associated with a more representative form of government. The information on the percentage of commercial and industrial property is information for FY1999, taken from information on property valuations by class submitted to the Bureau of Local Assessment. Northbridge is the median community with 15 percent of all of its value in the commercial and industrial classes. All but four of the cities are above the median. The four that fall below the median are Weymouth (14.3 percent), Gloucester (12.6 percent), Newton (12.3 percent) and Melrose (7.2 percent). The five communities with the highest percentage of commercial and industrial property, however, are all towns with open town meetings: Rowe (83.1 percent),

lighted text under "What's New" or in the Municipal Data Management/Technical Assistance Bureau section. It can also be accessed directly from the Municipal Data Bank home page (www.state. ma.us/dls/mdm).

This is the first of several enhancements planned for the next several months. DLS will be adding more types of reports, as well as more criteria for selecting comparable communities. We are working on adding definitions for terms and links to related articles in *City & Town*. Finally, we will add historical data to the reports. Historical data currently is available through the Municipal Spreadsheet Database on the Municipal Data Bank home page. ■

prepared by the Municipal Data Bank staff

Erving (78.2 percent), Monroe (73.1 percent), Florida (54.3 percent) and Ayer (54.1 percent).

Clearly, communities choose to become cities for a variety of reasons. After a lull of almost 60 years, the difficulties of managing municipal government with volunteers and attracting sufficient voters to form a quorum for town meetings have spawned a number of recent changes in local government. Many families with both parents working, struggling to manage their time, do not participate in local government. We will watch to see if more communities choose a representative form of government as we enter the next century. ■

data provided by Michael Maguire

 Donald Levitan with Elwyn Mariner, Your Massachusetts Government (Newton, MA.: Government Research Publications, 1984) 144.
 1998 estimated population.

## School System Audits Available

Audit reports on the communities of Gardner, New Bedford, North Reading and Salem have been added to the DLS website since our last update. The audits, completed by DLS's Bureau of Education Audit under the direction of the Education Management Accountability Board (EMAB), monitor how selected districts have progressed under the Education Reform Act of 1993. They include but are not limited to the following areas: school finances, staffing, test scores, time and learning standards, and school improvement and technology plans.

In addition to the communities listed above, audit reports on Braintree, Brockton, Lexington, Lowell, Malden, Triton Regional and Worcester School Districts can be found on the DLS website. Field work is complete in East Longmeadow, Everett, Milton and Woburn, and those reports will be available on our website as soon as the EMAB votes to accept the reports. Auditors are currently working in Agawam, Auburn, Cambridge and North Attleborough.

Complete copies of the reports may be accessed by clicking on *Information from the Bureau of Education Audit.* To view the information contained in the reports one must have the *free Adobe Acrobat Reader* which can be downloaded by clicking the icon for Adobe Acrobat.

## DLS UPDATE

## DLS Wins Award

Governor Paul Cellucci has awarded a "Pride in Performance" award to the Division of Local Services' (DLS) cross–agency effort to prepare local communities to meet the Y2K challenge.

The award recognizes state employees for their dedication to public service. Under the leadership of David Davies, the DLS Y2K team includes Linda Bradley, John DiOrio, Evelyn Hyde, Lisa Juszkiewicz, Arnold Kanter, Kathy Krawcyk, Don Reynolds and Kirsten Shirer.

DLS teamed up with the Massachusetts Information Technology Division to design and implement its Y2K Local Outreach Program. The program provides Y2K compliance assistance to communities that lacked appropriate resources and technical staff. DLS staff performs on-site analysis and planning assistance to communities with populations of less than 20,000. The analysis includes inventorving hardware. software and embedded devices: assessing non-compliant systems; initiating vendor management programs; recommending remediation and replacement programs; and developing community contingency plans.

### Interim Year Adjustments

There is a myth that assessors are required to submit reams of documentation to the Bureau of Local Assessment (BLA) before it will approve a community's interim year valuation adjustments. This is untrue: A one-page, one-sided form entitled *Adjustment of Valuations Between Certifications* is the sole requirement. Furthermore, that form is only necessary when adjustments, excluding new growth, equal more than 10 percent of total valuation. Assessors are responsible for developing full and fair cash property values (FFCV) for recertification purposes once every three years. On the other hand, they are also responsible for FFCV every year as of January 1. Assessors adjust values annually due to changes in the real estate market, new construction, alterations, demolitions, etc. These adjustments ensure that taxpayers pay only their fair share of the tax levy.

When making valuation adjustments in the years between certification, assessors do an analysis of the local real estate market. BLA recommends using the same standards as in a certification year, namely:

#### 1. Residential properties

• Assessment/sales ratio (ASR) median between 90 and 100 percent;

• Coefficient of dispersion (COD), 10 percent or less for single-family homes and condominiums; 12 percent or less for apartments; 20 percent or less for land. (See *Guidelines for Devel*opment of a Minimum Reassessment *Program* for more assessment level and uniformity tests.)

## 2. Commercial and industrial properties

• Conduct analyses to determine whether capitalization rates, rent schedules, vacancy rates, land values, cost calibration, depreciation tables, etc., need adjustment.

After completion of the analysis, assessors determine whether there is a need to adjust some or all classes of property. If the change in total assessed values is greater than 10 percent, they send the one page form to BLA. That form includes a statement with the reasons the assessors made the interim changes. It reads: "we ... agree that in our judgement the valuation adjustments result in fair and equitable assessments both within and between all classes of property and that sufficient documentation has been developed to support all valuation adjustments."

BLA encourages interim year valuation adjustments and, while the reporting requirement is minimal, its mission is to verify that a thorough analysis of all taxable properties was completed.

## Change in the Hampshire County Assessments

The cities and towns in Hampshire County have a revised amortization schedule for repayment of legislative appropriations needed to pay creditors at the time their county government was abolished. Chapter 300 of the Acts of 1998 dissolved the government of Hampshire County as of January 1, 1999. That Act provided that the state's money would be recovered by annually assessing an amount, not exceeding the county tax shown on the Cherry Sheet for FY1999, to each of the communities comprising Hampshire County. The Secretary of Administration and Finance filed an amortization schedule with the Clerks of the House and Senate earlier this year, as required by the Act. The Secretary has now filed a revised schedule that reflects the final appropriation to pay off the county's creditors, provided by Chapter 68 of the Acts of 1999. The new schedule reduces the annual payment to 34 percent of the county tax shown on the FY99 Cherry Sheet, but extends the amortization period to the year 2024. The Division of Local Services recently sent a Bulletin to the 20 cities and towns affected, advising them of the changes.

## Municipal Fiscal Calendar

#### December 15

**Taxpayer:** Deadline for applying for property tax exemptions for persons.

Accountant/Superintendent/School Committee: Submit amendments to end of school year report to DOE.

#### December 31

**State Treasurer:** Notification of quarterly local aid payments on or before December 31.

**Taxpayer:** Deadline for filing application for abatement of motor vehicle excise for prior calendar year.

Water/Sewer Commissioners: Deadline for betterments to be included on next year's tax bill (MGL Ch. 80, Sec. 13; Ch. 40, Sec. 42I and Ch. 83, Sec. 27).

**Selectmen:** Begin to finalize budget recommendation for review by finance committee.

Assessors: Mail 3-ABC forms to all eligible non-profit organizations.

**Collector:** Deadline for mailing third quarterly tax bill.

## Employment Opportunity

**Deputy Bureau Chief** — The Bureau of Local Assessment is seeking a Deputy Chief to direct real and personal property appraisal programs and manage appraisal staff statewide. Applicants should have seven to 10 years' experience in property appraisal, mass appraisal and property tax administration. A bachelor's degree is required and a master's is preferred. Applicants should have demonstrated ability in management, communication, writing, teaching, mass appraisal, (including computerized) statistical analysis and commercial appraisal. The ideal candidate has a designation, e.g., CAE or MAI and knowledge of Massachusetts' assessment administration and law. Travel is required. Send resumes to Marilyn H. Browne at the *City & Town* address below, by fax to (617) 626-2330, or e-mail to Marilyn.Browne@state.ma.us. ■

## Data Bank Highlight

The Municipal Data Bank is a primary source of financial and demographic information on Massachusetts' cities and towns. The primary data come from the annual financial (Schedule A), tax rate, budget and assessment reports that every city and town is reguired to submit to the Division of Local Services. Additional information is collected from the U.S. Census Bureau and other federal and state agencies. The Data Bank develops and maintains systems to collect and distribute the information. The staff is available to assist users in interpretation and use. Most standard reports summarize both revenue and expenditure information into a few categories (e.g. recreation, education). More detailed or specialized reports can be requested.

To obtain Municipal Data Bank information contact Dora Brown or Debbie DePerri at (617) 626-2300. For technical assistance contact Burt Lewis at (617) 626-2358. The World Wide Web address is listed below. ■



*City & Town* is published by the Massachusetts Department of Revenue's Division of Local Services (DLS) and is designed to address matters of interest to local officials. DLS offers numerous publications on municipal law and finance, available by calling (617) 626-2300, or through the DLS website at **www.state.ma.us/dls** or by writing to PO Box 9490, Boston, MA 02205-9490.

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