Augusta’s mayor, his two hats, and $400,000
A $1.2 million public/private deal in the state capitol suggests questions worthy of debate
BY LANCE TAPLEY

Part one of two: business as usual in the era of baldacci?

William Dowling wears two hats. He’s mayor of Augusta and chief operating officer of Harper’s Development, a big real-estate company owned by influential citizens, many of whom are campaign contributors to Governor John Baldacci.

Acting in both capacities, sometimes as mayor and sometimes as COO of Harper’s, he helped arrange for the state of Maine to distribute almost $400,000 in federal funds so that the city of Augusta could grant that money to Harper’s. It would buy a high-tech telephone switch that would allow Harper’s to secure a five-year lease worth $700,00 from a Florida-based call center operator, Access WorldWide Communications.

Access, for its part, said the center would employ as many as 350 people. At the time, the deal was announced in the press as a public-private partnership that would deliver much-needed jobs in a region where employment is a challenge and tax revenues from jobs worrysomey scarce.

The total bill to taxpayers comes to $1.2 million when federal, state, and local incentives are factored in, and an on-site visit revealed that today only about 135 people are employed at Access.

But the story of how the deal came about and the way in which it was executed tells a lot about the way government business is conducted in Maine, at all levels. Most of this business was conducted in public or in documents that the public can access. But reasonable questions remain about who was watching out for the public’s interest. The story will suggest that legal oversight over the deal was virtually non-existent, and that has caught the interest of the federal Department of Housing and Urban Development, which says it will be reviewing the deal.

At the center of it all is a group of political players who in one way or another are often in the news. Harper’s is owned by some of Democratic Governor John Baldacci’s chief campaign contributors, including political fundraiser and super-lobbyist Severin Beliveau; John Orestis, former Lewiston mayor and proprietor of a string of nursing homes; and Chris Harte, former president of the Portland Press Herald and Maine Sunday Telegram and, some people think, Maine’s richest man as an heir to the Harte-Hanks newspaper fortune.

One day in the fall of 2003, Michael Duguay, the City of Augusta’s economic development director, received a call from a Portland-area real-estate broker who was on the road, Duguay recalled, showing executives of Access Worldwide some locations in Maine where it might establish a call center. Duguay quickly set up appointments to show the Access people a couple of buildings.

Access became interested in the vast (300,000-plus square feet) structure on 200 acres in Augusta’s western outskirts that Harper’s Development had purchased from Sanmina-SCI earlier in the year for
$4.5 million. Harper’s had recently named it the Central Maine Commerce Center. SCI — and previously, Digital Equipment — had had a computer-parts factory in the building. When it closed in 2002, it laid off 440 workers.

Talks progressed among Access, city officials, and potential landlord Harper’s, and as a condition of the deal the telemarketing company insisted on special assistance in buying a telephone switching device, which Access said cost $400,000 — in addition to the usual tax breaks that Duguay offered corporate prospects.

The switching device was a complex automatic dialer, a key piece of equipment for telemarketers, that Access had learned a similar company had gotten the state to purchase in the past, Duguay said.

To see if such aid was available, Duguay, a can-do kind of person, called Orman Whitcomb, head of the community development office in the state’s Department of Economic and Community Development. Whitcomb was optimistic about the possibility, Duguay said, although the state couldn’t give the money directly to a private company. The funds had to come from a community development block grant (CDBG) of the federal Department of Housing and Urban Development’s business-assistance program, which Whitcomb administers, and federal rules stated the cash could only go directly to a town or city.

The municipality then could give it to a private company, although the company had to be one that would use the money to obtain something that could be considered "real property"; that is, part of a building. Harper’s, the landlord, fit that bill.

Furthermore, for the state to grant the $400,000 for the switch, under federal rules at least 40 people would have to be employed at the new call center, and over half of them would have to have low or moderate income. Since call centers pay rather poorly, these requirements easily could be assured. In correspondence with city and state officials, Access talked of employing up to 350 people. A preliminary deal was worked out to have the city buy the switch and give it to Harper’s, which would then let Access use it. (See sidebar, "Easy Money from the Government," on page 2 of this story, for more on the Access deal.)

Enmeshed in these conversations, by many accounts including his own, was Augusta Mayor Dowling — as a city official and as COO of Harper’s. He was particularly helpful, interviews and correspondence in city files reveal, in moving the deal along in early 2004 when a snag developed with Access’s refusal to guarantee the number of jobs, which the city also balked at. Eventually, Harper’s partners agreed to guarantee the jobs for a short period, putting up a $400,000 letter of credit, until enough employees could be hired to fulfill the federal requirements.

Dowling negotiated with the state as mayor and then with the city as a Harper’s executive, said Ralph St. Pierre, the city’s assistant city manager and finance director. "I remember Bill being active with the CDBG grant," he said — in particular, "to get the city off the hook" on the jobs-guarantee question.

"Sure, I did speak with him" about the project, said Duguay. He talked with Mayor Dowling in his capacity as the Harper’s property manager, he said, "a fair amount of time."

Copies of city emails also show how Dowling performed two roles at the same time. For example, on February 6, 2004, Duguay sent an email to William Bridgeo, city manager, with this opening: "Bill:
Wasn’t sure if you had a conversation with the Mayor yet as to where we stood on this call center client." In an undated fax to Kevin Mattson, Harper’s president, Duguay wrote, "Kevin: Bill Dowling will be explaining this to you in greater detail." He would be explaining some legal papers pertaining to the deal.

In an early report on the project to his superiors, the "Mayor and Council," on the last day of 2003, City Manager Bridgeo celebrated the deal: "Kudos go out to Bill Dowling, in his capacity as the executive for Harper’s who negotiated the deal with Access."

In a February 26, 2004, report, Bridgeo lauded (to Dowling and council members) "the extraordinary perseverance and hard work of several individuals, including Bill Dowling (in this case, in his capacity as a Executive Officer for Harper’s Development Company)," for bringing along the deal.

Bridgeo’s words indicate there was in City Hall an awareness of conflict of interest. When on March 15 the city council voted 7 to 0, with one councilor absent (the mayor only votes in case of a tie), to ratify the contract between the city and the state for the $400,000 grant, Mayor Dowling stepped down from the council platform because of conflict of interest, he and others said. He relinquished the presiding gavel to Councilor Karen Foster — his sister.

At this moment, too, another conflict of interest was declared. City corporation counsel Stephen Langsdorf had to recuse himself from dealing with this item of council business. "The reason is Severin," he later explained. Langsdorf is a partner with Severin Beliveau, one of the Harper’s owners, in the big statewide law and lobbying firm Preti Flaherty Beliveau Pachios & Haley.

After the vote, in his regular report to Mayor Dowling and the council dated March 26, 2004, Bridgeo once again praised Dowling for his "superior work" that went "well beyond the ordinary call of duty."

Bridgeo again raised the issue of conflict of interest. Working "with great care to avoid even the slightest appearance of a conflict of interest in this matter, Michael Duguay and I [Bridgeo], for the City, and Kevin Mattson and Bill Dowling, for Harper’s, have interacted daily in the development of solid documents that meet all of the federal and state requirements," he wrote. "It has only been the determination of Bill Dowling, Mike Duguay and others that have led us to a point where we succeeded." All of these laurels from the city manager to the mayor were bestowed for work, of course, on behalf of "jobs."

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Con'd.

WHO WAS WATCHING THE HENHOUSE?

If city attorney Langsdorf did not vet the $400,000 deal between the state and the city, who did? Did anyone scrutinize with a legal eye the grant contract between the city and state? Benjamin Lund, the Lewiston lawyer brought in by the city in Langsdorf’s stead to prepare some documents in the affair, including the language of the letter of credit from Harper’s partners, did not look at the contract, he said.
"I’d basically say no" — no attorney signed off for the city, recalled Michael Duguay.

It also turns out, according to Orman Whitcomb, the state’s community development director, that no attorney for the state specifically reviewed the contract that turned the money over to the city. In the end, the money amounted to $356,000 in actual payments for the switch and its software.

If an attorney had looked at the contract, perhaps she or he would have noticed this clause:

"No State or Local elected official . . . shall, directly or indirectly, have any financial interest in any property to be included in, or any contract for property, materials, equipment, or services to be furnished or used in connection with the construction or operation of the Project."

When asked to comment on the fact that no lawyer for the city had vetted the contract while there was an apparent conflict of interest involving Mayor Dowling, Kim Davis, a city councilor, said: "In simple terms, it sounds unethical . . . Maybe the council needs to be more vigilant."

She added: "I assumed all the legal issues had been dealt with. I didn’t know that [the contract] hadn’t been reviewed."

The feds hadn’t reviewed it either. The field office director of the Department of Housing and Urban Development, Loren Cole, said his department did not regularly review contracts the state signs to distribute HUD’s block grants, but he expressed great interest in the dual role of Mayor and Harper’s chief operating officer Dowling. Soon after an initial conversation with this reporter, Cole called back to say — with New England HUD spokesperson Kristine Foye also on the line — "HUD will be looking into the awarding of this grant."

(In a seemingly bizarre turn of events, Cole "very unexpectedly and quickly" retired from HUD on April 4, said Foye, and taking over for him was William Burney, former Augusta mayor and, as the city’s school board chairman, an official who is dependent on Dowling. Cole said he retired simply because he had spent 34 years at HUD. Foye said the review will be run out of Boston and Manchester offices, and Burney will have nothing to do with it. She said a review of all Maine block grants is scheduled for April through June, and "we will look more closely at this project." HUD will examine the state’s distribution of grant money "to make sure they are doing what is required to ensure their grantees are in compliance with all regulations.")

Augusta city officials defend Dowling and the deal, although City Manager Bridgeo responded, "Sure," when asked if Dowling had an indirect benefit because his company would prosper in part because of this $400,000 grant from the government, which allowed it to obtain a sizable tenant. According to Harper’s, Access will pay about $140,000 a year to lease 15,000 square feet of space for five years — or $700,000 total.

Bridgeo added, "I can understand why they think that," of people suspicious that Dowling could not separate his two roles.

But the city manager, who volunteered that he used to teach governmental ethics, asserted, "the mayor has no executive authority" under Augusta’s council-manager form of government (though the mayor is elected directly by the voters, unlike in Portland where the mayor is chosen by the council from its
members). While Bridgeo said he "can’t ignore the fact that the mayor has a day job," he said he has looked as hard as he could "to make sure there is no inappropriate gain."

St. Pierre, the city finance director, and Duguay, the development director, both said that because Dowling was not an owner of Harper’s, they believed he did not benefit from the deal involving the switch, and therefore the contract with the state was not violated.

The state’s man who signed the contract, Whitcomb, also contended that Dowling "directly or indirectly didn’t benefit." He said he had had very little contact with Dowling in connection with the grant, though he admitted Dowling gave him a tour of the Central Maine Commerce Center.

Dowling, whose office at the entrance to Harper’s big building is next to Access/TelAc’s, denied any conflict of interest: "I don’t have both hats on at the same time." A small man in his mid-fifties and a former state Bureau of Motor Vehicles official, he sees his mayoral job as "volunteer" work. In his third three-year term, he receives only $2400 a year as a city official. By contrast, his Harper’s position pays $60,000 a year, he said. He manages the company’s day-to-day operations. He said he has no ownership interest in the company and received no bonus or promotion for his part in the Access deal.

He admitted, however, that bringing a tenant to the Harper's building would enhance his status within the company.

"But I do lots of other things," he protested. The Access deal was "just one thing" he did for the company. He worked on it, he said, for the "economic benefit of those jobs."

Mattson, the youthful, affable president of Harper’s, confirmed that Dowling had no equity in the company. He maintained that the deal for the telephone switch was done because "Access said the only reason [it was] coming to Maine is that switch."

"I do understand the perception" of Dowling’s conflict of interest, he conceded, adding, "Maybe the city should tighten those things up."

He also maintained that the switch has "no value for me." Eagerly, he said, "I will sign a document right now giving that switch to someone." But he admitted that with the switch his company obtained Access in a five-year lease for the space.

SOME GRUMBLINGS HAD BEEN HEARD

Dowling’s business connections have not been without critics in Augusta. This past winter, he nominated Gary Peachey, president of Peachey Builders, a Harper’s Development former business partner and its contractor on all big projects, to the city’s economic development commission, which oversees Duguay’s activities. Peachey is also chairman of the Augusta Board of Trade, a group of the city’s most influential business people who hold private meetings to promote commercial development.

Publicly objecting to the nomination was Councilor Davis, who also is a Republican state representative, along with a couple of former city councilors. They reflected the feeling of some people that Augusta’s boom in regional shopping malls is threatening the city’s residential quality of life. They questioned unbridled commercial development in the name of jobs.
"Citizens are not feeling real confident in the way the city is being administered," said Davis. Explaining her opposition to Peachey’s appointment, she added: "There was talk by residents that there could be a conflict of interest because [Peachey] worked for Harper’s as a contractor and now he’s selected by the mayor to be on the Augusta Economic Development Commission."

In the end, the council approved the Peachey nomination, with Davis casting the sole negative vote.

The mayor has never hidden his twin roles. But if he felt he needed to remove himself from the city council’s discussion of the gift to Harper’s because of conflict of interest, why didn’t he previously remove himself from discussions with city officials on this subject?

The defense of Dowling by the city manager and other city officials could be viewed as a perception of him through a biased light, since as mayor he is in a sense their boss, but they as well as Dowling himself give the strong impression that they believe the word "jobs" justifies a multitude of things including conflict of interest. Their attitude gives credence to the idea that, in Maine, this is business as usual — at least, for some people.

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The insiders
A real-estate firm owned by prominent Baldacci supporters emerges as a major landlord for state agencies
BY LANCE TAPLEY

Part Two of Three: Business as Usual in the Era of Baldacci? (Click here for part one of this series)

Harper’s Development, a real-estate company headquartered in Winthrop, has been extremely successful in getting the State of Maine, the capital region’s major tenant for office space, to put employees in its several local buildings. Since it began acquiring new leases from the state in mid-2003, it has acquired almost three-quarters of the square footage of the new office-space leases in the area, according to the state's figures.

Harper’s owners are, politically, some of Democratic Governor John Baldacci’s most visible financial supporters and include some of the most powerful and influential men in the state. Harper’s success with state leases roughly began six months after Baldacci’s inauguration as governor. It was awarded a contract, which did not go out to bid, for 59,000 square feet of state Department of Health and Human Services offices in its Key Plaza building in downtown Augusta. This contract represents the second largest state-government office-space lease in the area.

Combine who Harper’s owners are with its success in gaining state contracts, and the suspicion naturally arises of insider favoritism. But Harper’s CEO complains that the perception of favoritism is an unfair affliction for his company, although he says he understands it.

WEALTH AND POWER
If you started from scratch to put together a cluster of Maine wealth and power, you couldn’t do better than the Harper’s partners:

*Severin Beliveau* is among the most well-known lobbyists in Augusta — or notorious, depending on your perspective. A former state senator, Maine Democratic Party chairman, host to former President Clinton when he last visited Maine, expert political fundraiser, and head of Baldacci’s inaugural and transition commission, sometimes he is admiringly called "Mr. Democrat"; sometimes he is criticized for lobbying for tobacco, liquor, gambling, and big-business interests. (For more on Beliveau, see Lance Tapley’s "Pulling the Strings," *Phoenix*, June 20, 2003.)

*John Orestis*, like Beliveau a Georgetown graduate and a lawyer, heads up the largest nursing-home company in Maine. He has long been a real-estate developer, and he was mayor of Lewiston and a Democratic state representative.

*Chris Harte*, based in Portland, sits on the board of three public companies: Harte-Hanks, a Texas global marketing corporation founded by his family which sold its newspaper and broadcast chain to Scripps in 1997 for $775 million; Geokinetics, which serves the oil and gas industry with seismic information and is also based in Texas; and Crown Resources, a Colorado-based mining company. In 1992 Harte came to Maine to run the *Portland Press Herald* and *Maine Sunday Telegram* for a couple of years. As a big-time donor to politicians, he was a plaintiff in the unsuccessful challenge in federal appeals court to Maine’s Clean Election campaign-reform law, which features public financing. In 2004, he publicly considered running as a Democrat against Republican US Senator Susan Collins.

*Kevin Mattson* is Harper’s junior partner and the company’s CEO. In addition to a stint managing the Maine Democratic Party, his past political activities include being Maine liaison of Donald Sussman, a Deer Isle summer resident and multimillionaire arbitrage expert who has financed some of the state’s environmental causes. Mattson’s relative youth — he’s 36 — casual dress, and liberal views (he has worked as a lobbyist for an environmental outfit run by former Green Party gubernatorial candidate Jonathan Carter) make him the most unlikely member of a powerful business-oriented group. But, like his partners, Mattson is exceptionally well connected.

Among this group of Harper’s investors, Mattson describes Beliveau is the "go-to guy" for connections. He describes Orestis as the partner he consults when he needs someone to look over the company’s numbers. He says Harte is the least involved with Harper’s on a day-to-day basis.

**A SPECIAL STATUS?**

There is a pile of data that circumstantially suggests Harper’s Development enjoys a special status in Augusta, although there is no evidence that laws have been broken.

Including the Key Plaza lease, close to 73 percent (or 133,919 square feet) of new leases for capital-area office space (184,622 square feet) contracted by the state since July 2003 were put in Harper’s buildings, with no bidding competition among landlords for 85,103 square feet of this space, according to figures supplied by the state. In addition to Key Plaza, many offices went to Harper’s Central Maine Commerce Center, the giant former Sanmina-SCI plant off Civic Center Drive in Augusta, but also some to the company’s North Park building, not far from the Commerce Center.
For one lease, which Harper’s obtained by winning a bid, local landlord Mark Warren says, "I was told by public safety employees they were going to SCI before the ratings sheet had been prepared," referring here to the scoring sheets used by state officials who decide the winning bids. Warren had the Department of Public Safety offices moved from his downtown Gardiner building to the Harper’s Central Maine Commerce Center. Warren believes the bids were merely a formality; that the move to Harper’s had already been decided and expressed to employees.

"We have an open book here," responds Elaine Clark, director of the Bureau of General Services, which contains the state’s leasing unit. "The governor’s office has zero involvement in the process" — except, she adds, in one attempted consolidation of Department of Health and Human Services offices in the Presque Isle-Caribou area. "It was a political mess" involving legislators unhappy with the proposal, she says. The consolidation was stopped.

Clark sees no problem with offices being put in Harper’s buildings without the state asking for bids from other landlords. "The lease space division doesn’t even have to advertise," she says. "Harper’s has been making incredible proposals," meaning they are a good deal for the state.

A large impetus behind her bureau’s decisions on office space in the Augusta area, she says, is the state’s interest in agency consolidation, whenever possible trying to put offices that work together in close proximity. Warren lost the bid for the public safety offices and the leases went to Harper’s’ big building on the Augusta outskirts because, she says, the Department of Public Safety wished to consolidate related offices there such as the Maine Emergency Management Agency (MEMA), and this bureaucratic desire drove some of the no-bid awards such as one involving MEMA.

And the Harper’s bid to move Public Safety offices to Augusta (the lease was up) appears to represent considerable savings for the state. Over the 15-year life of the lease, Harper’s bid was $1.8 million lower than Warren’s proposal to keep the offices in Gardiner, Clark says.

As for the alleged public-safety personnel remarks relayed by Warren, Clark says the employees may have wanted to move to Harper’s’ big building and that desire may have been expressed before the bidding process was completed — but "[public safety employees] had no control over that" decision, she says.

In regard to this move, Warren can’t understand why Public Safety was moved when Governor Baldacci’s has made a public commitment to put state offices in downtowns, a policy mandated anyway by the Legislature during the Angus King administration. Harper’s Central Maine Commerce Center is four miles from Augusta’s center, on the highway to Belgrade. But Clark says that there is a second consideration, an emphasis on "designated growth areas," and that Harper’s Central Maine Commerce Center is in one.

When bids are received, she says, the committees that score the proposals from landlords are objective, though she also says politically appointed people such as bureau directors sit on some of them. She says the committees balance a variety of factors including state policy favoring downtowns as well as growth areas, along with price and suitability of the space.

Although she admits, "The cost of moving state agencies is huge," consolidation comes up often in conversations with her and other state officials as a reason for the several moves into Harper’s buildings
(see "Baldacci’s bunker," on page two of this story). During a tour of the Central Maine Commerce Center, Stephen McCausland, the Public Safety spokesman, exults over the merits of consolidation, especially when public-safety-related agencies can be all together in a time of emergency. He also likes the size of the department’s space, which in the giant building could be configured to the department’s specifications. The state’s information services unit and Department of Transportation offices also moved into the Commerce Center.

When the Department of Health and Human Services’s Bureau of Health moved offices into Harper’s Key Plaza, Clark says consolidation here, too, was a reason for putting them there without bids being asked; some health bureau offices were already in the building, allowing for better communication.

**LUMP-SUM PAYMENTS**

Leases such as these sometimes are amended for additional expenditures. An inspection of lease documents shows that big lump-sum payments to Harper’s, many from other agencies besides the Bureau of General Services, were made in after-bid (or after-no-bid) agreements by the state. Some amounted to hundreds of thousands of dollars. Most appear to be for costs of refurbishing office space. These contract amendments add to the costs of the space, but they don’t show up in the dollar numbers on the winning bids or original lease agreements.

Clark says these amendments were reasonably priced compensations for changes in what state agencies wanted done with the space. For example, for the MEMA move to the former SCI building, there was an additional payment of $270,000 beyond the rent paid by the state. But she says this extra sum jumps up the per-square-foot rent from $10.75 to $11.99 — still a low price, she believes. The state office-space average in the region, her bureau says, is $12.13.

**A "PERCEPTION PROBLEM"**

"I’ve been expecting this story for a long time," sighs Kevin Mattson, Harper’s president, with a wan smile. "It’s just the appearance. We fight this perception problem all the time." Severin Beliveau’s reputation, he adds about his well-known lobbyist partner, "is not helpful."

Mattson is friendly, tall, wears glasses. He appears easygoing, although it took him a while to explain how much money he makes. In discussing his compensation, he first said his annual salary was $60,000 before admitting, when confronted with a fact that didn’t jibe with that number, that it’s $120,000, plus ownership benefits.

He and his partners have been successful, he says, because "we’re basically scavengers" and "we’re in the turnaround business." They buy rundown or, in a sense, discarded buildings, he says. Even the architecturally elegant Key Plaza building, dominating downtown Augusta, could be put in this category, since Key Bank decided soon after building it to sell it. With 500,000 square feet of space, Harper’s annual gross revenues are $3 million, Mattson says.

He admits, "If it wasn’t for these consolidations we wouldn’t have filled [the former SCI plant] up so soon." He denies inside knowledge that specific consolidations were coming down the political pike. Baldacci has publicly promoted consolidation of state agencies as a way to make state government more efficient.
Harper’s partners bought the SCI building for $10 a square foot, he says, and thus they can offer low rental rates there to tenants. The Department of Public Safety bid was "rare," he says, because it involved a large space and along with it came the state’s desire to put other agencies like MEMA in with Public Safety.

In the landlord community, Harper’s has its defenders:

"Kevin and Severin had the foresight to buy that SCI building for cheap dollars," says Richard McGoldrick, a Portlander who also rents buildings in Augusta to the state. "The fact is the state benefited from what they’ve done."

THE BALDACCI CONNECTION

Harper’s Development is deeply connected in business and politics, two fields where connections are everything.

What does it mean, for instance, that the Harper’s Development partners joined with the governor’s older brother, Robert Baldacci, in a deal to develop a group of abandoned mills on 16-acre Saco Island — between Biddeford and Saco — into, potentially, a biotechnology center? What does this development mean when Governor Baldacci is pushing for tens of millions of state dollars to go into biotechnology? What does it mean that Severin Beliveau’s law firm, Preti Flaherty, is the lobbyist for the biotechnology industry? What does it mean that Saco Island is being designated by the state as one of Governor Baldacci’s special tax-reduced Pine Tree Development Zones?

The Saco Island property has been owned for years by some local investors, the Cutts Island Group, which includes Democratic State Senator Barry Hobbins. Early last year, former Maine Turnpike Authority chairman and former Saco mayor Sam Zaitlin, Douglas Volk of Volk Packaging, and the elder Baldacci — who is co-managing director of the consulting branch of Portland’s big Pierce Atwood law firm — began negotiations to buy and redevelop one of the large Saco Island mill buildings. Baldacci also is a long-time real-estate developer.

The developers publicly said they wanted to develop Saco Island for biomedical research. They have talked of the possible collaboration of the nearby University of New England (UNE). The private university is the past and intended future recipient of state bond-issue money for such research.

For years, the state, like many other states, has been injecting millions of economic-development bond proceeds approved by the voters into biomedical laboratories. This legislative session, Governor Baldacci has proposed another $22 million for biomedical research, which may include as much as $750,000 for UNE, according to university vice president Ed Legg, who also says the institution is "definitely considering a number of options" for the Saco Island redevelopment project. He says UNE so far has received $1.1 million from the state to support biotechnology research.

Late last summer, the Saco Island project expanded. Plans were announced to develop the entire island and its many buildings and for additional possible uses. The expansion came about because of the involvement of a new set of investors: Harper’s Development. A conditional agreement was signed with the sellers.
The Biddeford-Saco-Old Orchard Beach Courier weekly newspaper noted, "The city has helped facilitate [the] new buyers of Saco Island, through a tax-relief program, introduced by Baldacci’s brother, Gov. John Baldacci, called Pine Tree Zones."

The Courier quoted Kevin Mattson as saying, "We’re still negotiating, but it’s definite. . . . It’s our project and we’re partners with them," referring to Volk, Zaitlin, and Baldacci.

In recent interviews with the Phoenix, both Volk and Zaitlin expressed their belief that their involvement with Baldacci and with Beliveau, Orestis, Harte, and Mattson is still on. The deal "is still viable," says Douglas Volk. Sam Zaitlin says Robert Baldacci is still involved.

Not so, says Robert Baldacci: "I was in it, but when they went looking for significant equity contributions I didn’t want to take that next step."

In any case, he says, the purchase and sale agreement with the Cutts Island Group has expired — though this view doesn’t coincide with what seller Hobbins says: "We consider ourselves under contract."

Robert Baldacci says a Pine Tree Zone on Saco Island — essentially, a place where a developer pays little or no taxes because jobs are being created; over 100 sites have been selected around the state — had "already been designated long before we got involved." But according to the Courier, Saco Island’s Pine Tree Development Zone was originally proposed by the City of Saco in January 2004 for two mill buildings and expanded to encompass the whole island that April. Baldacci’s group announced its development plans in February 2004.

Robert Baldacci, who is on an advisory board of a biotechnology firm, Portland’s Akoura Biometrics, says he has "no financial interest" in any biotech firm that could benefit from a state bond issue. He also says he has no financial interest in Akoura.

His work for Pierce Atwood — one of the state’s foremost lobbying firms — does not involve State House lobbying, he says, adding that he mainly works on economic development projects at the municipal level, and "I don’t apply for funds through the state."

The state’s email correspondence shows that Mattson, Harper’s CEO, at one point discussed with the state leasing agency state-office use of the space in the Saco Island mills. But he now says that, for Harper’s, Saco Island is "a dead deal."

It would not have been helpful if the deal had gone through and Robert Baldacci had continued to be involved in it, Mattson admits: "Those projects often have some type of [government] assistance. It would have been dicey. There would have been a different level of raised eyebrows."

What does it mean that Harper’s had a business connection with Robert Baldacci and that the Saco deal had several connections to the John Baldacci administration’s distribution of money? At an absolute minimum, as Kevin Mattson acknowledges, it means lots of raised eyebrows.

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Baldacci’s bunker

Elaine Clark, head of the Bureau of General Services, provides a statement from the Department of Public Safety to justify the move of its offices and a number of others, including the Maine Emergency Management Agency, to the huge building owned by Harper’s Development on Augusta’s outer fringes:

"The co-location of MEMA and Public Safety was driven primarily by a compelling need to establish the Homeland Security Intelligence Fusion Center. The Fusion Center is an intelligence-gathering and analysis center equipped with secure room for processing secret information from all the federal, state, and local agencies."

The move there of MEMA also allowed the devotion of a great amount of space to the state’s Emergency Operations Center, colloquially known as "the bunker." This is a collection of rooms including a large, Doctor-Strangeglove-like "operations room" with rows of desks (each state department has a desk for two people) on which lie computers and fancy telephones. Big-screen TVs are on the walls.

There’s a special room for the governor and another room, the Joint Information Center, where the state’s public information officers will "coordinate messages to the public," says Steve Burgess of MEMA. There is a news media room, too, with banks of expensive-looking chairs in which the press are supposed to sit and listen on an intercom to bureaucrats save the state from a terrorist attack or a big snowstorm. The bill for Public Safety’s new furniture at their location was $415,000. MEMA's cost for furniture was $109,000, though some of its was covered by federal funds, Clark says.

"The governor has been here already a number of times," Burgess notes — for example, in snowstorms.

— Lance Tapley


Changing the way Maine does business
How can we avoid the Insider Problem? The Phoenix proposes some government reforms
BY LANCE TAPLEY

PART THREE OF THREE: BUSINESS AS USUAL IN THE ERA OF BALDACCI?

The business of conducting business with government in Maine is often a very cozy affair. Two recent stories I’ve written suggest just how intimate it can be.

• On April 15, I examined how Augusta’s mayor helped arrange for the State of Maine to distribute almost $400,000 in federal funds to the City of Augusta so the city could grant it to the real-estate company of which he is the chief operating officer.

• On April 29, we looked at how this company, Harper’s Development of Winthrop, owned by some of
Governor John Baldacci’s foremost campaign contributors, has emerged as a major landlord for state agencies.

In the days and weeks that followed, more than two dozen emails and phone calls came to me and the Phoenix from around Maine, a significant number of them asking us to look into perceived conflicts of interest of government officials.

If those communications are any indication, it’s clear that many people are distrustful of their government. That’s no news to anyone who has sat through city council meetings and legislative hearings. Many citizens commonly believe that a group of businesspeople and politicians who are in bed with each other — the insiders — run everything in a city or a state.

It’s clear Maine needs to change the way it does business. At the municipal level, we need to make codes of ethics standard practice, to make clear what elected officials can and cannot do on behalf of their day-job employers. At the state level, we need anti-"pay to play" legislation so that even the appearance that elected officials are rewarding campaign contributors with government contracts is eliminated.

Ethical problems involving government and business — real or perceived — are not exclusive to Maine. Lately, New Jersey has been rocked by a scandal involving publicly awarded contracts. In the 1920s, there were the scandals called Teapot Dome, when oil fields were improperly leased during President Harding’s administration. More recently there were the multi-level scandals involving Enron. Throughout American history, a well-connected business elite has seized opportunities to make money at the expense of taxpayers. Call them what you will, favoritism or inside deals destroy a basis of democracy, the fair and equal treatment of all citizens. We are not equating these Maine cases we’ve written about with scandals on the level of Teapot Dome and Enron, but even when the Insider Problem is more a perception than a reality, such a perception is highly corrosive to the faith in government that also is an underpinning of democracy.

Historically, the Insider Problem is exacerbated when government is especially pro-business — for example, the robber-baron Gilded Age of the late-19th century and, in the 20th century, the Roaring Twenties. In a capitalist society, of course, government is routinely pro-business. But the Progressive Era followed the Gilded Age, and the New Deal followed the 1920s. In other words, at some places and times, government has shown that it can be critical of and regulate business practices; government can reflect the understanding that the interests of citizens and corporations don’t always coincide.

Maine in 2005 does not appear to be one of those places and times. The Baldacci administration is extremely pro-business, and the governor sets the state’s governmental tone. The head of the Maine State Chamber of Commerce, Dana Connors, is a close Baldacci ally. In addition to the governor’s creation of virtually tax-free Pine Tree Development Zone sites, which now number over 100, he has strongly supported many other corporate tax breaks and other corporate assistance. While he and legislative majority Democrats have cut back social services, they have presided over the ever-expanding Business Equipment Tax Reimbursement program (BETR), which now gives $70 million a year to corporations such as Wal-Mart.

Just in the past few weeks, Baldacci has proposed special tax breaks for developers of sizeable rural hotels and the repeal of the business-equipment tax — while, with the Democratic legislature, he has
approved a historic and controversial $450 million in borrowing to cover the gap between the state’s tax revenues and operating expenses. The Baldacci administration justifies its actions with an appeal to classic Republican, trickle-down economic theory: Cut taxes on the rich and the corporations and they will have more money for investment, which will provide jobs — that ultimate political justifier.

Historically, when the Insider Problem exists in an atmosphere of largesse to the rich and their corporations, "It’s a Gold Rush-spiral mentality," according to Craig Holman, campaign-finance-reform chief for Public Citizen, the national consumer-rights group.

A Gold Rush mentality can be defined as "anything goes" in the scramble to get rich or richer. Holman sees this mentality operating now in Washington, taking note of the enormous corporate contributions flowing to the tax-cutting Republican Party. One result? Mainer Chellie Pingree, president of Common Cause, another national reform group, comments on the atmosphere in the nation's capital: "It isn’t a very good time in Washington in respect to issues related to ethics in government."

But putting aside many huge questions about what happens when corporate welfare and campaign contributions are mixed in a rich stew, the Insider Problem can be addressed discretely. To some extent, it already has been in Maine. We have state conflict-of-interest laws, legislative lobbyist-disclosure rules, state-office-candidate campaign-contribution limits, and public campaign financing for legislative and gubernatorial candidates.

But there are reforms we don’t have that would squarely address the Insider Problem.

**A CODE OF ETHICS FOR MUNICIPAL GOVERNMENT**

A municipal ethics ordinance probably would have prevented Augusta Mayor William Dowling’s controversial activities discussed in Part One of the Phoenix’s series. Augusta and many other Maine cities and towns don’t have one (Portland does not, for example), but a few do. Bangor and Auburn have elaborate ethics codes in their ordinances, including stringent conflict-of-interest rules covering city officials, including councilors. In these cities, boards of ethics may rule on ethical questions. In Bangor, penalties for violations may include fines, censure, and dismissal.

In regard to the city’s dispensing of money, Bangor’s ethics code states: "No City employee, City Councilor, board member or commission member shall participate directly, by means of deliberation, approval or disapproval or recommendation, in the purchase of goods and services for the City and the award of any contracts with the City . . . where to his or her knowledge there is a financial interest, or special interest other than that possessed by the public generally, in such purchase or award." The prohibition covers the official and his or her family, and "interest" includes when the official has "a supervisory or managerial position" in a business.

The Bangor code also explicitly says, "No City Councilor shall either appear on behalf of any third party interest before any City agency or represent a third party interest" in any city matter.

Bangor’s assistant city attorney, John Hamer, believes his city’s code heads off a lot of problems at the ethical pass, and thus rarely do problems arise: "Having the ordinance sets a good guideline, and to that extent it has been successful." Bangor’s code, chapter 33 of its ordinances, is on line at [www.bangormaine.gov](http://www.bangormaine.gov).
In Auburn, according to city counsel Jack Conway, the ethics board recently dealt with a councilor’s relationship with a development company that benefited from a city action. The councilor was an attorney, and one of his firm’s lawyers had a business relationship with the developer, and the ethics board determined that no conflict of interest existed, he says.

"It worked pretty well in that instance," he feels of the city’s code, although the ethics board had to be reconstituted to deal with the issue since some of its members had conflicts of interest "because of the prominence of the councilor and the developer." This sort of conflict, he notes, is typical of small cities, but Auburn’s experience shows it can be dealt with.

When we described to Conway and Hamer a hypothetical situation like that of Mayor Dowling’s in Augusta, both felt their codes of ethics would have prevented a city official from working within city government to help secure a city grant for his business.

A model ethics ordinance has been written by the International Municipal Lawyers Association (IMLA) and can be found at the Georgia Municipal Association’s Web site (www.gmanet.com/data/word/ethics.imla.doc). The Georgia association certifies cities that adopt ordinances like the IMLA’s as "Cities of Ethics." The idea is to "help bolster public confidence in local government," according to the group. "How many times have you heard someone say in reference to public officials: ‘You can’t trust them. They’re all a bunch of crooks,’ " asks, rhetorically, the Georgia Municipal Association’s executive director in a posted message.

But the Maine Municipal Association (MMA) seems less concerned about municipal codes of ethics.

"Nothing in state law requires a city to have one," says Chuck Jackson, an MMA lawyer. The group does not have a model ordinance that it promotes, although "whenever a municipality asks us, we provide information," he says.

In the wake of the publicity over Dowling’s activities, however, a couple of Augusta city councilors have expressed an interest in such an ordinance.

"I think we should have an ethics code," says new councilor David Gomeau. "It shines the light on everything."

"I would be glad to take a look at it and see if it would be something the council wants to have," says veteran councilor Sylvia Lund.

AN ANTI-"PAY TO PLAY" LAW

The reality or perception of favoritism in the awarding of state contracts, which was discussed in Part Two of our series, is in some states addressed by something called a "pay to play" law. Such a law often relies on a disclosure requirement for lobbyists for state contracts, and this requirement frequently is tied to another, stricter one: the prevention or limitation of political contributions by government contractors and people associated with them to officials who are or could be involved in decisions on contracts. The phrase "play to pay" refers to worst-case situations where contractors to a governmental unit have to "pay" in campaign contributions in order to be a player in securing contracts.
New Jersey recently enacted the strongest "pay to play" legislation in the country. The law prohibits the award of state contracts of more than $17,500 to businesses and individuals that have contributed to state or county political committees or gubernatorial candidates. (The New Jersey law is on the Web at http://www.njleg.state.nj.us. Its number is A1500.)

"It was sort of how business was done in New Jersey," says Heather Taylor, New Jersey Common Cause’s communications director, of the "pay to play" system. Now, she says, the reform "severs that link between the campaign contribution and the contract."

The new law not only deals with the grubby reality of the pay-to-play world, it deals with the perception that contracts are for sale, resulting in greater trust in government. "People don’t have to second-guess" government decisions, Taylor says. The New Jersey branch of Common Cause was the leader of an unusual coalition that pushed for the bill over several years. The coalition included, Taylor says, the Sierra Club, the New Jersey Public Interest Research Group (PIRG), the New Jersey Conservative Party, and the state’s chamber of commerce.

A handful of other states have weaker "pay to play" laws. Several state legislatures are considering them as well as a number of big-city governments including New York, Chicago, and Los Angeles. On the federal level, the Securities and Exchange Commission has for over 10 years banned stock and bond dealers from contributing to the campaigns of officials who issue securities. New Jersey Democratic Senator Jon Corzine is introducing a federal pay-to-play bill in Congress.

There is an increasing interest in "pay to play" laws in states around the country "and their important role in ensuring confidence in the way government works," Chellie Pingree says.

In 2003, the Maine legislature took a small step toward similar reform by passing a law that requires legislators to file a disclosure statement if they or their companies bid on state contracts, and in most instances they are forbidden from getting contracts except through competitive bidding.

But some state officials do not exactly embrace anti-"pay to play" reforms.

"I think the administrative burden would be huge," says Elaine Clark, the Bureau of General Services head, who is in charge of state office-space contracts.

Her boss, Baldacci’s commissioner of administrative and financial services, Rebecca Wyke, responds in an email: "While such a law would appear to serve the public good, it would also likely limit the field of bidders and therefore may impact the State’s ability to achieve other goals established for the procurement process which also serve the public good — including best value."

But Kevin Mattson, president of Harper’s Development, seems enthusiastic. Pay-to-play reform would dispel the kind of suspicion that has fallen over his company, he suggests.

"I’d be more than happy to be prohibited from giving money," he says. "It only makes sense. I’m a big proponent of clean elections. It’s a great idea."

(In a pending case, the state ethics commission director has recommended that the commission find
Mattson in violation of the campaign-finance laws for giving excess contributions to a legislative candidate.)

"It’s the good-old-boys business state," recently grumbled Mark Warren, a Gardiner landlord who lost out to Harper’s in a bid to rent space to the state.

Is Warren correct or just disgruntled? Either way, anti-"pay to play" legislation and a municipal code of ethics might go a long way to solve the Insider Problem, real and perceived.

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