

Merging Two Quasi-Municipal Districts:

A Case Study
of the Augusta Water District and
the Augusta Sanitary District

December 2005

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CHAPTER 1: Background: The History of the Two Districts and the Impetus to Merge

History of the Augusta Water District

The Augusta Water District (AWD) was incorporated by the Legislature in March, 1903 and approved by the legal voters of the City of Augusta in June of that same year. The new Augusta Water District assumed ownership (after a purchase price was negotiated) of the plant, property and franchises of the Augusta Water Company, a private entity that had been providing drinking water to Augusta and to the National Soldiers Home at Togus located in Chelsea. The source of drinking water at the time was the Kennebec River. The District was comprised of wards one, two, three, four, six, seven and eight in the City of Augusta, and was authorized to supply water to Chelsea, Vassalborough, China and Manchester.

In 1905, the Legislature authorized the Augusta Water District to take water from Carleton Pond and required the District to compensate the State for the loss of its fish hatchery and feeding station located on the outlet of Carleton Pond. Also in 1905, the Legislature authorized the Governor and the Executive Council to contract with the Augusta Water District to supply water for fire and other purposes to the State Capitol and grounds. Perhaps in fear of the charges that the State would face from this new arrangement, the Legislature also in 1905 reduced compensation for the three District Trustees from \$300/annum to \$100/annum.

In 1907, the service territory of the District was expanded by the Legislature to include East Winthrop. In 1909, the charter was once again amended by the Legislature to authorize the District to supply water to the City of Hallowell or to the State Industrial School for Girls, or both, with the consent of the City of Hallowell.

In 1923, the territory of the District was changed to exclude the Towns of China, Vassalborough and that part of Chelsea outside Soldiers' Home (National Home for Disabled Volunteer Soldiers). In 1927, the District Trustees got a raise to \$1200 per annum – to be divided among the three of them, with no trustee receiving less than \$200. (Note: While this provision has never been changed in the charter, in 1986 the Augusta City Council passed Order #358, increasing compensation to \$1,200 per year for the Board President and to \$900 for each of the two other Trustees.)

In 1959, Ward Five in the City of Augusta was finally added to the territory of the District. In 1975, the Legislature took its final action to date respecting the charter of the Augusta Water District when it expanded the district territory to such portions of the Hallowell as the trustees of Hallowell Water District may consent to and such portions of Chelsea as its municipal officers may consent to. Also in 1975, the Legislature repealed the District's authority to withdraw water from China Lake, but allowed it to withdraw water from Lake Cobbosseecontee, in addition to Carleton Pond. A provision that required any surplus at the end of each year to be paid to the City of Augusta, which had been in the charter since its original enactment in 1903, was repealed in 1975.

History of the Augusta Sanitary District

The Augusta Sewerage District was enacted by Private and Special Law in 1955 to “take over, control, manage and operate the sewers now owned by the City of Augusta”. Local ratification was strictly and cumbersomely defined by the Legislature, needing the support of two-thirds of the elected members of the Board of Aldermen and the Common Council in joint meeting (both bodies have since been replaced by a city council) and the Legislature required that any special election held to approve the charter have at least 20% of the votes that were cast by Augusta in the most recent gubernatorial election in order to be valid. The support of the Board of Alderman, the Common Council and ultimately the voters was received. The District was renamed the Augusta Sanitary District (ASD) by the Legislature in 1963.

In 1969, the District was authorized by the Legislature to lay a sewer line (the so-called “trunk” sewer line) from Winthrop to Augusta through Manchester and Hallowell, or either, to receive wastewater from Winthrop and areas along the line for treatment at the District’s plant on the Kennebec River. That change to the charter explicitly authorized contracts between the District and the Winthrop Water District, the Town of Manchester, the City of Hallowell and any quasi-municipal corporation or district formed or to be formed to treat sewage.

In 1974, this provision of the charter was amended to include authority to receive sewerage from the Monmouth Sanitary District into the trunk sewer at the pumping station in Winthrop.

The Districts Today

The Augusta Sanitary District has a \$5 million annual operating budget and 29 employees. The District provides wastewater treatment for four other municipalities – Hallowell, Manchester, Winthrop and Monmouth via one interlocal agreement – the so-called trunkline municipalities that were authorized by amendments to the charter in 1969 and 1974. The ASD also has separate agreements with Manchester and Hallowell to assist in maintaining the collection systems in both municipalities, which are owned by separate districts. The District serves 4,400 accounts and over 6,600 customers. The ASD owns and maintains over 105 miles of sewer main, 35 miles of dedicated storm drain system, 15 pump stations, a major wastewater treatment facility and a 1.5 million gallon storm water storage and transportation system to comply with federal requirements aimed at preventing combined sewage overflows.

The Augusta Water District has an annual operating budget of \$5.0 million and 22 employees. The District provides water to approximately 5,800 customers, primarily within the City of Augusta but also in Winthrop, Chelsea, Hallowell, Vassalboro and Manchester. The system includes 129 miles of water mains, six booster stations and 609 public and private fire hydrants. The District provides water from three groundwater wells located in Augusta. Back up sources are Carleton Pond in Winthrop and Cobbossee Lake. The District maintains its water treatment plant in East Winthrop. The AWD's rate structure is subject to regulation by the Public Utilities Commission (PUC).

Impetus to Merge

At the beginning of 2003, the Augusta City Council set as one of its goals an examination of the organizational structure, workings and finances of the two Districts. The purpose of the examination was to determine if costs savings could be realized through consolidation of services or a merger of the Districts, including an option to bring district services into the operations of city government. A Task Force was appointed and made its recommendations a year later, in January 2004, to bring the two Districts into city government as bureaus in order to save an estimated \$600,000.

That report dated January 9, 2004 is entitled, "Report of the City of Augusta Utilities Committee". The recommendation in the report to fold water and sanitary into departments of the City became very controversial, particularly among district employees, District Board members and among the municipalities outside of Augusta served by one or both districts that feared a decline in service if system maintenance dollars, for the parts of the system outside of Augusta, were being budgeted by the Augusta City Council.

This recommendation was ultimately abandoned in favor of the report's secondary recommendation to at least consider merging the two existing districts into one Augusta Utilities District. A letter dated April 5, 2004 from the Mayor of Augusta to the Chairs of the Boards of both Districts, contained the following:

...We felt that if a plan can be developed jointly by the two boards that accomplishes in a reasonable time the

merger of the two districts into one and also effectuates cooperative agreement between that one entity and the City for additional operational efficiencies that we would be satisfied. The Council and I feel, at this time, that pursuing the absorption of the districts into City government is too much of an undertaking and likely too controversial (if the former can be accomplished).

On April 16, the Chairs of both Boards responded by letter to the Mayor that “We are in the process of beginning strategic planning sessions and anticipate submitting within the next ninety days an outline and timeline for effectuating a merger in accordance with your request.”

The next steps would have been easier for the Augusta Sanitary District and the Augusta Water District if a manual like this had existed but none did. It’s hoped that the experience of the Augusta districts is useful to other quasi-municipal corporations in pursuit of operational efficiencies.

CHAPTER II: Philosophy that Shaped the Approach to the Merger

At the beginning of the merger project, the two District Boards met jointly on a periodic basis to discuss and plan for the merger. Each Board continued to meet separately to act on individual district business. At an early Joint Meeting of the Two Boards, a strategic discussion was made to approach the merger deliberately and slowly, taking as much time as was necessary to get it right. It was decided by the Joint Board to pursue an Interlocal Agreement pursuant to the enabling statute in Title 30-A, Chapter 115, the Interlocal Cooperation Law rather than to move immediately to the creation of a new merged entity with a new charter.

This law (see Tab A) allows one public agency, i.e. the Augusta Sanitary District, to exercise its powers, privileges and authorities jointly with another public agency, i.e. the Augusta Water District. Using this Act, a “Consolidated Board” was created to administer the joint undertaking of the merger and all the business of both districts, allowing the merger to advance in phases over a two-year period.

The typical approach to a merger of two quasi-municipal entities would have been to start by convening all the stakeholders to draft a new charter, then to take that charter to the State Legislature, crossing your fingers that it would be enacted, and then to start the actual process of merging the functions of the two entities once permission of the Legislature had been granted. Using the Interlocal Cooperation Law to consolidate the Boards and to methodically and strategically implement the merger in phases

over a two-year period was a somewhat novel approach to the merger. This approach would end with the drafting of the new charter and enactment of that charter by the Legislature, rather than starting with that step.

The Interlocal Agreement approach to the merger was chosen because:

1. An incremental merger process would allow for successes to be demonstrated along the way, which would be the best advocacy for a full merger that could be mounted.
2. The controversial atmosphere that created the impetus for the merger was charged with lingering concern and skepticism about hidden agendas and ulterior motives. Slowing the process down and approaching the merger methodically and incrementally created the best hope for changing that dynamic.
3. Approaching the Legislature at the beginning of the process, to seek permission to merge, would have created a bigger venue for the charged atmospherics to play out. The issue of “whether to merge” is a local/regional issue but would have been transformed into a statewide issue, as vested associations of other quasi-municipal districts would have weighed in to the debate in front of the Legislature.
4. The Legislature is always uncomfortable when it’s put in the position of arbitrating a local issue. The Legislature typically prefers adding its blessing to a locally mediated solution accepted by all the local parties and interests. Going to the Legislature with more questions unanswered than answered would have resulted in a setback, perhaps a permanent one.

5. Merging two established quasi-municipal districts with a lot of history is complex. This approach created the opportunity to address each complexity head-on in an incremental manner, providing opportunity for strategic input to those who feared the change and preferred the status quo.

CHAPTER III: PHASE ONE: Getting Started

Coordinating the Two Boards to Act as One

This case study has proven the importance of tackling the issue of board communications and cooperation as early in the merger process as possible. This merger came to that conclusion before it was too late but should have come to it sooner. Some angst and “fits and starts” would have been avoided if the actual consolidation of the Board had happened sooner than it did.

Initially, as planning for the merger began in earnest, the Boards of the Augusta Sanitary District and the Augusta Water District would meet individually to discuss the merger. Relationships became tested as one Board or the other was the first to tackle a particular issue, making the other Board feel much like a rubber stamp in order to prevent the merger from devolving into further controversy. It soon became apparent that communications would improve if the two Boards met jointly to plan for the merger while continuing to meet separately to act on individual district business.

Joint meetings of the two Boards would be held periodically to discuss merger related business. The meetings were awkward and a bit cumbersome as motions and votes had to be conducted separately by each Board, as the joint board had no authority to act jointly.

This joint-but-separate method of Board interaction worked for a period of time but it soon became apparent, as the merger advanced, that there really was no such thing as individual district business. Issues confronting one district

would impact the merger in some indirect or direct fashion and it was unavoidable that sanitary and water district business would become inextricably intertwined as the phases of the merger moved toward implementation. Once the two Boards formed the Consolidated Board through the interlocal agreement, communications drastically improved and difficult decisions related to the merger that had been postponed began to be made more quickly.

This chapter will describe the process used by this case study but the experience revealed a better approach would be to officially consolidate the Boards as soon as possible at the beginning of the merger process to improve communications and to start to develop the trusted relationships that will prove crucial to the ultimate success of the merger. In this case study, the functioning of the Boards drastically improved once they were officially consolidated pursuant to the interlocal agreement.

Shared Goals and Guiding Principles

At one of the first Joint Meetings of the two Boards to discuss merger related business, a set of **Goals and Guiding Principles: Planning for a Merger** was adopted (see Tab B). As important as it was in that document to establish clearly articulated goals and an approach to the merger (to be discussed in Chapter V), it was as important to clearly state the principles that would guide the Board Decision-Making Process.

As stated earlier, the Boards had already encountered jurisdictional issues over the merger and clearly appreciated the need for an improved decision-making process. That

document, developed at the beginning of the merger process, was farsighted enough to establish three critically important principles:

1. Matters related to the merger would be jointly developed and overseen by both Boards.
2. The Managers of the Districts (the General Manager of the Augusta Water District and the Superintendent of the Augusta Sanitary District) would work on the merger with a subcommittee of the Board, comprised of the Chairs of each Board.
3. The Chairs of both Boards attended all Board meetings, i.e. the Chair of the Augusta Sanitary District attended all meetings of the Augusta Water District in addition to attending all Joint Meetings, and vice versa.

These three working operating principles delegated a significant workload and time commitment to the two board chairs who found themselves meeting with the managers to advise the work of the merger twice per month; attending Joint Board meetings once per month; and attending individual district board meetings twice per month. The merger added 4 meetings each month to their schedules. While this process worked for this case study, and worked fairly well, another merger would likely not be able to count on this significant time commitment from board members.

That time commitment was critical however to smoothing the working relationship between the two Boards, allowing them to come together in joint meetings to address significant issues related to the merger efficiently and thoroughly.

It would be almost seven months before the Boards became consolidated through the interlocal agreement. That consolidation reduced the number of meetings each month and effectively eliminated the distinction between water district related business and sanitary district related business and allowed difficult decisions related to the merger that had been languishing to get decided. If at all possible, efforts to consolidate the Boards through an interlocal agreement should begin as soon as possible.

A Realistic Timetable for the Merger Process

The **Goals and Guiding Principles** developed and jointly adopted by the Boards included an important decision to “immediately begin the merger of functions, *progressively, and over several phases* (emphasis added) ultimately leading to a full merger of the two Districts into one entity.”

At the time, the Boards were under very real pressure, articulated in a letter from the Mayor of Augusta, to achieve the merger and the savings that would result “in a matter of months, not years.” For the reasons stated in Chapter II, the Board decided to prepare a “sequence of events” that would lead to the merger instead of a timeline that committed to the merger by a certain date.

This decision was not a sign of jurisdictional infighting between a city council and the board of an independent quasi-municipal district. It was a pragmatic decision made with the end goal of a successful merger in mind. It was clear that most of the savings would come from reductions in personnel and employees of both districts were extremely concerned

about potential job losses. Another of the principles adopted by the boards and contained in the **Goals and Guiding Principles** was that “elimination of positions, when and if contemplated, will, as much as possible, be achieved over time through attrition.” This important decision allowed the merger to get planned in a more constructive working environment.

The other very real practical consideration facing the Boards was that while significant savings from the merger were forecasted, no one had peeled back the onion to discover what obstacles might stand in the way of the merger and make those savings disappear. To keep the merger on track and to convince the skeptics that the Boards were indeed committed to a full merger, a sequence of merger events was created and it was estimated that the sequencing would take two years to complete. The first district function to be merged in that sequencing was the office or financial and accounting system and the last function in that sequence of mergers was to be the management and administration. Everyone expected that some significant savings would come from reducing two chief executives to one but the boards originally contemplated merging that function last. It ultimately didn’t work out that way, for reasons that will be explained in Chapter VI.

Assignment of Merger Planning and Conflict Resolution to a Joint Subcommittee

We didn’t understand the significance at the time of the move to create a subcommittee of the Board to work with the Managers on each phase of the merger. That subcommittee always included the chairs of the two boards and both managers and the consultant that was hired to facilitate the merger. Depending on the topic being analyzed,

the subcommittee also included the Human Resources Director for the districts (see Note below).ⁱ

That subcommittee eventually became known as the Merger Committee. It's within that Committee that issues were analyzed and recommendations were developed for the Boards meeting jointly, later the Consolidated Board. Only very rarely were recommendations developed by the Merger Committee rejected by the Boards or by the Consolidated Board. As will be seen in Chapter VI, these recommendations were sometimes controversial, often with a significant price tag. Many of the recommendations could have stymied the merger in its tracks, but for the respect that the Boards developed for the diligent and hard work of the Merger Committee. It's not likely that these issues could have been as effectively prepared by the full Boards, either jointly or individually.

The Merger Committee, or the Joint Subcommittee as it is referred to above, was also the place where the often divergent perspectives of water and sanitary came together in a unified recommendation. The Merger Committee never took a recommendation to the Boards or Board that didn't reflect a consensus position. This is easier said than done and the one sentence doesn't give justice to the work that was required

ⁱ The Augusta Water District and the Augusta Sanitary District had already, long before a merger was contemplated, each contracted with the City of Augusta to share the services of the City's Human Resources Department.

within the Merger Committee to make it real. But when you're merging two long-standing independent entities that had developed operational cultures all their own, both perspectives had to be reflected in the final outcome, particularly because of the phased-in approach to the merger that had been adopted by the Boards.

A Communications Strategy while the Boards Remain Separate

Communications between the two Boards was improved when the chairs began attending the meetings of both Boards. Each chair commanded the respect of their own board and became a respected communicator about the decisions made by the other board. Communications improved even more drastically when the boards became consolidated.

This communications strategy completely depended on the willingness and ability of the chairs to devote the extra time to the merger process. It shouldn't be expected that all mergers will benefit from this kind of commitment.

As previously concluded and stated above, effective communications will most readily be achieved by consolidating the boards as quickly as possible through an interlocal agreement. If that option takes more time than anticipated or isn't feasible at all, it is absolutely essential that a communications strategy is developed and committed to.

A merger is a tricky business and can quickly become perceived as a hostile take over; one board kept in the dark can

quickly become used by those who want to argue, “if it ain’t broke, don’t fix it”; one board that feels left out or “out of the loop” will become defensive when it’s time to stand up to difficult decisions.

The strategy that this case study used might not work for others. Find one that does.

CHAPTER IV: PHASE TWO: The Interlocal Agreement that Consolidates Two Boards into One

Interlocal Cooperation Act. Maine's Interlocal Cooperation Act, is found at 30-A MRS § 2201-2207, and was originally enacted in 1963. The Act is short, simple and straight to the point. It enables public agencies, defined by the law to include quasi-municipal special purpose districts, to exercise jointly with other public agencies any "power, privilege or authority" that the single public agency is capable of exercising on its own. Using this statute, what one public agency is authorized to do, it can do jointly with another public agency.

The Act, although simple, is powerful. By signing the interlocal agreement on April 13, 2005, the Augusta Sanitary District and the Augusta Water District delegated its separate powers to a Consolidated Board that combined both boards into one board, surrendering each districts' independent powers, privileges and authorities. A simple but bold concept that has major ramifications for the individual districts.

The Maine Municipal Association publishes an *Interlocal Cooperation Manual* that can be used as a resource for public agencies contemplating the use of this statutory tool. For the purposes of this case study, this chapter will outline the approach that the two districts took to creating its own interlocal agreement.

Public agencies have a great deal of flexibility in creating an interlocal agreement. In fact, the statute itself

states that it is to be construed liberally, specifically in §2203, sub-§7:

7. Liberal construction. It being the intent of the Legislature to avoid the proliferation of special purpose districts and inflexible enabling laws, this chapter shall be liberally construed toward that end.

This means that the purpose of the Interlocal Cooperation Act can't be frustrated by insignificant technical or procedural inconsistencies. The Act is an invitation for public agencies to join together wherever, whenever and for whatever purpose. While creativity is clearly encouraged, the Act does require that every agreement must be in writing and must contain certain provisions. This chapter will later go through all the explicit provisions that the law requires to be addressed in the written agreement, but first, some general background about the purposes of the interlocal agreement jointly developed by the Augusta Water District and Augusta Sanitary District will be described.

General Background: The ASD and AWD Agreement.

The interlocal agreement made by and between the Augusta Sanitary District and the Augusta Water District had one purpose – to establish and create a joint board of directors (the “Consolidated Board”). All of the powers of each of the existing Boards of the ASD and the AWD were delegated by the agreement to the Consolidated Board. The Board of Trustees of the AWD ceased to have any power, as did the Board of Commissioners for the ASD, once the agreement became effective. The ASD and the AWD maintained their separate existing legal status and maintained their separate assets, liabilities, income streams and expenditures. There

were a couple of exceptions to this wholesale delegation (see # 6 below).

Mandatory Components of an Interlocal Agreement. Any interlocal agreement created under this Act must specify the following:

1. **The duration of the agreement.** In this case study, the interlocal agreement was an interim step toward an actual merger of the two districts. The plan was to bring a proposed new charter to the Legislature in two years, so the duration of the agreement wasn't a difficult decision. The AWD and ASD chose to use a five (5) year duration, "if not sooner terminated by a legislatively authorized merger or consolidation of the ASD and the AWD. Absent a legislative authorized merger or consolidation, the Agreement will expire at the end of the five-year period, unless renewed by mutual agreement of the ASD and AWD."
2. **The precise organization, composition and nature of any separate legal or administrative entity created by the agreement together with the powers delegated to that entity, provided the entity may be legally created.** The ASD and AWD interlocal agreement did not create a separate legal entity. The Augusta Water District and the Augusta Sanitary District, for all legal purposes and intents, remained as separate entities to be governed by the Consolidated Board created by the interlocal agreement. A new entity would be chartered by the Legislature later in the process after all the functions of the two districts had

been effectively merged, under the oversight and direction of the Consolidated Board.

3. **The purpose of the agreement.** While this section of the agreement is straightforward and uncomplicated, it should also be used as an opportunity to create the policy justifications for the authorities, powers and privileges that are going to be shared. In this case study, it was important for the AWD and the ASD to explicitly state the commitment of both boards to the consolidation to convince remaining skeptics that the boards were serious about the merger while they were taking the time to advance it strategically and incrementally. It was also important to state the purposes of the eventual merger, not just the purpose of the agreement.

The purpose section of the agreement should be clear and precise. Often purpose sections are written hazily and imprecisely, that's not recommended here. The sharing of power among public agencies is a serious matter that should be carefully considered and expressed. In this case study, the ASD and the AWD were surrendering individual powers over issues that were often controversial and very public. The absence of precision with regard to the purpose and scope of an interlocal agreement may also lead to similar imprecision in the future execution of the shared powers.

4. **The manner of financing the joint or cooperative undertaking and of establishing and maintaining a budget for the undertaking.** Under the terms of the

interlocal agreement, the ASD and AWD prepared separate annual budgets for each fiscal year. The agreement further allowed the Directors of the Consolidated Board to direct the ASD and AWD to establish reserve funds, or establish a budget for costs and expenses for conducting the business of the Consolidated Board, or to provide funding for any projects which the Consolidated Board may deem prudent in its independent capacity as the Consolidated Board. The Consolidated Board did not hold any assets, did not enter into any contracts for obligations – it merely directed the governance of the AWD and ASD.

Contributions and fees for expenditures of the Consolidated Board were assessed to the ASD and AWD respectively based upon a sharing that the Directors determined to be reasonable and necessary on a case-by-case basis, usually 50/50 although not always.

- 5. The method to be used to partially or completely terminate the agreement and to dispose of property upon termination.** The interlocal agreement contained three methods for terminating the agreement – breach; withdrawal; and dissolution.

Breach. The ASD or AWD was deemed to be in breach of the Agreement if either failed to appropriate or make timely payment of its share of the costs, or if either failed to perform or comply with any terms, provisions or conditions of the Agreement. The agreement required that notice be provided with

opportunity to correct the breach, to be not less than thirty (30) days. If the breach remained after that period, the Directors were empowered to take any legal action available under Maine law, if it shall have first participated in or invited the Member (ASD or AWD) to participate in alternate dispute resolution.

Withdrawal. The ASD or AWD could withdraw by an affirmative vote of the Board of the withdrawing member (ASD or AWD). The withdrawing member has to provide notice of at least 120 days of its intent to withdraw. The effective date of the withdrawal was to be the first day of the month following the end of the notice period. The agreement provided that at the time of withdrawal, the withdrawing Member had to pay to the other Member the entire amount of all and any damages including without limitation reasonable attorneys fees and costs as may be allowable under Maine Law.

Dissolution. The agreement provided that the Consolidated Board was to dissolve upon the affirmative vote of five Directors (out of 6). In the event of dissolution, each Member was to assume its proportional share of any pending expenditure(s).

6. **If the agreement does not establish a separate legal entity to conduct the joint or cooperative undertaking, the agreement must provide for an administrator or joint board responsible for administering the joint or cooperative undertaking. In the case of a joint board, all public agencies party to the agreement must be represented.** As

has been previously stated, this interlocal agreement did not create a new legal entity – the ASD and the AWD remained as separate legal entities. The agreement’s primary purpose was to create the joint board addressed by this section of the law. While some of the other sections of the agreement required significant amounts of research to support the adopted language, this section commanded the most deliberation by the Trustees and the Commissioners of the ASD and AWD.

Board of Directors. It was decided simply to merge the existing membership of the separate boards and create six (6) directors of the Consolidated Board. Each of the duly appointed Commissioners of the ASD and the Trustees of the AWD served on the Consolidated Board in the dual capacity as Commissioner or Trustee of the ASD and the AWD, and served jointly as a Director of the Consolidated Board. The terms were to be coincident with and mirror and be identical to the terms of their respective appointments to the ASD or AWD. In this manner, no change in power affected the appointing authority, in this case, the Mayor of the City of Augusta and the City Council.

Terms were for the same term as their respective existing terms. The status of service as a Director of the Consolidated Board was entirely derived through the status of appointment as a Board member of the existing ASD and AWD Boards. If service as an ASD or AWD Board member became terminated, service as a director on the Consolidated Board would also be terminated. Vacancies on the existing

Boards of the AWD or AWD created vacancies on the Consolidated Board. Any new Commissioner or Trustee appointed to such Board automatically became installed as a member of the Consolidated Board.

Meetings. Four (4) Directors were necessary to constitute a quorum. Meetings constituted meetings of both the Consolidated Board and meetings for the existing ASD and AWD Boards respectively for all lawful purposes. Notice requirements for meetings were identical to those required for the ASD and AWD Board meetings.

Officers. It was decided that both the ASD and the AWD needed to have a member acting as a Co-Chair of the Consolidated Board. Other than the two Co-Chairs, the Consolidated Board had no other officers.

Voting. If the agreement were to specify that the Consolidated Board could act by a majority vote, the potential existed for a matter primarily relating to the affairs of the AWD being decided by the 3 Commissioners of the ASD plus one minority member of the AWD Trustees, and vice versa. This provision garnered a lot of discussion.

To make matters a little more complicated, the Interlocal Cooperation Act states, “no essential legislative powers, taxing authority or eminent domain power may be delegated by contract to a joint authority or administrative entity.” We had already decided to keep revenue and rate-setting separate, primarily because rates for the AWD were regulated by the

Public Utilities Commission. It was also a fairly simple thing to make sure that eminent domain authority wasn't delegated, as it is rarely and only judiciously used. The matter of delegating legislative powers was a bit more complex, since special purpose districts have limited legislative powers when compared to other types of public agencies that were also covered by the terms of the Act, such as municipalities.

This statutory provision ultimately played in to the resolution to the voting issue. It was ultimately decided, and the Agreement reflected, that the act of a simple majority of the Directors constituted an act of the Consolidated Board. However, votes relating to some items required the affirmative vote of not less than four (4) Directors, with not less than two (2) Directors serving on the Board of the AWD and two (2) Directors serving on the Board of the ASD comprising the final vote. Those items requiring such a vote were: entry into contractual obligations including, without limitation, acquisition and sale of assets, payments of liabilities and contracts with employees or manager; legislative functions of the ASD or AWD, including without limitation, authorization and approval of budgets; and such other votes as may be prohibited by law to be delegated to the Consolidated Board. Votes on these matters would require the affirmative vote of not less than four (4) Directors, with not less than two (2) Directors serving on the Board of the AWD and two (2) Directors serving on the Board of the ASD.

7. **If the agreement does not establish a separate legal entity to conduct the joint or cooperative undertaking, the agreement must provide the manner of acquiring, holding and disposing of real and personal property used in the joint or cooperative undertaking.** Again, the ASD and AWD remained separate legal entities and maintained separate real and personal property assets. As reported under #6 above, any vote of the Consolidated Board to acquire or sell assets required at least two (2) directors voting affirmatively from the AWD and from the ASD.

8. **Any other necessary and proper matters.** The agreement between the ASD and AWD contained two more important provisions, one outlining the powers of the Consolidated Board and the other outlining a process to amend the agreement.

Powers of the Consolidated Board. The enumerated powers mirrored the powers granted individually to the AWD and ASD by their respective charters. No powers were limited, expanded or changed, except with respect to the special voting required on those identified items.

Amendments to the Agreement. The ASD and AWD agreed that a vote of at least five (5) Directors would be required to make substantive amendments to the Agreement.

Regional Council Review. There is a provision in Title 30-A, §2342, sub-§6 that requires interlocal agreements to be submitted to the relevant regional council if the agreement

intends to jointly develop or operate physical facilities and services for the performance of municipal or regional functions. This provision did not pertain to the interlocal agreement between the ASD and AWD as it was not developing new facilities or services -- so it was not submitted to the Kennebec Valley Council of Governments, the regional council that represents the City of Augusta. Later in the merger, when a new charter is drafted for consideration by the Legislature, this section will require that the new charter be reviewed by the Kennebec Valley Council of Governments to determine issues of regional significance.

State Agency Review. Early in the legislative history of the Interlocal Cooperation Act, a controlling role for the State was envisioned. Agreements had to be reviewed and approved by the Attorney General. Now, in an effort to entice more public agencies to do more together, the state agency role is rather benign. The Act now requires that agreements be submitted to state agencies having constitutional or statutory power of control over any of the services or facilities being shared or provided in the agreement. The agreement has to be submitted for review before becoming effective.

The state agency review has to be complete within 30 days of submission. Any state agency concerns with the agreement have to be stated in writing. The state agency's review is limited to substantive matters where the agreement grants or undertakes any powers or responsibilities in conflict with the state agency's responsibilities under the Constitution or state law. Since interlocal agreements are primarily concerned with procedural matters, the state agency review is often limited in scope.

In the case of this interlocal agreement, it was submitted to the Public Utilities Commission, the Drinking Water Program in the Department of Health and Human Services (DHHS) and to the Land and Water Quality Bureau in the Department of Environmental Protection (DEP). The PUC provided no comment; DHHS applauded the arrangement and made no suggested changes; and, DEP made some minor but helpful suggestions.

Filing of agreement. Before becoming effective, an agreement must be filed with the clerk of each concerned municipality (interpreted in this case to mean the each concerned district) and the Secretary of State.

Commissions

Division of Corporations and UCC
Bureau of Corporations, Elections and
Department of the Secretary of State
101 State House Station
Augusta, Maine 04333-0101

Chapter V: PHASE THREE: Planning for the Merger (Peeling the Onion)

A merger seems like a simple feat to accomplish – after all, mergers happen all the time in the private sector as national franchises acquire community banks and better-financed companies gobble up vulnerable companies. Newspaper headlines announce private mergers but never report the behind-the-scenes planning and strategies that are necessary to successfully manage and execute the merger.

Indeed, one of the challenges facing the merger of the ASD and AWD was the expectation that it could be accomplished overnight if there was the will to do it. Frankly there is a faster way to merge than the incremental and deliberate method that was chosen. Faster is not always better and almost certainly in this case would have been messier, and perhaps unsustainable in the wreckage that would have been caused, both politically and figuratively.

Identifying, inventorying and analyzing all the issues that needed to be addressed to implement the merger was a process we called “peeling the onion”. It seemed that the more we focused, the more layered and complicated that onion became. We knew we were dealing with different labor unions, we knew we were dealing with significantly different personnel policies and pay scales, we already were aware of the need to amend workers’ compensation policies to make sure coverage would be provided to interchangeable personnel as functions became merged, etc. Even this advance appreciation for the complexity didn’t adequately prepare us for the number of issues we’d discover by peeling the onion.

The planning team consisted of a contracted consultant and the two managers of the districts with assistance as necessary, from legal counsel and the human resources director. By examining every conceivable layer of the onion, the planning team was able to develop an implementation strategy and a budget for the merger to be recommended to the Merger Committee (the subcommittee of the boards).

What follows is a description of the layers we identified, inventoried and analyzed to determine what issues and expenditures needed to be addressed to eventually execute the merger. They happen to be in the order we tackled them, this order may not be the right order for other entities and it can be influenced dramatically by the timing of the expiration of insurance coverages, collective bargaining agreements, etc.

1. **Identify the Stakeholders/Develop a Proactive Communications Strategy.** Machiavelli, when he was in prison authoring “The Prince” commented that change was a very difficult challenge because the change agent can only expect lukewarm support from those that will benefit from the change but hostile opposition from those that are vested in the status quo. The beneficiaries of this change would be the ratepayers – who might not actually see a reduction in rates but would certainly see hundreds of thousands less spent on operations each year once the merger was completed. The ratepayers were mostly silent during the merger process, the lukewarm support Machiavelli referred to. The entities and people invested in the status quo – in this case, the municipalities that contracted with ASD for sewer treatment, collected over a trunkline; the employees of both districts; in

some cases, the boards of both districts – would become hostile in their opposition if an effective strategy to remain in communication during the merger process wasn't developed.

“If it ain't broke, don't fix it” is the slogan of the people invested in the status quo who are scared about the change being proposed. It's an excuse for inaction that has too often derailed important problem-solving steps. Communications is the best remedy to get support for change. That's why this step is first in this stage of the planning process.

The entities and stakeholders that need to be communicated with need to be identified first thing and a strategy developed for communicating with them. In this case study:

Augusta City Council: Because the Council was instrumental in getting the merger process started and because of the Council's skepticism about the commitment of the District boards to the merger, the Mayor and Council needed to be regularly informed of the merger's progress. A commitment was made to brief the Council in public session at least once every six months, more often if necessary. It turned out to be necessary for more frequent briefings, as the timing of significant events in the merger didn't always coincide with that six-month schedule. The briefings were made by one of the board chairs, when the boards were separate, and by the co-chairs of the Consolidated Board after the boards were joined pursuant to the interlocal agreement.

Trunkline municipalities: These are the four municipalities outside of the City of Augusta who were under contract with the Augusta Sanitary District (Hallowell, Manchester, Winthrop, Monmouth) for collection of sewerage over a common trunkline for treatment at the ASD plant. These municipalities had contracted interest in making sure that the merger didn't interfere with the service they were paying for or didn't result in higher fees for them. These four municipalities were important stakeholders and a commitment was made to regularly meet with them to keep them informed regarding significant events related to the merger. Meetings were held at least twice a year with the trunkline municipalities. The superintendent of the Augusta Sanitary District provided the updates to these municipalities, sometimes aided by the project consultant.

Press: Accessibility to the print and electronic media is important. Thought should be given in advance as to who will be responsible for communicating with the media - it should be someone directly involved with decision-making that the reading public can hold accountable. It should not be the consultant. A guiding principle was established for this case study to have all inquiries from the print and electronic media related to the merger directed to the Chairs of the Boards for a response.

Employees: The managers went out of their way to address employee concerns and to be accessible to answer any questions at any time. When significant

events occurred, the employees of both districts were called together for a joint briefing. The Board chairs were always present at those briefings. Accessibility to employees throughout the process is the key communications strategy – there should be no barriers to upward communication.

Ratepayers: Both districts had newsletters that were used to keep ratepayers updated on the status of the merger. Ratepayers were also updated from the area newspaper coverage that followed each briefing of the Augusta City Council. The Chairs also met with the editorial board of the area newspaper when significant events in the merger needed to be reported.

2. Conceptual Organizational Chart for the Merged Entity

Actually compiling an organizational chart that created a working structure for both entities was a very useful beginning exercise. It provided essential grounding for the merger, although the draft organizational chart evolved as the merger progressed. It's also important to always keep in mind that changing the working conditions of union employees has to be collectively bargained, so the chart was conceptual only as part of a planning exercise.

The draft chart enabled the planning committee to create an informed timeline for the merger, with an appropriate sequencing for the phased in merger of various functions. Existing vacancies influenced decisions regarding which functions should be merged

first and vacancies that occurred throughout the merger timeline influenced the sequencing, too. The boards had committed to achieving position reductions over time through attrition, which required the planning to be adjusted when vacancies occurred. In actuality, the 7 position reductions that resulted from the merger were achieved through the establishment of an Exit Incentive Program (see Chapter VI); attrition; and in the case of the managers, negotiation of a separation agreement.

3. Sequencing of Merger in Phases

The combined functions of the two districts were divided into: Office (financial and accounting systems); Laboratories; Maintenance and Controls; Engineering and Operations; Construction (Road) Crews and Executive Management. These functions were going to be merged in a sequence. Merged functions, by the way, were greater than a consolidation of the work force. The functions were considered “merged” once job descriptions had been revised according to the draft organizational chart AND positions had been placed on a new common salary band.

The Office function was the first to be merged, based on an existing vacancy in the management of that department. The order of the remaining phases of the merger was influenced by two principles: the union employees (construction/road crews) would be near to the end of the merger to give as much time for successful negotiation of a new contract as possible and the evolution from two to a single general manager

would be last, keeping both general managers engaged in the merger planning process as long as possible. The most important decision wasn't the exact order of the merger phases, but that the merger was going to be accomplished in an orderly, phased manner, giving time for new learning and adjustment as the merger progressed.

This merger began, as planned with the Office. The merger of the Labs was delayed and Maintenance was pushed up because of vacancies that occurred in the maintenance department. Engineering followed, but then the sequence was readjusted when circumstances dictated that it was time to go to a single general manager. Both general managers were committed to the merger and both concluded at the same time that with more and more functions actually being merged, it was getting harder for the organization to have two heads. The rest of the functions were merged in accordance with the original planned sequencing.

4. **Space Needs of Merged Entity.** The Augusta Water District and the Augusta Sanitary District were operating out of four separate locations – the AWD office and garage on the same campus; the ASD office and garage in a different but common campus; the ASD Treatment Plant; and, the AWD Treatment Plant.ⁱⁱ

ⁱⁱ The AWD Treatment Plant was idled during the merger process when the district began to use groundwater wells for its water supply, so the number of operating locations effectively became three.

Existing spaces need to be inventoried and projections need to be made regarding the space needs of the merged entity. This analysis is an important component of the planning process. A merger isn't just about merger of function and employees, but a merger of space that needs to happen in an informed manner.

5. **Compatibility of Operating Systems.** This layer of the onion certainly isn't as exciting as other layers, but operating systems are fundamental to the successful functioning of any organization.

Financial Management Systems (accounting software, billing software, payroll)

Computer Systems (internet, email, user groups, networking)

Radios

Telephone

If other experiences are similar to this case study, systems will be incompatible and significant investments to develop a common operating system will be required. In this case study, over \$70,000 was expended in the first six months on a new phone system, new computer equipment, a new server, a new radio tower and new software.

6. **Legal analysis.** Before the interlocal agreement could be developed, some legal analysis of existing obligations and commitments of the individual districts was required to make sure that those obligations and

commitments wouldn't be inadvertently defaulted on by any phase of the merger. It's not likely that this analysis will reveal any major impediment to the merger, but it's still important to examine any special or unique provision in any legal document that could be upset by a merger. For example, we discovered that an ASD bond covenant required the finance manager to be bonded, a provision that would have been ignored without this examination.

The following legal documents should be examined:

Charters

Bond Covenants

State law and regulations

Other existing contractual obligations

7. **Collective bargaining agreements.** Collective bargaining agreements should be reviewed to make sure that actions taken to implement the merger don't offend provisions in the agreement. While it's understood that changes to working conditions and compensation will have to be collectively bargained before those changes can be applied to employees covered under the contract, it's still important to get grounded in the agreements to understand all the provisions in it that could be affected by any aspect of the merger.
8. **Insurance coverages.** It's important to notify all insurance providers to make them aware of the merger activity, including the workers' compensation carrier,

the health insurance carrier, and the general liability carrier. In this case study, once the various functions were merged, there were employees from either district cross-trained to perform the work of both districts, potentially affecting liabilities. In this case study, the new finance personnel were added to both district policies. No additional changes were necessary to the existing coverages until the final and actual merger became effective.

9. **Operational Policies and Procedures.** An office develops operating policies and procedures, some of which are in writing, others that are not. An effective merger requires that these policies be identified and analyzed for inconsistencies so that a common set of operational policies and procedures can be put into effect by the first phase of the merger. Policies and procedures that fall into this category might be safety training, disaster recovery or emergency response procedures.

Now with all of the various layers of the union inventoried and analyzed, an actual plan for implementation of the merger can be put together.

CHAPTER VI: PHASE FOUR: Strategies for Implementing the Merger

This phase of actually taking steps to merge the two Districts is possible because: the two Boards created an operating set of goals and guiding principles; the two Boards developed a realistic timetable and communicated those expectations to the stakeholders; an interlocal agreement that creates one Board to manage the affairs of both districts, including all the efforts related to the merger, has been signed and filed with the Secretary of State's Office; and all the issues potentially affected by the merger have been identified and thoroughly analyzed.

The decisions in this strategy-implementing phase are often difficult, egs. how much more do we have to spend before we actually begin to realize some of the savings from the merger, which frankly, are what the ratepayers are expecting? Do we have to build a new facility to house the merged workforce and wouldn't that fly in the face of the same expectations for significant savings? How many positions are really needed to perform the merged laboratory function? These decisions are hard, but are easier to make, because of the work already accomplished in the first four phases. The strategies are better informed by the analysis and the time the two Boards have spent working together in the first four phases has better positioned them to confront the challenging and often controversial decisions of implementation.

1. **Merger Budget.** The merger budget became an internal working document for the Consolidated Board to forecast and keep track of expenditures necessitated

by the merger and to project and track savings related to the merger. The forecast of expenditures was critical to the Consolidated Board who would have otherwise grown frustrated with the accumulation of costs when the point of the merger was to save money. The tracking of savings kept those expenditures in perspective but also was useful documentation for other stakeholders who were in a position to judge the benefits of the merger, partially by the amount of money saved.

If this merger is typical, it will be necessary to spend money in the first year for a facilities master plan because the preliminary analysis conducted in Phase Three concluded that existing space was inadequate to house the merged entity; for project coordination; and for new operating systems. In the first year, this merger spent \$107,000, split equally between the two districts. Savings of \$ 147,800 were also documented in the first year from three vacancies that did not need to be filled because of the merger of the office staff; reduced operating costs through shared fleet maintenance; and reduced capital costs through the joint purchase of a truck sander (an item that was included in the capital budget of both districts).

In the second year, expenditures related to the merger included legal fees for the preparation of the interlocal agreement; continued project coordination; modifications to office space; an insurance broker to consolidate insurance packages; labor negotiations consultant; and some capital purchases related to the radio communications system and a new maintenance

building. Savings resulted from more reductions in personnel; further reductions in operating and capital costs; and lease revenue from office space that was vacated.

Other expenditures made necessary by the merger were the Exit Incentive Program (discussed below) and software for a joint customer bill. Both of these items were scheduled for expenditure in the third year.

The merger budget was a planning and a tracking document, it wasn't intended as an accounting tool. It was most useful as a planning document so that expenditures were forecasted ahead of time and compared to the savings that were being realized. The merger budget gave the Consolidated Board the context it needed to make spending decisions that had the potential to be controversial. **Mergers always create expectations of savings but they always require investments to be successful.**

As the merger progressed, new opportunities for savings from shared capital and merged operations became obvious, that weren't originally forecasted. For example, the joint purchase of water treatment chemicals saved \$700 annually and the shared use of one district's VacTruck and the other district's Backhoe saved over \$100,000 in capital expenditures. It's important to remain open and vigilant for these opportunities, the savings can be significant and should be quantified in the Merger Budget.

2. **Facilities Master Plan.** An RFP was issued seeking professional assistance in evaluating the possibility of combining both districts' operations onto one site. Existing space conditions were analyzed and the space requirements for a combined operation were determined. The study concluded that significant compromises would be required for any of the existing sites to accommodate the merged operation and that neither office site provided an efficient base from which to conduct merged operations.

This conclusion prompted the boards to consider alternative locations – up to 9 months of time was lost to the merger while alternative locations were studied. Alternatives that were studied included existing spaces and new construction – all these alternatives either required significant new investment and/or created the wrong image for the merger that was supposed to be saving money, the merger was not supposed to cause a need for huge new expenditures.

The Consolidated Board ultimately decided to make the compromises required by using an existing location, and accepted the recommendation of the Merger Committee to use both sites for an interim 5 to 7 year period, with the larger AWD site used for personnel and emergency response equipment and inventory while the ASD site would be used to house the significant quantity of non-emergency response equipment and inventory. This option still required some expenditure for renovations but far less than would have been required for any other alternative.

The issue of space sufficient to house the merged operations was a challenging and time consuming issue to resolve. The leadership of the Merger Committee, in this case study, was critical to its resolution, which may be short term because of limited opportunities for growth at the AWD location. Functions that could have been merged were on hold until this issue was resolved.

3. **Common Personnel Policy for Non-Union Employees.** The incremental approach to the merger created situations where employees of different employers were working side by side, often being supervised by an employee of another district. It was essential that these employees be subject to the same Personnel Policy and be compensated equally for similar functions. Creation of a new personnel policy was a laborious process with time spent comparing one district's policy with the other. The policies were often different and a common one needed to be created. This work was done by the Merger Committee with the assistance of the districts' Human Resources Director, an already shared contract employee with the City of Augusta's Human Resources Department.

Common personnel policies governing sick time, vacation time, retirement benefits, health insurance, overtime, stand by pay, longevity pay, cost-of-living adjustments, personal leave, probation, employee evaluations needed to be developed – as similar as the two districts were, practically every personnel policy was different.

The Merger Committee worked through these issues, one at a time, and it took approximately 5 hours/month for 4 months. A new Personnel Policy was presented to the two Boards, meeting together in a joint meeting, and it was adopted. Accompanying the adoption of the new Personnel Policy was a recommendation to provide lump sum payments to those employees who had accumulated sick time benefits beyond the maximum that could be accumulated under the new policy.

4. **Common Salary Schedule for Non-Union Personnel.** While one district had a costlier benefit package resulting in the lump sum payout mentioned above, the other district had significantly higher levels of compensation.

Salary bands were created using the latest salary study that had been prepared for one of the districts; a new salary study was not conducted. These salary bands became the salary schedule. As departments/functions were merged, positions were placed on the appropriate salary band at an appropriate step, depending on whether duties were added or taken away in the job description prepared for the merged operation (see #9 below).

5. **Exit Incentive Program.** The draft organizational chart prepared during Phase Three demonstrated that the merged entity had more staff than would be required for efficient operations. The Boards, meeting jointly, had already committed to reducing personnel,

if reductions became necessary, through attrition and had directed the managers to prepare a package of early retirement incentives.

The Exit Incentive Program was designed to offer a completely voluntary one-time “window” for certain employees to resign or retire earlier than they would have otherwise considered. To be eligible, an employee had to be an active District non-management employee; be at least age 58 by the end of the year; have completed at least 15 years of service by the end of the year; and, sign a release absolving the District from any employment-related liability.

The Human Resources Director individually briefed eligible employees and they were provided a three-month election period to decide whether to participate in the Exit Incentive Program. Those electing to participate received a one-time severance allowance of one week pay for every full-year worked for the District or up to two years early eligibility for health insurance and/or age under the terms of the policy and any remainder of the one-time severance allowance.

The Exit Incentive Program was an effective method of achieving reductions in personnel without resorting to lay offs. In this case study, 3 out of the 4 eligible employees elected to participate in the program.

6. **Cross training.** Prior to, during and immediately after the merging of functions, concerted and pre-planned efforts need to be devoted to cross training of employees. Employees from either district, after cross

training, should be interchangeable. Sanitary and water financing, collection, operation and treatment systems vary in significant and important ways. The key to effective cross training is EXPOSURE, REPETITION and MANAGERIAL FOLLOW UP.

Time for cross training needs to be scheduled and managers need to hold supervisors accountable for making sure that it happens. Training of this sort can often be pushed to the back burner by immediate issues. An effective and seamless merger will depend on an effective cross training regiment with mandatory reporting to management.

7. **Financial Audit.** Consideration should be given to a complete financial audit of all the entities involved in the merger before fiduciary responsibility is delegated and assumed by the new Consolidated Board.
8. **Insurance Program.** The analysis of property, liability, auto insurance, and public officials' liability insurance policies during Phase Three revealed coverage gaps and overlaps, as well as differing expiration dates. Additionally, it wasn't clear what additional or reduced risks and liabilities would now be faced by a merger of the two districts.

An insurance consultant was hired to help the districts gain an overall understanding of the liability risks and exposures of the two entities -- both currently and post-merger; to assess the current insurance programs; to obtain proposals for a common insurance program for

the two entities that would minimize the entanglements of two separate and different insurance programs.

This effort was assisted by a legal analysis of the protections offered the districts under the Maine Tort Claims Act. A savings will be realized when the two entities become one as the caps on liability contained in the Act will apply once instead of twice.

9. New Job Descriptions/Placement on Salary Bands.

Departments and functions were not considered fully merged until all job descriptions for non-union personnel had been revised in accordance with the new structure for that department or function and appropriate placements on salary bands had been adopted by the Consolidated Board.

It was often the case that employees had been merged in the same physical location, which was mistaken to be demonstration that the merger was complete. Again, merger of space is only a piece of what has to be merged when entities become joined. The heart of the merger was the work to revise the job descriptions, including the assignment of supervisory responsibilities, then place the position on the salary band commensurate with those new or reduced job responsibilities.

Since the salaries of one district were across-the-board higher than the other district, a new policy was instituted that we called "orange-lining". The familiar term "red-lining" refers to freezing an employee's compensation until cost-of-living adjustments brought

others into line with that employee's compensation. "Orange-lining" was similar. Cost-of-living adjustments were reduced by 50% to those positions that were higher than their placement in the new salary schedule and would continue to be reduced by 50% until the alignment was in keeping with the new salary schedule. "Orange-lining" was a way of providing some salary growth until all employees were aligned appropriately on the salary bands.

10. **Merging Top Management.** Before the merger planning had even begun, both Boards knew that significant reductions in personnel costs would come from eliminating one of the general manager/superintendent positions. As mentioned in Chapter II: Phase One, the original timetable for the merger had expected that the top management position would be the final phase of the merger. That timetable was adjusted and in retrospect, probably shouldn't have been constructed that way from the beginning.

As more and more of the departments/functions became merged and as more and more employees of the two districts began working out of combined spaces, it became obvious that the organization would be better served by having one top manager. Employees were unclear about lines of authority but more importantly, the two managers, who had been working as a team, were finding it more difficult to keep "us" versus "they" from creeping into policy discussions. The two managers, in fact, were the driving force that led to the timeline being readjusted.

The Consolidated Board had previously decided to open the top position up to a full search process when it became time to hire a new manager, expecting that both of the existing managers might be applicants. This Board decision became an important factor in the decision-making process that followed.

The consultant/facilitator, who had been working closely with both managers, was tasked by the Co-chairs of the Consolidated Board to speak with both managers and to develop a strategy for consolidation of top management. Both managers had contracts that expired in 8 to 9 months, at slightly differing times. Working individually with both managers through a series of negotiating sessions, amendments to the contracts were prepared that led to the separation of one manager, and a contract extension for the other.

The separation amendment negotiated with one manager was effective almost immediately with significantly revised job duties and slightly revised compensation through the term of the existing contract. The extension amendment with the other manager extended the contract by a year to provide continuity of leadership until such time as the new charter of the merged entity had been approved by the Legislature and a new general manager had been selected and trained. Neither manager was interested in becoming a candidate for the new manager position.

11. **Collective Bargaining.** The Districts were both organized shops, one represented by AFSCME, the other by the Teamsters. Existing collective bargaining

agreements were both scheduled to expire at the end of the calendar year. Combined, 22 employees were members of the bargaining units.

Maintaining relationships with two bargaining agents for 22 employees once the merger was complete made little sense to the districts or to the bargaining agents. Unfortunately, neither state law nor the regulations of the Maine Labor Relations Board (MLRB) contemplate a process of merger of bargaining units prompted by a merger of public employing entities.

The districts, together with the bargaining agents, approached the MLRB to design a process that could be blessed by the MLRB that would effectively merge the bargaining units.

Relying on an analysis grounded in cases arising under the National Labor Relations Act, all the parties concluded that the appropriate course of action would be for the Districts to petition the MLRB seeking a new determination of an appropriate bargaining unit and an MLRB-supervised election in which the members of the new unit would determine their representation.

Under the National Labor Relations Act (NLRA), once a “new operation” exists opportunity is provided for employees to revisit their representation status as part of the new operation. To satisfy the new operations test under the NLRA, there must be evidence that the formerly separate operations have been merged, co-

mingled and integrated. In this case study, we were able to show that:

- A single Consolidated Board was responsible for general management and business for all aspects of the integrated operation;
- Common personnel and benefit policies had been adopted for all non union employees of both districts;
- Labor relations policy and administration had been centralized;
- A single General Manager had been appointed;
- Accounting and finance functions had been centralized;
- There was a single billing, accounting and payroll function;
- There was a single engineering and operations department, from which all engineering and system operations and maintenance functions were coordinated;
- Substantial integration of treatment plant and pump station functions and lab functions had occurred;
- Employees in each formerly separate unit were utility workers who performed similar work, e.g. technician, equipment operator, skilled laborer;
- Cross training of employees was ongoing; and
- Non-union employees of both districts had been totally integrated and were

effectively functioning as one entity, performing work and tasks interchangeably in both water and sanitary system operation.

It's important to note that if any member of either of the existing unions objected to this strategy for combining the two bargaining agents, it would be halted.

The MLRB granted the petition and scheduled an election. The options on the election ballot were:

- AFSCME
- Teamsters
- No representation at all

When the vote was complete, all employees except three who voted for no participation had chosen the same bargaining agent. This process was precedent-setting by the MLRB and paves the way for the important step of consolidating bargaining agents for mergers that confront the similar circumstance of two different unions.

Chapter VII: Phase Five: Finalizing the Merger

The methodology for merger used by the Augusta Sanitary District and the Augusta Water District might not work for other districts considering a merger. This methodology takes time and planning that some might get impatient with or that detractors could easily take advantage of to create discontent and controversy. It is absolutely critical that there be strong support for this kind of change that is sustained throughout the merger planning process. During the process, difficult choices will be encountered that could easily stop the process in its tracks. Without sustained support for the merger, opportunities will abound to abandon a full merger in preference for other money-saving strategies such as joint purchases or a combined contract for general management. Such strategies might be perfectly acceptable in some cases, but if this case study is any example, opportunities for new efficiencies and savings are difficult to forecast but begin to become obvious when functions are actually merged and begin operating jointly.

The Augusta Water District and the Augusta Sanitary District are ending the second year of the merger planning and implementation process. The primary tasks remaining for the merger is to negotiate a new collective bargaining contract for the recently combined union, and to draft a new charter for the new entity that can be considered by the Legislature.

1. Drafting the Charter for the Merged Entity

Both the Augusta Water District and the Augusta Sanitary District were operating under charters adopted by the Maine Legislature. Both of those charters will

have to be repealed by the Legislature, and be replaced with the new charter for the merged entity. The option existed for the two districts to create a new entity using the Interlocal Cooperation Act discussed in Chapter III, but because both districts had already been chartered by the Legislature, this avenue made the most sense.

While a charter is unexciting reading to most, some of its provisions are particularly important to those stakeholders who had existing relationships with one or the other district, egs. employees, the so-called trunk line municipalities, the ratepayers, the City of Augusta. The process for drafting the new charter needs to be open and involve representatives of all these stakeholders.

The charter is a legal document and addresses necessary topics such as eminent domain, rights to lay pipes, assessments, appeals, liens and other important legal mechanisms. The charter is also a policy document. The policy question that will challenge the drafting of the new charter for the Augusta Water District and the Augusta Sanitary District will be issues related to governance -- whether its incorporated district should include more than the City of Augusta, i.e. just how regional an entity will the merged district become?

Both districts currently provide service to municipalities other than the City of Augusta by contract allowed by special amendments to the charter enacted by the Legislature and approved by the voters

of Augusta. The boundaries of the District, however, are the boundaries of the City of Augusta. Board members of both districts are residents of Augusta, chosen by the Mayor and approved by the City Council.

Municipalities outside of Augusta are unlikely to give up any jurisdiction over water and sanitary services unless they can impact operational decisions by membership on the Board of Directors or via some equivalent opportunity for influence. The City of Augusta, on the other hand, will be unlikely to be willing to share decision-making with other municipalities when they'll be the biggest user of the service with the most ratepayers.

This policy question will need to be resolved in the charter. A deliberate stakeholder process with plenty of input from ratepayers will begin within a few months of the preparation of this manual. It's absolutely critical that these questions be resolved to the satisfaction of the stakeholders BEFORE the new charter is submitted to the Legislature.

2. Legislative Consideration and Enactment

On most occasions, private and special laws creating or amending the charters of quasi-municipal districts are technical and non-controversial. It's the hope of this project that the new charter for the combined district will be viewed in the same manner – technical and non-controversial. The strategic planning and implementation process, and the involvement of

stakeholders in the charter development process, are the strategies that will hopefully enable this outcome.

3. Local Referendum

Private and special laws amended or enacted the Legislature require approval by local voters in a referendum.

TAB A

Title 30-A, Chapter 115, INTERLOCAL COOPERATION (HEADING: PL 1987, c. 737, Pt. A, @2 (new))

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Chapter 115: INTERLOCAL COOPERATION (HEADING: PL 1987, c. 737, Pt. A, @2 (new))

§2201. Purpose

It is the purpose of this chapter to permit public agencies, as defined in section 2202, including, but not limited to, municipalities, counties, school administrative units and state agencies, to make the most efficient use of their powers by enabling them to cooperate on a basis of mutual advantage and thereby to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population and other factors influencing the needs and development of communities. [2003, c. 696, §13 (amd).]
PL 1987, Ch. 737, §A2,C106 (NEW) .

**Title 30-A, Chapter 115, INTERLOCAL COOPERATION
(HEADING: PL 1987, c. 737, Pt. A, @2 (new))**

PL 1989, Ch. 6, § (AMD).
PL 1989, Ch. 9, §2 (AMD).
PL 1989, Ch. 104, §C8,10 (AMD).
PL 2003, Ch. 696, §13 (AMD).

§2202. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [1987, c. 737, Pt. A, §2 and Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

1. Public agency. "Public agency" means: [2003, c. 696, §§14, 15 (amd).]

A. Any political subdivision of the State, as defined in section 2252, or any adjoining state; or

[2003, c. 696, §14 (amd).]

B.

[2003, c. 696, §15 (rp).]

C. Any agency of State Government or the Federal Government.

[1987, c. 737, Pt. A, §2 and Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

PL 1987, Ch. 737, §A2,C106 (NEW).

PL 1989, Ch. 6, § (AMD).

PL 1989, Ch. 9, §2 (AMD).

PL 1989, Ch. 104, §C8,10 (AMD).

PL 1993, Ch. 279, §1 (AMD).

PL 2003, Ch. 696, §14,15 (AMD).

§2203. Joint exercise of powers

Any power or powers, privileges or authority exercised or capable of exercise by a public agency of the State may be exercised and enjoyed

**Title 30-A, Chapter 115, INTERLOCAL COOPERATION
(HEADING: PL 1987, c. 737, Pt. A, @2 (new))**

jointly with any other public agency of this State, or of the Federal Government to the extent that federal laws permit the joint exercise. When acting jointly with any public agency, any agency of State Government may exercise all of the powers, privileges and authority conferred by this chapter upon a public agency. [1987, c. 737, Pt. A, §2 and Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

1. Agreement. Any 2 or more public agencies may enter into agreements with one another for joint or cooperative action under this chapter. The governing bodies of the participating public agencies must take appropriate action by ordinance, resolution or other action under law before any such agreement may become effective. [1987, c. 737, Pt. A, §2 and Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

2. Specifications. Any agreement made under this chapter must specify the following: [1987, c. 737, Pt. A, §2 and Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

A. Its duration;

[1987, c. 737, Pt. A, §2 and Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

B. The precise organization, composition and nature of any separate legal or administrative entity created by the agreement together with the powers delegated to that entity, provided the entity may be legally created;

[1987, c. 737, Pt. A, §2 and Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

C. Its purpose;

[1987, c. 737, Pt. A, §2 and Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

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D. The manner of financing the joint or cooperative undertaking and of establishing and maintaining a budget for the undertaking;

[1987, c. 737, Pt. A, §2 and Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

E. The method to be used to partially or completely terminate the agreement and to dispose of property upon termination; and

[1987, c. 737, Pt. A, §2 and Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

F. Any other necessary and proper matters.

[1987, c. 737, Pt. A, §2 and Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

3. Additional items. If the agreement does not establish a separate legal entity to conduct the joint or cooperative undertaking, the agreement, in addition to the items listed in subsection 2, must contain the following. [1987, c. 737, Pt. A, §2 and Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

A. It must provide for an administrator or a joint board responsible for administering the joint or cooperative undertaking. In the case of a joint board, all public agencies party to the agreement must be represented.

[1987, c. 737, Pt. A, §2 and Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

B. It must provide the manner of acquiring, holding and disposing of real and personal property used in the joint or cooperative undertaking.

1987, c. 737, Pt. A, §2 and Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

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4. Responsibility. No agreement made under this chapter may relieve any public agency of any obligation or responsibility imposed upon it by law except to the extent of actual and timely performance by a joint board or other legal or administrative entity created by an agreement made

under this chapter. This performance may be offered in satisfaction of the obligation or responsibility. [1987, c. 737, Pt. A, §2 and Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

5. Liability. An action is maintainable against any public agency whose default, failure of performance or other conduct caused or contributed to the incurring of damage or liability by the other public agencies jointly. [1987, c. 737, Pt. A, §2 and Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

6. Notice to regional councils. Any agreement made under this chapter is subject to the reporting requirements of section 2342, subsection 6, if applicable. [1987, c. 737, Pt. A, §2 and Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

7. Liberal construction. It being the intent of the Legislature to avoid the proliferation of special purpose districts and inflexible enabling laws, this chapter shall be liberally construed toward that end. [1987, c. 737, Pt. A, §2 and Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

8. Limitation. Notwithstanding any other provision of this chapter: [1987, c. 737, Pt. A, §2 and Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

A. No powers, privileges or authority may be jointly exercised unless each type of power, privilege or authority exercised is capable of being exercised by at least one of the parties within the entire jurisdictional area of the contract, or by each of the several parties within each of their several jurisdictions if all of the several jurisdictions make up the total jurisdictional area of the contract; or

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(HEADING: PL 1987, c. 737, Pt. A, @2 (new))**

[1987, c. 737, Pt. A, §2 and Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

B. No essential legislative powers, taxing authority or eminent domain power may be delegated by contract to a joint authority or administrative entity.

[1987, c. 737, Pt. A, §2 and Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

PL 1987, Ch. 737, §A2,C106 (NEW) .
PL 1989, Ch. 6, § (AMD) .
PL 1989, Ch. 9, §2 (AMD) .
PL 1989, Ch. 104, §C8,10 (AMD) .

§2204. Filing of agreement

Before becoming effective, an agreement made under this chapter must be filed with the clerk of each concerned municipality and the Secretary of State. [1987, c. 737, Pt. A, §2 and Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

PL 1987, Ch. 737, §A2,C106 (NEW) .
PL 1989, Ch. 6, § (AMD) .
PL 1989, Ch. 9, §2 (AMD) .
PL 1989, Ch. 104, §C8,10 (AMD) .

§2205. Approval by state officers

If an agreement made under this chapter deals in whole or in part with the provision of services or facilities with regard to which an officer or agency of the State Government has constitutional or statutory powers of control, the agreement must be submitted to the state officer or agency having that power of control before becoming effective. The state officer or agency shall approve or disapprove it as to all matters within the state officer's or agency's jurisdiction. [1987, c. 737, Pt. A, §2 and Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2

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(amd); c. 104, Pt. C, §§8, 10 (amd).]

The officer or agency shall approve any agreement submitted to the officer or agency under this chapter unless the officer or agency finds that it does not in substance comply with any law regarding matters within that officer's or the agency's jurisdiction. The officer or agency shall detail in writing, addressed to the governing bodies of the public agencies concerned, the specific respects in which the proposed agreement substantially fails to meet the requirements of law. Failure to disapprove an

agreement submitted under this chapter within 30 days of its submission constitutes approval of the agreement. [1987, c. 737, Pt. A, §2 and Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

PL 1987, Ch. 737, §A2,C106 (NEW) .

PL 1989, Ch. 6, § (AMD) .

PL 1989, Ch. 9, §2 (AMD) .

PL 1989, Ch. 104, §C8,10 (AMD) .

§2206. Funds, personnel and services

Any public agency entering into an agreement under this chapter may appropriate funds and may sell, lease, give or otherwise supply the administrative joint board or other legal or administrative entity created to operate the joint or cooperative undertaking by providing any personnel or services for that purpose that it may legally furnish. [1987, c. 737, Pt. A, §2 and Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

PL 1987, Ch. 737, §A2,C106 (NEW) .

PL 1989, Ch. 6, § (AMD) .

PL 1989, Ch. 9, §2 (AMD) .

PL 1989, Ch. 104, §C8,10 (AMD) .

§2207. Former districts unaffected

In municipalities which acted under the repealed section 8-A of chapter 90-A of the Revised Statutes of 1954, the district formed remains effective so far as it complies with this chapter and may be continued

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accordingly. [1987, c. 737, Pt. A, §2 and Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

PL 1987, Ch. 737, §A2,C106 (NEW) .

PL 1989, Ch. 6, § (AMD) .

PL 1989, Ch. 9, §2 (AMD) .

PL 1989, Ch. 104, §C8,10 (AMD) .

TAB B

AUGUSTA SANITARY DISTRICT/AUGUSTA WATER DISTRICT

Goals and Guiding Principles: Planning for a Merger
July 21, 2004

Revised Pursuant to Discussion at a Joint Meeting of the Boards – July 19, 2004

Second Revision for Approved at Consolidated Board Meeting
– May 11, 2005

GOAL: The Commissioners of the Augusta Sanitary District and the Trustees of the Augusta Water District (the “Boards”), in order to comply with the request of the Mayor and City Council dated April 5, 2004, will give full and active consideration to a strategy to merge the Districts in order to improve level of service to our customers and/or reduce the costs of providing water and wastewater services to our ratepayers.

It is the goal of the Boards to immediately begin the merger of functions, progressively, and over several phases, ultimately leading to a full merger of the two Districts into one new entity.

GUIDING PRINCIPLES

- I. **Board Decision-Making Process:** The Boards will jointly develop and oversee the planning and implementation of the merger

plan. For this purpose, the General Manager of the Augusta Water District and the Superintendent of the Augusta Sanitary District (the “Managers”) will periodically meet together with both Chairs to update them and present recommendations. Joint recommendations will be presented separately to both Boards as close to the same time as possible.

The Boards will meet jointly as necessary, as determined by the Chairs. It will be attempted to schedule such meetings after a regularly scheduled meeting of one or the other District.

The Chair of the Augusta Sanitary District will be invited to attend all meetings of the Augusta Water District when items related to the merger are on the agenda and the Chair of the Augusta Water District will be invited to attend all meetings of the Augusta Sanitary District when items related to the merger are on the agenda.

Effective April 13, 2005, the Consolidated Board, made effective by an interlocal agreement adopted unanimously by both the Board of Commissioners of the Augusta Sanitary District and the Board of Trustees of the Augusta Water District, will jointly develop and oversee the planning and implementation of the merger plan.

For this purpose, the Managers of the AWD and ASD shall together with the Chairs of the AWD and ASD form a “Merger Committee” which shall prepare recommendations relating to the advancement of the merger in its phases for consideration by the Consolidated Board.

II. **Outline/Timeline:** The Merger Committee shall develop strategies to consolidate all of the functions of the two districts in seven phases, in this order and in accordance, as much as possible, with the proposed target timeline:

Phase	Function	Original Timeline for Consolidation*	Revised Timeline for Consolidation*
One	Financial and Accounting Systems	4 th quarter 2004	Function has been consolidated/no change
Two	Laboratories	4 th quarter 2004	2 nd quarter 2005
Three	Engineering and Systems Operations (Non-union personnel only)	4 th quarter 2005	3 rd quarter 2005
Four	Maintenance and Controls	4 th quarter 2005	4 th quarter 2005

	(Non-union personnel only)		
Five	Road Crews/All Union Personnel	1 st quarter 2006	1 st quarter 2006
Six	Management and Administration	4 th quarter 2006	Transition Plan by 4 th quarter 2005 Consolidation by 4 th quarter 2006

*Consolidation of Function means that the AWD and ASD personnel performing that function have been combined in a new organizational chart AND job descriptions have been revised and compensation has been placed on a common salary band for both Districts.

III. **Inventory and Analysis to Support Recommendations:**

In developing the strategy for each combined function, the Merger Committee shall fully consider all relevant aspects of the function, including:

A. Personnel – what level of staffing in the merged function is appropriate? Do existing staffs have the skills and experience to perform the merged tasks? What level of cross training or individualized training will be needed and how long will it take? Are levels of compensation an issue? If yes, how

will equity be achieved? If positions are deemed unnecessary or if new positions are deemed necessary, how will they be eliminated or created – at once or over time? Eventually, a plan to merge Personnel Policies and create a single Personnel Handbook will be necessary.

Action Still Required (as of 5/11/05):
Appropriate staffing will be recommended to the Consolidated Board for each phase of the merger, along with a proposed implementation strategy regarding revised job descriptions and equitable compensation. The strategy shall reflect the personnel policies contained in the Personnel Policy Manual for Non-Union Employees adopted January 2005 by the Augusta Sanitary District Board of Commissioner and the Augusta Water District Board of Trustees.

B. Space: Is existing space adequate to serve the merged function or functions? If inadequate, what alterations will be necessary and what is the budget for them?

Action Still Required (as of 5/11/05):
The Merger Committee shall prepare a

Space Utilization Plan analyzing the currently owned space of both Districts and determine how it could be reconfigured to meet the needs of the merged utility for at least the next five years.

C. Technology: Are the computer, radio, telephone and other operating systems compatible? If not, what is the best choice for a compatible system and what will it cost?

No further planning required, system changes have been or are being implemented.

D. Capital and equipment assets: Can assets be shared, can some be sold, and are there other assets that will be necessary to accommodate the merged function? How will assets be sold? What is the revenue that can be expected or what is the investment that will be necessary?

Action Still Required (as of 5/11/05):
Once decisions regarding space utilization have been made by the Consolidated Board, the Merger Committee will analyze all other real and personal property assets owned by the Districts and prepare a

recommendation for replacement and or sale to be made part of the Business Plan.

E. Intermunicipal agreements: Are there easily analyzed and implementable alliances with the City of Augusta for coordination of function or service that should be examined?

Action Still Required (as of 5/11/05):
Once decisions regarding space utilization have been made by the Consolidated Board, the Merger Committee will analyze potential coordination of services with the City of Augusta.

F. Evaluation of operational policies and procedures: will the combined function require changes in existing procedures such as safety training, disaster recovery or emergency response? What will the timetable be for accomplishing those tasks?

Action Still Required (as of 5/11/05):
Soon after the separate functions are merged according to the timetable, the Managers, working with other District managers, will analyze operating policies and procedures and implement

necessary changes to reflect the needs of the merged function.

G. Contract management: when do contracts expire? Is it feasible to renew, extend, and/or enter into new contracts in such a way as to get contracts to mature at similar times?

No further planning required. Under the terms of the Interlocal Agreement adopted by the Boards, the Consolidated Board has the power to direct the ASD or the AWD, as their interests may appear, or severally to the extent their interests are joint, contract with other persons, corporations, municipalities, organizations or contractors as may be deemed appropriate. Existing contractual obligations entered into by one or the other District can only be changed by the Consolidated Board if the majority position contains at least 2 members of the District that entered into the contractual obligation.

H. Customers outside of Augusta:
How will the merged function affect, if at all, customers outside of Augusta?
How will those affects be communicated and dealt with?

Action Still Required (as of 5/11/05):
Regular updates have been and will continue to be provided to all the municipalities in which the Districts serve customers.

I. Legal: Are there legal obstacles that need to be examined that stand in the way of merging the functions? District charter? Bond covenants? State law? PUC regulations? Existing interlocal agreements? Are there pending lawsuits or other legal liabilities pending against one or the other District that may impact the merged functions?

Action Still Required (as of 5/11/05):
The legal analysis that led to the development of the Interlocal Agreement concluded that no legal obstacle stood in the way of their merger. Yet further legal analysis is necessary to assist the Districts in development a common insurance package for property and casualty and directors liability insurance to determine the adequacy of the protection in the Maine Tort Claims Act.

J. Collective bargaining: Will some of the changes contemplated need to be

negotiated? When do the unions need to get involved in the process?

Action Still Required (as of 5/11/05): Collective bargaining contracts for both Districts expire at the end of calendar year 2005. Union negotiations on a new collective bargaining contract should begin by September 30, 2005 and be approved by the Consolidated Board by December 31, 2005. A professional negotiator should be hired to assist the Managers and the Human Resources Director.

K. General regulatory oversight: What level of review and/or approval might be necessary from PUC, DEP, others?

No further action required. The PUC, DHHS, and DEP have reviewed the Interlocal Agreement and approved, to the extent approval is necessary.

IV. **Position Eliminations:** Elimination of positions, when and if contemplated, will, as much as possible, be achieved over time through attrition. The Superintendent and General Manager may also prepare a package of retirement incentives, if deemed appropriate, for the Board's consideration.

An Exit Incentive Program for eligible employees was adopted by both the AWD and ASD Boards. Eligible employees must elect to participate in the Program on or before June 30, 2005.

- V. **Updates to Mayor/City Council:** Regular updates will be provided to the Mayor and City Council whenever requested.
- VI. **Communications with Press:** All inquiries from the print and electronic press related to the merger will be directed to the Chairs of the Boards for a response.
- VII. **Communications with Stakeholders:** The Managers will meet regularly with stakeholders to seek input into each phase of the plan's development and to provide updates on all phases of implementation.
- VIII. **Business Plan:** The final plan, before final approval by the Board, shall include a 5-7 year business plan projecting revenues and capital and operating expenses for the merged entity.