

Maine Town & City

The magazine of the Maine Municipal Association

October 2021

Maine History: Worth Preserving

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Q&A with Elaine Aloes

The trouble with browntails





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Rock of Ages



Sometimes we can take our most historic landmarks for granted. In dealing with climate change, the operative word is: Don't.

MMA President James Gardner, Jr. provides a recap of our Executive Committee's recent two-day retreat to his hometown of Easton. **Page 5**

Question 3 on the November election ballot was questioned by MMA's Executive Committee, which urges a "no" vote. **Page 7**

Bet on a Return

*The question for next summer isn't whether browntail moths will be back in Maine, it's how large will the infestation be. **Page 21***

Solon Selectman Q&A

Longtime Solon Selectman Elaine Aloes says one key for elected municipal officials is not to make very many "exceptions." **Page 13**

Risk Manager

Commercial drivers, workers' compensation payroll audits and winter preparations are among the topics covered in this quarter's Risk Manager. **Page 17**

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A MESSAGE FROM MMA

BY JAMES GARDNER, JR. / PRESIDENT

Inside look at MMA's 2021 strategic planning session

Sept. 16-17 brought the Maine Municipal Association Executive Committee, MMA Executive Director and MMA senior management team to Aroostook County for the annual strategic planning meeting. The Town of Easton – my town – served as host to the meeting, as the meeting is held each year in the community of the setting MMA President.

The executive committee started the session with an overview of the financial status of MMA. As noted by Financial Director Sarah Ledoux, MMA is in very good shape financially. Executive Director Cathy Conlow gave updates on the in-person annual MMA Convention – which later was reconfigured as a virtual event, due to COVID-19, as was the case in 2020. The September meeting enabled the MMA Executive Committee to prepare for a virtual convention if COVID-19 cases continued to increase in infections.

The executive committee had previously retained a consulting firm, Berry Dunn, to conduct a comprehensive inventory and assessment of the municipal training and education curriculum in the State of Maine. This document thoroughly described the current training and professional development environment and the training and professional development needs identified by municipal employees, MMA, each Affiliate Group and other key stakeholders.

MMA Executive Committee brought many productive ideas to the table to be considered in the final report: webinars, partner outreach education with Affiliate Groups, and other areas of opportunity that will enhance the professional development environment.

During day two of the strategic planning session, the executive committee engaged in conversation with the senior management team on the issues and challenges for 2022. One of the major problems is staffing positions within the organization, which I am sure is not a new issue with a lot of our members. We all need to find a way to stay competitive as employers, yet deal with the changes about how individuals work from home, along with other employment practices in today's environment.

The executive committee also focused on the success of MMA's Hometown Careers program, and how to enhance it in 2022.

These are just a few topics that were discussed during the session. I am very encouraged about how MMA will roll into 2022 coming. Our top goal is ensuring that we deliver the best services possible to our membership.

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MMA Executive Committee urges voters to oppose Question 3

By Rebecca Graham, Legislative Advocate, State & Federal Relations, MMA

During its annual September meeting, members of the Maine Municipal Association's 12-member Executive Committee establish MMA's positions on municipality-related issues to be decided by voters at the November referendum election.

Question 2

This year, the committee voted to support Question 2, which is the transportation bond. The \$100 million bond will raise an additional \$253 million in federal and other matching revenues to be used to improve and construct roads, bridges, railroads, airports, transit and ports.

Question 3

However, municipal leaders voted to oppose Question 3, which seeks to amend Maine's Constitution to provide a right to food.

As drafted, Question 3 seeks to provide individuals with "a natural, inherent and unalienable right to food, including the right to save and exchange seeds and the right to grow, raise, harvest, produce and consume the food of their own choosing for their own nourishment, sustenance, bodily health and well-being, as long as an individual does not commit trespassing, theft, poaching or other abuses of private property rights, public lands or natural resources in the harvesting, production or acquisition of food."

While ensuring that all Maine residents have unfettered access to food for nourishment, sustenance and well-being is a laudable goal, in reality the vagueness of the proposed language will likely create a host of unintended consequences.

What is a right?

When it comes to the provisions found in Maine's Constitution, language matters.

In short, a right is a liberty constitutionally protected from government interference. A "right" enshrined by the language is ultimately decided by the courts through case law, and not by state lawmakers or legal analysts. Unlike a state law that can be easily amended, a change to a constitutional provision must first be supported by two-thirds of the members of the Legislature and then ratified by the voters at a statewide election.

Specific to Question 3, the amendment's vague language will need to be litigated. Without a clear definition of what this right entails, any unit of government that adopts or enforces a statute or ordinance that is perceived to infringe on the right to food will be challenged. It will be left to the courts to establish the parameters necessary to determine if an inherent and unalienable right has been violated at great expense to state and local taxpayers.

What 'rights' does Question 3 protect?

Personal choice: Providing individuals the right to "grow, raise, harvest, produce and consume the food of their own choosing" makes protecting personal choice a priority over the protection of public health and safety and access to adequate, accessible and sustainably grown food.

For example, institutions that are required by federal and state regulations to feed certain populations, such as schools, county jails and prisons, could be required to adhere to an individual's personal choice for food,



rather than meeting established nutritional standards.

Private property rights: Additionally, Question 3 states that those rights are "natural, inherent and unalienable... as long as an individual does not commit trespassing, theft, poaching or other abuses of private property rights, public lands or natural resources in the harvesting, production or acquisition of food."

As an example, if perceived as being too restrictive, this broad provision could leave related municipal ordinances open to challenge, including those regulating where livestock can be raised in cities, pesticides uses or nutrient management restrictions in shoreland zoning and even setbacks.

This right could also allow residents to bring invasive plant and fish

species into Maine, overriding the state's interest in protecting fragile eco-systems that may put existing food crops at risk.

In addition, the broadly drafted language could be perceived as giving people the right to impose their preferences on neighbors' private property rights by preempting implementation and enforcement of reasonable land use regulations that limit the

number of farm animals that can be raised in certain areas of a community.

Mainers are hungry: How should government respond? Municipalities and the state need the flexibility to respond to emergent needs. The "right to food" is achieved when food is universally available, easy for individuals to access or acquire, provides adequate nutrition to meet an individual's needs and is harvested from

sustainable resources to ensure future availability for all. None of these important factors are included in the "right to food" language.

Municipalities already lead the way: Local communities are often left to fill the unmet needs of their residents who fall through the cracks of existing food programs. Volunteer groups throughout the state are actively addressing hunger through a variety of creative means from funding local food banks and "backpack" programs to collecting food donations during town meetings and delivering school meals directly to students' homes. These groups and volunteers work in partnership with local businesses, farms, and farmers' markets to address food insecurity. Food programs need greater investment, not constitutional challenges. Question 3 is guaranteed to shift scarce resources to fund litigation at the expense of existing food programs.

The members of MMA's Executive Committee urge a no vote on Question 3. ■

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Don't forget history, when it comes to climate change

Maine is blessed with iconic lighthouses, and town center jewels like Monmouth's Cumston Hall. Yet when questions about climate arise, they can be afterthoughts.

By **Stephanie Bouchard**

Set on a white pyramidal tower 79 feet above sea level, the fourth order Fresnel lens of Pemaquid Point Light illuminates sea and shore every six seconds. Its white light is visible 14 nautical miles away.

The current lighthouse, built in 1835, sits on the west side entrance of Muscongus Bay and its likeness has the distinction of being the first one in the country's history to be depicted on American currency (the Maine state quarter, issued in 2003).

For centuries, its attractiveness in combination with the beauty of its location has attracted artists like Edward Hopper, amateur and professional photographers, and 70,000 to 100,000 visitors per year in addition to providing navigational reassurance to mariners and a steady presence to those on land.

Its value to its home community – Bristol – and to the state more generally, is priceless, said Lara Decker, Bristol's parks and recreation director.

"It's a big draw," she says. "There are people that come to Maine just to see all the lighthouses, so we have a steady stream of visitors there in the summer. So, it's very valuable to the town because it does bring a lot of tourists to the town."

But more than the attention and economic benefit it brings to Bristol, the lighthouse and its surrounding park provide residents with a sort of spiritual touchpoint.

"I know people in town that go there every single day," she said. "I know so many people that part of their



Pemaquid Lighthouse (Photo courtesy of the Town of Bristol)

daily routine is to go there. I know someone that goes there every day at sunrise. We have meditation classes there actually, because it is such a peaceful place. It's definitely a place of solitude that people in the town utilize."

Climate threat

Given its value to the community, the lighthouse has long been singled out as important to maintain and care for. As it begins its new comprehensive planning process, the Town of Bristol has a subcommittee dedicated to considering how the town could be impacted by the effects of a changing climate – sea level rise, flooding, severe and more frequent weather events – and trying to determine which historic

assets, such as its lighthouse, could be in trouble and what they can do to protect such valued sites.

Many towns and cities in Maine have not put formal plans in place to manage the potential effects of changing environmental factors. Even fewer have added specific steps to take care of the historic assets in their communities in the face of changes that could endanger those places, said Christi Chapman-Mitchell, the assistant director of the state's Historic Preservation Commission.

In 2018 and 2019, the commission mailed surveys to members of the state's cultural/preservation communities and to municipal officials to try to get a feel for how municipalities are planning to protect their historic assets

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Cumston Hall in Monmouth (Photo by Michelle Handley)

as they make plans for the potential effects of a changing climate. Eight hundred seventy-seven surveys were mailed; 134 were returned. Of those responding, 22% said their community was preparing “for the physical effects associated with extreme weather events or changing climate.” Only 11 communities specifically considered their historic and cultural assets as part of those preparations.

The Hancock County Town of Castine, home to the Maine Maritime Academy and many historic buildings

and neighborhoods and an active historical society, is one of the municipalities not actively thinking about how it can protect its historic assets in the face of potential climate impacts, said Shawn Blodgett, the town’s manager. For one thing, many of the town’s historic properties are in private hands, and therefore outside municipal jurisdiction. But the biggest issue is one of resources.

“When you’ve got a town staff of five folks, everybody wears at least three hats,” he said. “While I don’t

want to speak for most municipalities, I can’t imagine that most of them – most other municipalities up and down the coast – are much different than Castine as far as their staffing and their bandwidth.”

“It’s an issue,” he adds, “and it’s one that we are all attempting to deal with, but I can’t imagine there’s much bandwidth out there up and down the coast to be able to deal with something this monumental.”

A gem in town center

For the Kennebec County Town of Monmouth, conversations about the potential impacts of a changing climate are indirectly making their way into their comprehensive plan update, which recently began, said Stephen O’Donnell, who is chair of the town’s planning board.

While no one seems too concerned about the sorts of impacts coastal communities are facing (sea level rise, for example), town officials are aware that increased maintenance costs to its historic assets – namely, Cumston Hall, a striking wooden building on the National Historic Register that is home to the public library and the Theater at Monmouth – due to more severe and frequent weather events could be a budgetary issue.

The comprehensive plan is typically more of a capital planning tool, O’Donnell said, but it also reflects on the town’s physical development and how that’s implemented. While he



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wouldn't label such considerations as specifically planning for the effects of climate change, it does provide town leaders with a map to "ensure development happens in the areas that aren't going to be overly impacted by weather," Blodgett said, and to mitigate damage to existing areas.

One town that is and has been actively planning for the potential impacts of a changing climate – specifically for the damage caused by sea level rise, storm surge and flooding – is the Lincoln County Town of Damariscotta. Its historic Main Street district – on the National Register of Historic places – is situated on the Damariscotta River. Parking areas and buildings in the area regularly experience flooding.

In order to protect the downtown, the community created a plan to manage impacts and has steadily sought out funds. It has made incremental progress to strengthen its infrastructure resiliency, said Robert Faunce, who works part-time as Damariscotta's town planner and served as Lincoln County's regional planner for more than 20 years before he retired in 2019.

Some of the resiliency plans include making drainage improvements, such as replacing storm drains with one-way valves so water will only flow out but not in, and a three-foot high seawall with gates so the gorgeous views of the water will not be blocked when the gates aren't needed to keep water out.

Grant makes huge difference

"Small town boards of selectmen, with all the other things they've got going, it's hard for them to focus and devote the resources to create those kinds of plans," Faunce says. "Damariscotta is going forward because it was able to get a major construction grant from the federal Economic Development Administration. If we hadn't gotten that grant, we would have another nice plan, you know?"

Getting and having resources – staffing-wise and particularly financial – is always a major component for communities when they consider any project, including planning for the effects of climate change and thinking about how their historic assets fit into that planning.

According to the "Weathering Maine" survey and report from the

Maine Historic Preservation Commission, survey respondents overwhelmingly identified funding as the "most desirable type of assistance the Commission could provide to help prepare for the effects of extreme weather events or climate change on historic or cultural properties."

"People always need funds," the commission's Christi Chapman-Mitchell said. Part of the reason the commission did its survey was to find out what other resources, besides funding, Maine's communities would like to have or need, she says, so that the commission could try to tailor its resources to communities.

"I think one of the things that we really want to do is provide information and resources," she said. Municipal officials can always call the office to

have a phone conversation about their particular situation, and the commission's website offers information and provides resources for communities. They also hope to create planning documents that can be used to at least get a "quick and dirty" vulnerability assessment of their historic assets, she says, so communities have some pre-planning knowledge.

"We want them to think about it (their historic properties) and to start to put into their list of things – into their planning for climate change," she says. "I'd like people to know that we are a resource and that we are very concerned about this going forward. We're happy to give out whatever assistance we can." ■

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Include historic assets when planning for climate change

By Stephanie Bouchard

The Maine Historic Preservation Commission's Christi Chapman-Mitchell wishes all historic assets could be protected, but she knows that's not possible. "We're not going to be able to physically save everything that is threatened by climate change," she said, "and in some cases, it wouldn't necessarily be appropriate to do so. So we have to think about other ways to preserve our history."

She recommends communities identify their historic assets and start having conversations about which of those are important to them. Ask: "Can we save this? Do we want to save this? At what cost? What is the value here? How can we get some sort of consensus about how many of our resources are going to go into this?" If you determine a physical asset can't be saved, start thinking about how its history can be preserved through things such as oral and written histories, photographs, and digital technologies.

Chapman-Mitchell suggests looking to other communities outside of Maine that are taking steps to protect their historic assets in the face of a changing climate. The National Trust for Historic Preservation's website (www.savingplaces.org) has resources and stories from around the country.

- **Be proactive** about education, said Terry Helms, a Maine Municipal Association Executive committee member, who is a select board member of the Aroostook County Town of Grand Isle and a historic restoration specialist. "Funding is always an issue up here in Aroostook County," he said. Get the word out to your residents and to tourists about your historic assets, and invite potential donors to tour those assets. "If we can get a potential funder inside our building, it's almost guaranteed to get funding."

Historian and archeologist Neill DePaoli, who is the site manager of Colonial Pemaquid in the Bristol village of New Harbor, believes education about historic assets is vital. It lets visitors and residents know what sites it has and why they are valuable to the community.

This knowledge can lead to emotional as well as financial investments. DePaoli suggests using educational lectures, presentations and films and then engaging those in attendance in an open-format discussion. And appreciation and understanding of historic assets isn't just for adults, he says. Get kids involved, either through in-school programming or at historic sites where they may be able to get their hands literally dirty participating in a real or mock archeological dig.

Without knowledge of these historic assets, he said, there is "no understanding as to where we are today." Our lives may be different from the lives of those in our past, he said, but in some ways, things aren't so different: We, like our predecessors, want to know how to sustain ourselves in our environment and can look to the knowledge of those who came before us to learn those things.

- **Know what you have**, suggests Julie Larry, Greater Portland Landmarks' director of advocacy. "The most important thing is for a community to have a survey of or listing of their historic assets, whether that be archeological sites along the coast or buildings," she said. Figure out what and where those places are, map them and use the state's climate science dashboard (<http://climatecouncil.maine.gov/maine-climate-science-dashboard>) to determine what, if any, risk is posed to your historic assets. If you're not sure where in your community to start looking for historic assets, talk to your local historians, historic societies or preservation organizations.

- **Mine these local resources:** Maine Historic Preservation Commission's Climate Change and Historic Resources website, which includes the "Weathering Maine" report and practical toolkits: www.maine.gov/mhpc/programs/protection-and-community-resources/climate-change

Greater Portland Landmarks' property owner guide has ideas that you can apply to your historic assets: www.portlandlandmarks.org/climate-change.

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Aloes: Balancing wants, costs key to municipal management

Solon's First Selectman cites rural broadband as an aching need throughout rural Maine, and encourages state and federal governments to do more.

By Liz Mockler

All Maine municipalities share many of the same ageless concerns and issues, regardless of geography, local culture or size. Below, Solon First Selectman Elaine Aloes describes how her small town, population 1,080 according to the 2020 Census, addresses the work of running a town.

Aloes, a member of the Maine Municipal Association Executive Committee, has served as selectman since 1990 and as board chairman since 1998.

Q. What is the most important role of municipal government?

A. Municipal government is the government closest to the people. Every town has a town office that the citizens can walk into and talk to their town officials. For many people this is the only direct contact they will ever have with a government official. Municipal government's most important role is to provide the needed services to its community and to be a resource for information about other services available from other government entities and the private sector. Our clerks and tax collectors are the ones who have the most contact with our citizens and are often asked questions totally unrelated to their positions. They, like other town officials, strive to help their citizens even if it is not strictly municipal related.

Q. What is your biggest challenge as first selectman?

A. The biggest challenge of being a selectman is to remember that you cannot make everyone happy. You have to listen to the citizens' concerns and to treat them with courtesy and fairness, but you can't always grant their re-



Elaine Aloes

quests. If you make an "exception" for one citizen you will have to make that same "exception" for other citizens. You also have to consider the "wants" of a citizen to the "cost" to the taxpayer. While a "want" might be a great idea, the "cost" might be too much.

For example, a citizen might want his or her gravel road paved, but the cost to pave it is more than the taxpayers want to pay. Also, as first selectman, you have to remember that you have no more power than the other selectmen and that all decisions have to be joint decisions. Some citizens are surprised when you tell them you must consult with the other selectmen before you can give them a decision on a matter.

Q. Will or how will Solon benefit from the federal funding included in the American Rescue Plan?

A. Solon, like other municipalities, is expecting to receive funds from the American Rescue Plan. While it seems

like it is "free money," it is just money coming from another pocket of the taxpayer so we need to carefully consider how we spend the taxpayers' money. Town officials have been discussing various ways to use this money that will be most beneficial to our town. Broadband improvement in the more rural areas of our town is one area we are looking at and, hopefully, the state and Somerset County will help us with that. We are also considering other uses for the funds that we otherwise would not be able to afford to do. We have to be careful to follow the guidelines in making our decision on how we will use the money.

Q. Do you have concerns about the lack of reliable broadband service in rural areas of Maine?

A. Reliable high speed broadband service has become a necessity instead of a luxury and the lack of it is a real concern in the rural areas of Maine. We provide WiFi hot spots at our town office and our library and there is often someone in a parking lot using this service. We understand that it is not cost-effective for internet. Also, many people need reliable and fast internet service for their home-based small businesses or to work remotely from home.

In the cities and larger municipalities they have speeds that are many times faster than what is available in the rural areas of the state. The internet service provider for the rural areas of Solon just did an upgrade to the internet service and we now can get 25mbps and this is an upgrade from the 5 mbps it was before. The Portland area has over 100mbps. Reliable and high-speed broadband service has to be made available to those in the rural areas, but financial help is needed

Liz Mockler is a freelance writer from Eagle Lake and regular contributor to *Maine Town & City*, lizmockler@hotmail.com.

to accomplish it and the state needs to make it a priority.

Q. Are you satisfied with the COVID-19 vaccination rate in your region?

A. We were told that if we can get a 70% immunization rate we would reach herd immunity. In Somerset County, where Solon is located, the vaccination rate for those 65 and older is 87%. The overall rate for those over 12 years of age is 60%. These rates do

not include those who had COVID and now have natural immunity. When you add in those who have natural immunity from having COVID, we have passed the herd immunity vaccination rate.

I believe it is up to the individual to decide on getting vaccinated and it should not be mandated. There are many reasons someone might not want to be vaccinated: already has natural immunity from having COVID-19; has health issues; is pregnant; is breastfeeding an infant; or have concerns about the long-term safety of the vaccine. These vaccines are new and the long-term effects are not yet fully known. And some new heart issues are showing up in some previously healthy teenagers who have been vaccinated.

Q. What do you appreciate most about living in Solon?

A. I love the rural nature of Solon and that it is small enough that people know and care about each other and are willing to help those in need. Solon is a small rural town of about 1,000 year-round residents. It is in central Maine on Route 201, which has a National Scenic Byway designation starting in Solon and continuing to the Canadian border. The view from the Robbins Hill Scenic Byway Overlook of the western mountains is spectacular, especially at sunset. Skowhegan is about 15 miles to the south of us and has all the urban amenities we need. The northern great woods start just to the north of us for those who want to get away from the hustle and bustle of "urban" life.

There are all sorts of opportunities for winter and summer sports and



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recreational activities in Solon and in the area around it. Sugarloaf Mountain Ski Resort is only 35 miles to the west of us. We have snowmobile, ATV and recreational trails in our town connecting us to other towns' trails. There are great fishing and boating opportunities on the Kennebec River and on the many lakes and ponds in the area. We are in a great area for those who like to hunt. Rush hour in Solon is when you have to wait for more than three cars to go by before you can pull out on to Route 201.

Q. In general, is there anything in how Maine municipal government works that you would change or wish to improve?

A. Municipal government is so important because it is the closest to the people. I think the way we do it in Maine works well. However, it faces ever increasing rules and regulations from the state and federal governments. It gets increasingly difficult to keep track of the requirements and the reports we must send to the state and federal government. I believe municipal government works well if the municipal officials keep up with the rules and regulation changes and attend the

training sessions and workshops. But it is a big burden on the smaller towns that only have part-time office staff and volunteers and no manager or administrative assistant. Like many small towns, Solon does not have a town manager or administrative assistant. So, it falls to the selectmen and the town clerk to keep up with everything.

In Solon, the selectmen are also the assessors and are in the town office all day every Wednesday doing all the work that needs to be done and often other days also. It is a big-time commit-

ment and it is getting to a point, like in many small towns, that an administrative assistant and/or an assessor will need to be hired and that will be an added cost to the taxpayers. Consolidation is always an option but it is difficult to consolidate and still keep your town's individualism. It is a different mindset from the way we are used to doing things and a lot of people don't like things to change. As the "old timers" say: "That's the way we have always done it so why do we have to change things now?" ■

**ELECTIONS
ELECTIONS
ELECTIONS**

Has your town had its election?

Did you let MMA know so we can update our database?

No election, but you have changes: let us know!

Contact Val or Kimberly:

PersonifyRequests@memun.org ■ 1-800-452-8786 or 207-623-8428

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The image shows a sign on the left with the text above. On the right, there are two recycling bins. The bin in the foreground is a grey bin with a white recycling symbol and the word "ecomaine" printed on it. The bin behind it is also a grey bin with "ecomaine" printed vertically on its side. Both bins are filled with various types of recyclable materials like plastic bottles and cardboard boxes. The background is a blurred outdoor setting with trees and a car.

STREETS

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SCHOOLS

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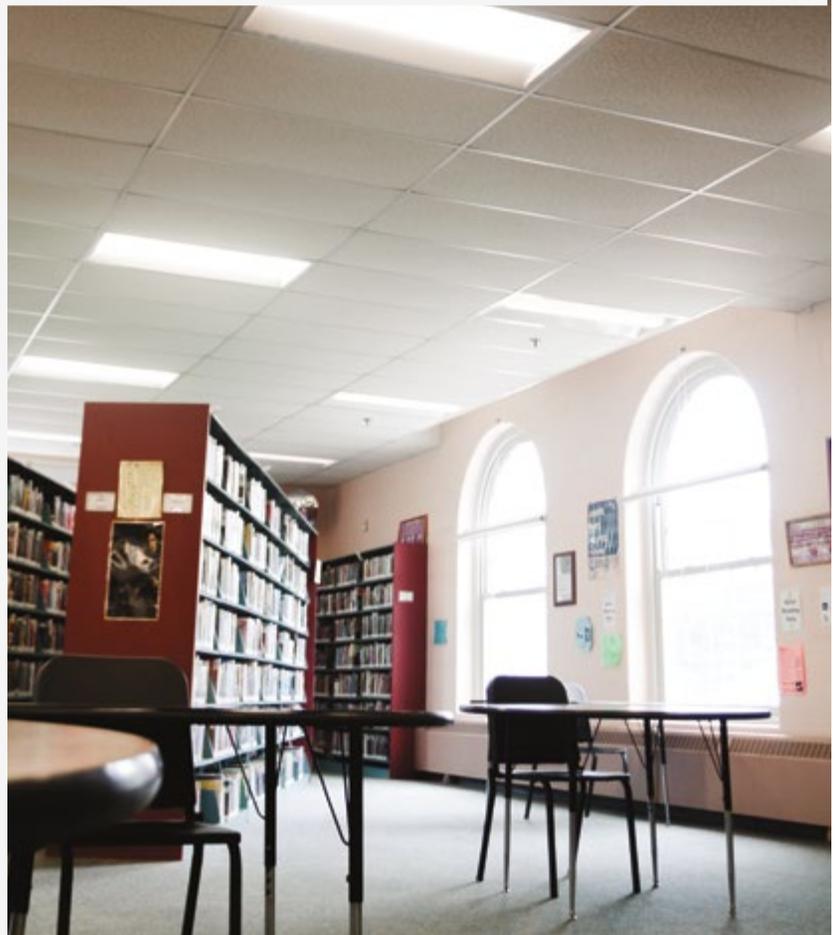
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the Municipal RISK MANAGER

FALL 2021

A PUBLICATION OF THE MAINE MUNICIPAL ASSOCIATION

Prepare Now for the Driver You Need Tomorrow

Maine communities depend on commercial drivers to maintain and plow roads, operate school buses, waste collection and to keep us moving, but a change is heading our way. The Federal Motor Carrier Safety Administration (FMCSA) has instituted a new regulation effective February 7, 2022, but you may wish to prepare now. The new regulation, titled Entry-Level Driver Training (ELDT), establishes new Federal minimum training standards for entry-level drivers.

Beginning February 7, 2022, entry-level drivers must have completed the required entry-level driver training (ELDT), from a provider registered with FMCSA before taking a Commercial Driver's License (CDL) skills or knowledge test to obtain one of the following licenses or endorsements:

- A Class A or Class B commercial driver's license (CDL) for the first time.
- An upgrade of an existing Class B CDL to a Class A CDL.
- A school bus (S), passenger (P), or hazardous materials (H) endorsement for the first time.

What will be the impact of the ELDT?

- Only drivers who obtain a commercial learner's permit (CLP) on or after the February 7, 2022 compliance date are subject to the ELDT regulations for obtaining a CDL.
- Drivers seeking to obtain a Class A or Class B CDL or endorsements S, P, or H must select a training provider from the public list, which will be live on the Training Provider Registry website later this year.
- Drivers who currently hold a CLP may obtain a CDL without completing entry-level training, as long as



they obtain their CDL before their CLP, or renewed CLP expires.

How do the ELDT regulations impact current CDL holders?

- Current CDL holders who apply for a S, P, or H endorsement on or after February 7, 2022 are subject to ELDT requirements for those endorsements.
- The ELDT requirements for obtaining the S, P, or H endorsements also apply to drivers who obtain their CLP or CDL after February 7, 2022. 

Be Ready for Your Workers' Compensation 2021 Payroll Audits

Once a year, payroll audits are performed on the members of the MMA Workers' Compensation Fund. These audits must be completed between January 1st and March 31st 2022. The function of the audit is to analyze, review and compare the estimated annual payroll projections (which you report to us the year prior) to the actual payroll totals at the end of the Fund year.

The audit process is important and with some planning can be completed with ease. Therefore, we recommend that you start now and consider the following:

- 1. Certificates of Insurance for Contracted Workers**
If your entity uses contractors/sub-



contractors during the year, you must obtain a certificate of insurance, which provides evidence of Workers' Compensation coverage or an approved "Predetermination of Independent Contractor Status" (WCB 266). If your entity does not obtain and keep records of certificates of

insurance from all contractors, we must include them in your payroll totals, which will affect your contribution.

- 2. Proper Classification of Employees**

Be sure to classify all employees in the correct payroll classifications. If you are not sure about where an employee should be classified,

Story continued on next page

A Rewarding Partnership

The MMA Workers' Compensation Fund and Property & Casualty Pool are pleased to announce that we delivered over \$1.3 Million in Dividend Distributions this year. Since 1997, MMA Risk Management Services have returned more than \$25 million in dividends to participating eligible members. These dividends are a direct result of member dedication to safety, loss prevention, and sound risk management practices.



From Top Left to Right: Town of Casco Tony Ward; Town of Patten-Hersey & Moro Plantation, Deborah Bivighouse and Laura Chicoine; Town of Houlton, Gail Cleary, Nancy Ketch, Terry Duff, Lindsay Stewart and Missy Hutchinson; Town of Wiscasset, Dennis Simmons; Town of Dresden, Michael Faass; Northern Katahdin Valley Waste Disposal, Bruce Edkins, Jason Willigar, Samuel Hinchman, Adrien Ireland, Roland Cameron; Town of Poland, Matt Garside; Town of Crystal and Island Falls, Jutta Beyers; Town of Sherman Debra O'Roak and Linda Smith; Town of Sherman and Town of Merrill, Candis Nevers; Town of Randolph, Janet Richards and Jessica Soucy; Houlton Water Company, Shanna Lassonde, Christopher Moores, Jane Lynds, Mary McGillicuddy and Kaycee McClure.

For more information about any of the MMA Risk Management Services programs, including dividend distributions, online training programs, grants, scholarships and other available services, please visit our website at www.memun.org and click on the Risk Management Services link, or call 1 800-590-5583 and ask to speak with a RMS Member Services representative. 

Be Ready for Your Workers' Compensation 2021 Payroll Audits (cont'd)

please contact your underwriter at the MMA Workers' Compensation Fund.

3. A Helpful Tool

It is a good practice to review audits from prior years. By reviewing, the prior audits you can see how your employees have been categorized which can help you ensure they are categorized correctly for the upcoming audit.

If you have questions about audit details, proper classification codes for employees, Certificates of Insurance or for any other area where we can be of assistance, please contact the MMA Risk Management Services Underwriting Department. We are here to help. 

Workers Compensation Renewal Reminder

It is renewal time again and we are here to help. The renewal applications for the Workers Compensation Fund were due by October 15, 2021. We want our Members to know that we are available to assist you. If you would like help with the completion of your application or just have questions, please contact RMS Underwriting at rm-sunderwriting@memun.org or 1-(800) 590-5583.

Serving Maine Communities Is What We Do And All We Do

The Municipal Risk Manager

The Municipal Risk Manager is published seasonally to inform you of developments in municipal risk management which may be of interest to you in your daily business activities. The information in these articles is general in nature and should not be considered advice for any specific risk management or legal question; you should consult with legal counsel or other qualified professional of your own choice.

Publisher: Risk Management Services
Editor: Marcus Ballou
Layout Designer: Sue Bourdon

P.O. Box 9109, Augusta, ME 04332 800-590-5583 or (207) 626-5583

There is No Stopping Winter - Prepare now!

Winter in Maine creates increased risk of slips and falls, property damage and motor vehicle accidents. Therefore, now is the time to prepare for winter by performing maintenance on your buildings, walkways, vehicles and by conducting employee education. By following the recommendations below, you can be prepared for winter and create a safer environment for all.

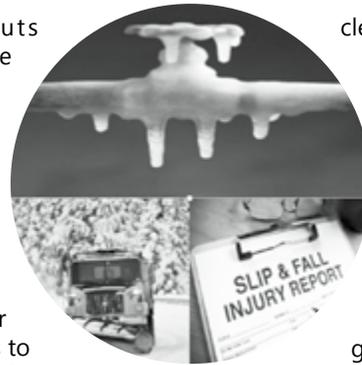
Building Preparation & Related Risks:

- Make sure the building exterior is in good condition with all unnecessary openings closed.
- Insulate water pipes, paying special attention to pipes that are close to exterior walls or in unheated basements/crawl spaces/attics, pipes near windows, in foyers or soffits, and pipes that have frozen in the past.
- Locate, identify and mark water shut-off valves and ensure that your staff knows how to turn off the water.
- Repair or replace leaky or corroded valves now.
- Turn off the water to all outside connections and drain.
- Remove all hoses hooked up to outside connections and if possible drain the pipes.
- Ensure that you can remove the snow from around sand/salt shed building walls and foundation.
- Plan to remove heavy snow from roofs if it can be done safely. Special care should be taken with flat roofs, which can be especially susceptible to snow loads and water collection.
- Keep gutters, eaves, and downspouts clean and free of leaves, ice, or snow.

- Make sure downspouts extend away from the building to direct water away from the foundation.
- Service heating systems to ensure that they maintain building temperatures.
- Schedule staff for regular Building Freeze Watches to be performed during winter storms and periods of cold weather.
- Take special care to weatherize and monitor vacant or unoccupied buildings.

Slips, Trips, and Falls.

- Make a plan to monitor, clear, sand and salt all building entrances and exits, parking lots, and walking paths. If you use a contractor to maintain these areas, check the service contract, and make sure it clearly defines the frequency of maintenance during storms.
- Encourage your employees to wear appropriate footwear and to walk slowly by taking small steps to allow themselves to react quickly to a change in traction.
- Designate an entrance that will always be first to be maintained so that your employees can rest assured that they have a safe entrance to and from work.
- Monitor floors just inside building entrances, where melting snow and slush create slippery areas. Use large absorbent floor mats to catch this snow and water. During storms, you may need to post special signs to warn people of a slippery floor.
- Many slips and falls occur when employees get in and out of vehi-



cles. Operators of trucks and heavy equipment should, in all seasons, face the vehicle whenever entering or exiting. In winter, it's particularly important that they clear as much snow and ice off of steps, grab bars, etc. as possible and report damaged or unsafe equipment immediately so that it can be repaired.

Vehicle & Plow-Related Risks

- Ensure that drivers get experience operating their designated vehicle; pre-drive their assigned routes with the plow (and wing) attached, and mark obstacles on their routes. Do not let their annual "shakedown" ride be in adverse weather.
- Perform pre-season equipment maintenance. Have drivers check all safety equipment such as lights, strobes, wipers, defrosters, communications and tires before every shift.
- Report, repair, or replace damaged equipment immediately.
- When attaching or removing plow blades for the season, workers should have assistive equipment to keep themselves safe. Hand injuries as well as shoulder and back strain injuries are notorious for their long-lasting and sometimes life-altering effects.
- Monitor driver fatigue, especially in long or successive storms with extended periods in the driver's seat. Make it a priority to check in regularly with drivers to evaluate their fatigue levels.

Winter can arrive suddenly, so it's best not to delay your preparations. For more winter loss prevention ideas, reach out to your loss control consultant or email us at rmslosscontrol@memun.org, we are always available for you. 🏠

MMA Risk Management Services welcomes its newest member to the
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Town of Westmanland

We thank our dedicated members for their partnership and continued support.

The Compensation Corner

In the Workers' Compensation arena accidents happen, which brings about the question of **"What do I do if a workplace accident does occur?"**

Act fast:

The primary focus is to ensure that the injured employee is cared for and safe.

- See to his/her immediate medical needs
- Call 911, or
- Call an ambulance to transport them to a hospital

Notice of injury:

Once the care for the injured employee has been established, the matter of notice must become a priority.

As with all claims, immediate notice of the claim to the Workers' Compensation Fund (MMA WC Fund) is crucial or your Workers' Compensation insurer if you are not a member of our Fund.

- The Maine Workers' Compensation Board - Insurance Division (WCB) prescribes timelines to follow when reporting and administering claims. All "Lost Time" claims must be reported to the Workers' Compensation Board within seven (7) days of the injury or a fine may be applied.
- Claim submissions to the WC Fund should be timely and as complete as possible. This allows the claim can be administered properly, and for the WC Fund to make the necessary notices to the WCB. Additionally, a timely notice allows our WC Fund Claims Team to confirm coverage, actively manage the claim, and ultimately help the injured employee with his/her recovery, which reduce time away from work and associated expenses.

Special Notice Requirements for Fatalities and Serious Injuries:

Notification to the Maine Department of Labor (MDOL) is required with eight (8) hours, and all serious physical injuries that require hospitalization including amputation, loss, or fracture of any body part must be reported within Twenty-four (24) hours. Accidents may be reported to the MDOL by calling (207) 592-4501.

Learn from the incident:

One of the most useful tools that we have to prevent future claims is the Incident Investigation. A thorough incident investigation is an essential element of any safety program. It is extremely important for Managers, Directors, Supervisors, and employees alike to understand what caused the injury to happen in order to avoid a similar incident in the future.

An incident investigation may be able to answer the following questions:

1. Why did the accident occur?
2. Who was impacted by the accident?
3. What changes can be made to prevent similar accidents?
4. How to make employees aware of the potential workplace hazards?

An accident is an unfortunate event that not only affects the injured employee but also effects of the workplace. Therefore, a good accident investigation will uncover the details of how and why the injury happened. It also shows your employees that management cares and strives to protect them from harm. Without an incident investigation, the accident causing an injury is more likely to reoccur. A sample Incident Review plan is available as part of the Workers' Compensation Safety Incentive Program (WCSIP). We encourage you to review the Incident Review Plan and the WCSIP at <https://memun.org/Insurance-Services/Risk-Management-Services/WCSIP> 🏠

FREQUENTLY ASKED QUESTIONS

WHAT IS TWO FACTOR AUTHENTICATION?

Two-Factor Authentication is a simple tool utilized to protect your entities computer systems for attacks. Two-factor Authentication strengthens access security by requiring two methods to verify your identity prior to allowing access. With Two-Factor Authentication, only you can access your account on a trusted device, application or web.

HOW DOES TWO FACTOR AUTHENTICATION WORK?

Two-factor Authentication strengthens access security by requiring two methods (also referred to as factors) to verify your identity. An example of Two Factor Authentication is utilizing something you know - like a username and password, plus something you have - like a smartphone app to approve authentication requests. Because the Username and Password alone is no longer enough to access your account, Two-Factor Authentication dramatically improves the security of your devices and the information that you store.

IS THIS REALLY NECESSARY?

YES! As more and more municipalities, governmental entities and utility districts operate virtually, utilizing remote storage or offer access to internal services from the outside, robust cyber security tools such as Two-Factor Authentication should be implemented and constantly monitored to ensure that you are protected from cyber attackers that may have figured out (or stole) an account and password.

Many of the attacks you read about in the news most likely could have been prevented if the account had been protected with Two-Factor Authentication. As an example, imagine that you are away from the office vacationing with family when your phone beeps "Allow access?" the Two-Factor Authentication is notifying you that someone is trying to access your account. But because you said 'Decline' or didn't respond that person is not able to use your credentials to access your entity's resources.

Two-Factor Authentication is one of the best ways to protect against remote attacks attempting to access/takeover your accounts. This is simply the next necessary step to protect ours and your client's data. 🏠

One thing is certain: Browntail moths will be back in 2022

The state Forest Service and many municipalities used various means to address the problem this year, but as one town manager observed, 'That's nature.'

By Betty Adams

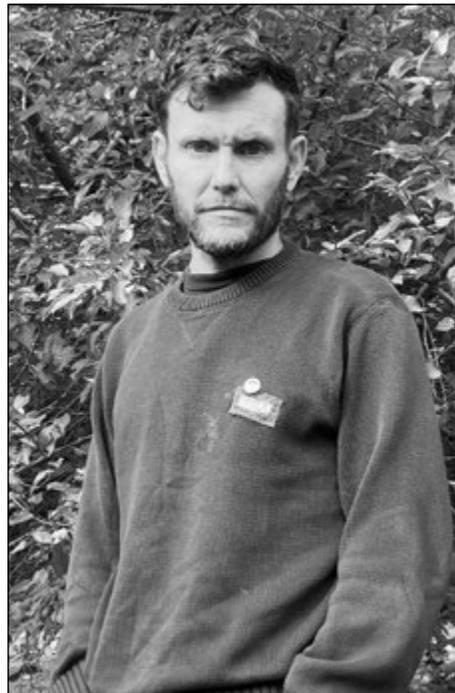
Browntail moth caterpillars are marching farther inland and farther north through Maine, munching their way through leaves of deciduous trees while shedding toxic hairs that cause irritation when they encounter skin.

When the itching, burning and reddish rash from contact with those hairs began affecting people this past spring, the Maine Forest Service office received 25-30 phone calls per day asking what residents could do about it.

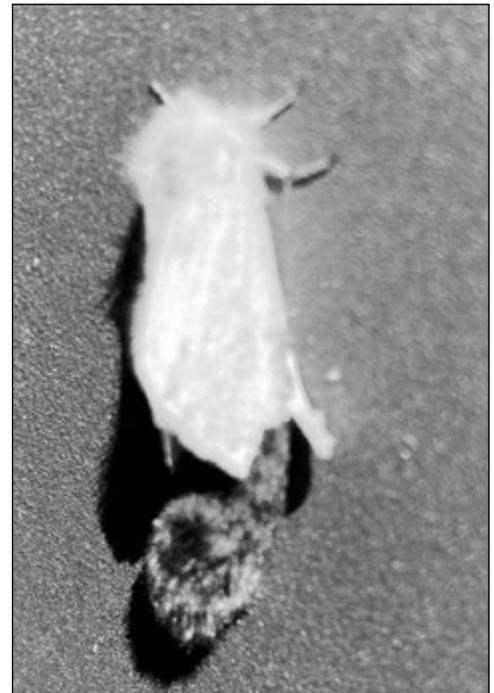
"This year, a lot of people were taken by surprise," said Thomas Schmeelk, an entomologist with the Maine Forest Service, who answered many of those calls. "There were a lot of new homeowners, lots of out-of-staters moved to Maine who were unaware of the problem and the (browntail moths) are moving inland, so it's affecting more people. People typically think it's just coastal."

The maps from surveys done by the Maine Forest Service clearly show the path the insects are treading. The maps are based on two pools of data: aerial surveys performed in late spring/early summer to see the extent of defoliation; another in late August/early September to pick up defoliation done by young caterpillars who leave behind skeletonized leaves when they feed. Then in winter, foresters drive along the roads in teams to do a visual web survey.

One map from the 2021 winter survey on the Maine Forest Service website



Thomas Klepach



Browntail moth carrying eggs (Photo by Thomas Klepach)

shows browntail moth webs reaching north and west into Penobscot, Somerset and Franklin counties, while Kennebec, Androscoggin, Waldo and Knox show significant damage from the caterpillars in 2020.

Schmeelk said the current outbreak began in 2015. "That's when we started seeing elevated numbers basically moving inland and northward."

Browntail has been established in Maine since 1904 after gaining a foothold in Somerville, Mass. in the 1890s. "Like most insects, it does move in outbreak cycles: a boom in the population followed by a bust in the population," Schmeelk said. "These outbreaks can last anywhere from 6-10 years, very generally speaking."

Along with responding to calls from individuals, Schmeelk advises municipalities on what actions they can take. He has given presentations to towns and cities on what can be done.

"We try to target communities on the leading edge that are experiencing browntail for the first time," he said. However, those in-person presentations were put on hold during the pandemic.

He noted that the Maine Forest Service is updating the municipal battle book for browntail moth.

"It's a toolbox for municipalities. It has a timeline and guides them in their fight against browntail," Schmeelk said, adding that the revision should be posted this fall. "If they are struggling

Betty Adams is a freelance writer from Augusta and regular contributor to *Maine Town & City*, adamsbetty00@gmail.com.



*Browntail moth caterpillar
(Photo by Glenn John Adams)*



Tachinid fly on browntail moth winter web. (Photo by Maine Forest Service)

with options, they can call us or wait for our most recent map. We do send out letters to towns that have high, low or medium populations of browntail so they can be aware.”

Tree clipping in Harpswell

Early this year, the Town of Harpswell was among the communities receiving a written notice from Schmeelk indicating that surveys detected “significantly detected populations of Browntail Moth (BTM),” and asking

them to alert residents to take precautions and to check their trees.

“In late-summer 2020, particularly in Waldo, Knox, Kennebec, Cumberland, and Androscoggin Counties, there was enough damage from just-hatched caterpillars that it could be mapped from the air (see attached map). This mapping and other surveys indicate that populations are very high in parts of some towns and abundant enough to cause significant discomfort

in a far broader area.”

Mary Ann Nahf, who chairs the Harpswell Conservation Commission, noted that Harpswell’s latest browntail moth problem began in 2015. “They came back with a vengeance,” she said. “We had people very concerned.”

But the town has other environmental concerns as well largely due to its peninsular topography, she said, which means most areas of the town are within 250 feet of marine water. “We cannot do broad pest control,” she said. Instead, the Harpswell community aims to eliminate the nests.

“In winter after trees are bare, if you see nests, you clip them and put them in soapy water and it kills the larvae,” she said. “Residents are very attuned to this.” However, Nahf noted that there are some oak trees where nests are simply too tall to use this method.

She offered some reassurance to other municipal officials: “I think it’s helpful for people to realize that it is cyclical. Once you’re educated, you keep an eye out and catch them before it’s really bad.”



Meet Our Attorneys Jonathan A. Pottle

Jon provides legal services to both public and private sector clients in the areas of environmental law, land use law, municipal law, utilities law, economic development, project development and finance, renewable energy, real estate, timberlands, and natural resources law. Jon’s practice in these areas helps clients with their strategic and tactical planning, day-to-day operations and troubleshooting, project development and financing, real estate and business transactions, municipal and utility district governance, and resolution of related legal disputes, including representation before Maine and Federal Courts as well as Local and State administrative boards and agencies.

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She also noted the town has a pest control ordinance aimed at protecting the town's shellfish industry. "The ordinance is written around specific pesticides that harm shellfish and pollinators. Nothing is allowed within 25 feet of the water."

For people who have health issues, a professional pesticide applicator can apply to the town for permission to do spraying for browntail moths and other pests. "We've been doing this for five years and it works well," Nahf said.

In Freeport, Judith Hawley, assistant to the town manager, said: "We have treated the town property and will probably do that again next spring. There were quite a few adult moths in this area." She noted that the town conducted a spray program more than a decade ago, but it was unsuccessful because so many individual property owners opted out of it.

When browntail moth caterpillars – with two distinct orange dots on

their backs – began plaguing Waterville residents earlier this year, Ward 3 City Councilor Thomas Klepach was uniquely positioned to work on the problem.

Waterville council has an expert

Klepach was elected in November 2020. He holds a doctorate in biophysics from the University of Notre Dame, and works as an assistant professor in the Colby College biology department.

"I didn't get on City Council to deal with the browntail moth issue," he said but that soon became his focus. "There wasn't really anybody else that was up to the task. Everybody was getting emails and photos from constituents. There was a pretty big public outcry."

On June 4, Waterville City Council

voted to petition the Maine Center for Disease Control & Prevention to declare the browntail moth a public health nuisance, a procedural step that would allow municipal funds to be spent on efforts to control it. Council also approved putting \$100,000 into the budget to deal with the problem, with \$25,000 earmarked for tick control on public property.

Along with focusing on the life cycle of the moth and how to treat the problem, Klepach looked for an historical perspective. "I went back through the archive of the city records, the city reports and budgets for over 100 years to try to get a sense of the scale of the outbreak," he said.

"It seems we're still in the 'experiencing the growth' part of the (brown-

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tail moth) outbreak and, mitigating weather conditions notwithstanding in the spring, we can anticipate a bigger problem next year,” Klepach said. “It seems like we are on track for an outbreak that may rival or potentially exceed the initial outbreak in 1914 that was so nasty, that really wasted central Maine.”

Klepach found figures in the Annual Reports to Waterville City Council showing that in 1914 the city spent \$2,363 (which he said equates to almost \$64,000 in inflation-adjusted dollars) on the browntail moth problem, including spraying and tree-trimming.

He said the caterpillars prefer dining on all types of oak trees as well as fruit trees and other hardwoods and shrubs.

“And so, this is a particular problem because Maine is actually more forested now than it has been historically during the time of these moths. When they first got here 100 years ago, a lot of the forests actually had been pretty well cleared and there weren’t as many large fairly mature deciduous plants for them to chew on.”

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Both he and Schmeelk said a series of cold, wet Aprils would begin to curb the problem since that weather condition promotes a fungus which helps kill the browntail moth. "Short of that, it's really just management," Klepach said.

He put together an annual cycle of mitigation strategies for the city:

July 2020: Secure adequate funding in the municipal budget; develop a regional strategy and coordinate with surrounding municipalities; educate the public using signs and social media.

September: File a Public Health Nuisance Declaration with Maine CDC and coordinate with the Maine Forest Service. Advocate for state resources.

September to November: Inventory the browntail moth infestation after the leaves have dropped and create a website as well as a portal for people to report what they find on their private property. He suggested gaining help from Colby College faculty and students for various aspects of the work. Contact arborists for a street-level survey and include aerial data from the Maine Forest Service.

"Once we have that we need to get the city solicitor to draw up a short document giving permission to treat private properties if people have this stuff on their property." Klepach said.

"We want them to sign something that basically says they know what we're doing."

November to March: Clip and destroy the accessible webs manually.



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Plan spring insecticide treatment on targeted trees.

Late March-April: Perform tree insecticide treatments, including “systemic tree implants and injections of

trees with inaccessible webs.”

April-May: Use base and canopy sprays.

May-July: Assess treatment results to plan for budgetary needs the follow-

ing year. Communicate with residents about how to protect themselves from the toxic hairs.

July-August: Inventory egg cases, limit exterior lighting or use yellow or insect-repelling bulbs.

August-September: Use insecticide on early instar larvae. “Conduct local survey to assess scope of infestation after a year of treatment.”

In July, Klepach and Dr. Jill H. Colvin, a dermatology specialist, gave a presentation to medical staff at Maine-General Medical Center on “Browntail Moth and the Big Itch: Public Health Implications & Management.”

In an interview in late August, Klepach talked about the cause of the problem.

“All of it’s mediated by these toxic hairs that are on the caterpillars (and) the female moths and dispersed throughout the environment from the egg cases. So you can either have direct contact with them, or they can be airborne, which is super problematic.”

The hairs can affect not only skin, but also eyes, airways, etc. “You’ve got to be careful,” Klepach added. “There’s

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the physical irritant but there's also a toxic stew of different chemicals and proteins that are in the hairs. They're like little injection needles."

Klepach noted popular remedies for relief from the itch and burn include topical steroids, antihistamines and prescription medications. He also cited a method some people use to deal with the issue: "As soon as they realize they have an exposure, they'll put duct tape on the affected area and then rip it off like a Band Aid. I've actually had first-hand experience of that helping remove the hair and stopping the reaction in its tracks. Other people will take clay and they can apply clay or plaster of Paris to the area and then, as it dries it pulls the hairs out of the skin; that's another effective treatment."

Klepach said the browntail moth spends nine months of the year as a caterpillar, but actually feeds for only three months, which supports it for the remainder of the year. The moths lay egg cases with some 200-400 eggs per egg case. "They're actually sort of beautiful animals even though they're horrible," he said.

In June 2021 the Town of Turner considered declaring the browntail moth infestation a public health hazard, but it was decided to postpone that action.

"We stopped short only because if we had done it at that time, the declaration would have expired at the end of the year," Town Manager Kurt Schaub said. "Next year if the town were to take some action using public funds, the declaration would be in place at that time."

He said the town received more complaints about the browntail moth infestation than the year before. "People are certainly more sensitive to them and in certain areas of town the infestation was more visible," he noted.

Handling the browntail moth issue can be tricky. "Much of the area where the problem exists is not town property," Schaub said. "If the town were to get into an aerial spray (program), for example, there is a notification process and people have right to opt out. It's an expensive and broad-brush solution that not everyone might sign onto. The problem is in certain pockets of the

community. Some haven't seen any and others are just awful." He noted that some residents in specific geographic areas of town got together and had spraying done on their property, reporting satisfactory results.

He also mused, "How Turner got singled out for this is beyond me. If you go back a couple years and look at the (forestry) maps, the only reporting community within Androscoggin County was Turner. How did this happen? That's nature." ■

The Maine Municipal Association (MMA) is a voluntary membership organization offering an array of professional services to municipalities and other local governmental entities in Maine.

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For more information visit the MMA website: www.memun.org

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7/3 Motion needed		Search Display	View Absence	Roll Call
Nick Anenti	Patty Carlino	John Coty	Vacancy Five	
Gordon Bailey	David Carrington	Nelson Daley	Dave Forrest	
Peg Biron	James Castagna	Kathleen Ducost	Marilyn Hanson	
Valerie Bluhm	Neil Clarke	Emmy Davis	Corey Heath	
Kathleen Bort	Josh Cohen	Samuel Desrosiers	Alex Heddingor	
Christopher Britton	Alice Collins	Buck Donovan	Peter Hoffman	
Richard Brittain	Deirdre Conzolat	Matthew Filio	Robert Jones	
William Brunel	David Conzolat	Vacancy Five	Corinna Kalsher	



James Gardner, Town Manager, Town of Easton and MMA's current Executive Committee President welcoming everyone to the 85th MMA Convention.



James Bennett, City Manager, City of Biddeford and incoming 2022 MMA Executive Committee President pictured with wife Deb and daughter Amanda, after his swearing-in ceremony. Mr. Bennett will take office on January 1, 2022.



Convention kick-off speaker, Chris Gates, with Scarborough Town Manager Tom Hall



2021 Ethel Kelley Memorial Award Recipient, Retired Scarborough Police Chief Robert Moulton (center right). He is joined by his wife, Susan Moulton, MMA President Jim Gardner and Scarborough Town Manager Tom Hall.

Neal Goldberg, Legislative Analyst in MMA's State & Federal Relations Department, presents on the ARPA.



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PEOPLE



Perry Ellsworth

Perry Ellsworth retired on June 30 after working 10 years as South Berwick's longest-serving town manager. Ellsworth is a former Rangeley town manager who served as Strong selectman for six years.

Ellsworth received the 2014 Leadership Award from the Maine Town, City & County Management Association (MTCMA). He also was an MTCMA ambassador. He served as chairman of the Southern Maine Planning and Development Commission, as well as serving on the Maine Municipal Association's Legislative Policy Committee. While in western Maine, Ellsworth chaired the Franklin County Budget Committee and was an active member of the Androscoggin Valley Council of Governments.

James Bellissimo is Berwick's new town manager, effective in early September. He replaced retiring manager **Stephen Eldridge**, who served 23 years as a Maine manager for towns across the state. He worked as Berwick manager for the last six years of his career. Bellissimo, formerly Berwick town planner for five years, earned a bachelor's degree in business administration and a master's degree in public policy from the University of Maine. Bellissimo grew up and lives in Berwick. The select board praised his passion and dedication to the town, as well as re-energizing both the staff and volunteers who have worked with him.

Cumberland Assistant Town Manager **Christopher Bolduc** will serve as North Yarmouth town manager while the select board searches for a permanent replacement for **Rosemary Roy**, who resigned in July after a three-month leave of absence. Town Clerk **Debbie Grover** served as interim manager until Bolduc was hired last month. Bolduc will work 15 hours a week and expects the ongoing collaboration by the two towns to help during the transition. Cumberland and Yarmouth share a library and school system and officials hope to expand their effort to create joint partnerships.

Kingfield librarian **Julia Bouwsma** has been named Maine's poet laureate by the Maine Arts Commission. She is just the sixth poet laureate for the state. Twenty



Julia Bouwsma

candidates vied for the coveted poetry position. The panel that reviewed the entries included Gov. Janet Mills, who praised Bouwsma's "ability to capture the courage and spirit of our state, including life in rural Maine and the resilience of Maine people." Bouwsma, 41, has had poems and book reviews published in numerous periodicals and is a multi-award-winning poet who has also had two books of poetry published. In addition to writing poetry, Bouwsma lives "off the grid" in North Portland and farms in addition to running the Webster Free Library in Kingfield since 2015. A native of Connecticut, Bouwsma has lived in Maine since 2005. The poet laureate position was created by Maine law in 1995. The state will pay all of Bouwsma's expenses for her appearances and programs, including an annual lecture and reading of her poetry. She will serve a five-year term.

Michael DeLena will replace **Tom Pelletier** as Fort Kent police chief, effective this month. DeLena has 12 years of experience as a police officer, joining the Fort Kent force in 2009 as a reserve officer and hired as a full-time patrolman in 2014. DeLena, 44, left the department in 2019 to join the Aroostook County Sheriff's Department, quickly being promoted to patrol sergeant. He earned an associate's degree in criminal justice and a bachelor's degree in public safety administration from the University of Maine at Fort Kent. Officer **Cole Pelletier** was named acting chief until DeLena assumes his new position, scheduled for Oct. 18.

Jesse Dunbar has been named Tremont town manager, one of four towns on Mount Desert Island. Dunbar has served as Southwest Harbor and Tremont deputy code enforcement officer since 2019 and 2020, respectively. The towns abut each other on the "Quite Side" of MDI. Dunbar worked as administrative assistant to the Southwest Harbor town manager from July 2020 until taking the Tremont position. Dunbar has experience in the real estate sector and worked for Dunbar & Sons Excavation from 2004 to 2008. He replaces **Chris Saunders**.

In a special election last month in Skowhegan, newcomer **Steve Govoni** was



Steve Govoni

elected to fill the seat vacated by Selectwoman **Betty Austin**. Govoni defeated his challenger by a vote of 182 to 140. He will serve until the town's regular June elections next year. A structural engineer, Govoni has served on the town's Second Bridge, Public Safety Building and Sidewalk committees.

Hancock County Deputy Sheriff **Luke Gross** was killed Sept. 23 when a pickup struck him while he was cleaning up debris from a car crash on Route 3 in Trenton. Gross is the second Maine police officer in as many years to be killed by a passing motorist while working along the roadside. Maine State Police Det. **Ben Campbell** was killed in 2019 after stopping a vehicle on I-95 in Hampden. He was 31 years old. Gross, 44, served as deputy sheriff since 2003 and worked as a D.A.R.E. officer for 15 years. He was a former officer for the towns of Winthrop and Sabattus while working part-time for the Penobscot County sheriff. Gross grew up in Bucksport and lived in nearby Hancock at the time of his death. He was a member of the Hancock School Committee when he died. He was killed at 5:15 a.m., 45 minutes after the Route 3 crash. The state police are investigating the collision. Gross had parked his cruiser in the breakdown lane and activated his emergency lights. He also was wearing a highly visible traffic vest.



Darrell Malone Sr

Former Houlton Police Chief **Darrell Malone Sr.** died Sept. 6 at the age of 79. Malone, a Ludlow resident, worked for 36 years for the Houlton Police Department, the last 17 as chief before retiring in 2001. Malone served as a past president of the Maine Chiefs of Police Association and also was named chief of the year. During his tenure as president of the police association, Malone led the effort to create the Maine Law Enforcement Officers Memorial in Augusta. He graduated from the University of Presque Isle with a bachelor's degree in criminal justice and later from the FBI National Academy in Quantico, Va. ■

STATEWIDE

The state's population increased 2.6%, from 1,328,361 to 1,362,359, over the past decade, according to the recently released 2020 Census. While populations in the Portland and Lewiston-Auburn regions of Maine increased over the past 10 years, scores of other municipalities saw declines. Bangor, Maine's third-largest city, lost the most population in the state since 2010 at 1,286, reducing its number to 31,753. The report shows a migration out of Bangor to its suburbs, such as in Hermon, where the number of residents increased by 1,000. The town of 6,500 has grown every decade since 1950, when 1,728 people called it home. Other Bangor suburbs such as Orono, Hampden and Holden gained at least 6% in population. Bangor was the only metropolitan area in Maine to lose residents. In the Portland and L-A areas, population growth was recorded at 37,000 and 3,400, respectively.

Washington County continued to struggle to retain residents. Overall, the poorest county in Maine lost 1,700 residents, or 5%, over the past 10 years. One bright spot for the county was population gains in five small inland towns, where double-digit increases were recorded, while four others grew between 5% and 9%. However, even coastal towns lost residents: Calais, the largest community in Washington County, lost 2% of its residents, while Eastport saw a 4.5% population decline since 2010.

FRENCHVILLE

The Aroostook County town has been awarded a \$758,000 grant to upgrade its wastewater facility, which also serves neighboring St. Agatha. The Northern Border Regional Commission grant will help finance the \$1.2 million project to repair and enhance the existing pump station. Earlier this year, town officials received a \$445,000 grant from the state, avoiding the use of tax or other town revenue for the project. The improvements are necessary after a sewerage overflow indicated a portion of the sewer force main piping would need to be replaced. Town leaders expect to send the project to bid this winter and commence construction in the spring.

NEW ON THE WEB www.memun.org

NEW ON THE WEB

Here are highlights of what has been added to the Maine Municipal Association website (www.memun.org) since the last edition of *Maine Town & City*.

- **The 1772 Foundation**, in partnership with Maine Preservation, will make one to one matching grants available for historic preservation projects. The deadline to submit a letter of interest is Nov. 5.
- **American Rescue Plan Act:** MMA created a website area, available through our main home page, devoted to the ever-evolving federal details and requirements regarding ARPA. This month's important update noted that the Project and Expenditure Report deadline for 479 so-called "non-entitlement" communities have been delayed until April 30, 2022.
- **COVID vaccinations or weekly testings** are now mandated at the federal level for employers with more than 100 people, including large municipalities. It could said OSHA some time to complete its rule making details.

HODGDON

During a Sept. 14 special town meeting, residents voted unanimously to borrow \$240,000 for their share of the cost of a new regional ambulance service. It is the highest contribution of any of the 11 towns creating the new service. Founding a new service for southern Aroostook County followed news of a rate increase from \$16 to \$74 per capita for each community by the Houlton Ambulance Service. For Hodgden alone, with 1,200 residents, the increase would bump ambulance costs to \$74,000 for the current fiscal year. Under the new collaborative, the cost increase will drop to \$17,000. The new Southern Aroostook Emergency Medical Services estimates a fiscal year 2021 budget of \$1.1 million. The anticipated 2022 budget totals \$617,000 when the towns officially launch the new service and begin generating revenue. In addition to Hodgden, the towns joining together in the effort include Amity, Hammond, Linneus, Littleton, Ludlow, Merrill, Monticello, New Limerick, Smyrna and Oakfield.

MILFORD

The town's fire department and code enforcement office worked hard this summer to quell a rat infestation caused in large part by a woman feeding wild animals in an area of the Penobscot County town of 3,000. A 300-pound black bear added to the problem as he stalked a densely populated neighbor-

hood, where the resident who's feeding wildlife lives. Residents were catching and killing rats by the dozens this summer, both in the bucolic neighborhood and in different areas of town. The woman's feeding ground measures about 20 feet in width and a foot to 18 inches high and is loaded with corn and sunflower seeds. A neighbor installed a game camera to find out what animals were being lured to the feeding ground. The footage showed deer, raccoons, a fox, a bear and "copious amounts of rats." A town official said late last month that the bear seems to have left the area and the rat infestation "has died down a lot." The effort will continue with town employees working with the wildlife lover and helping to eradicate the remaining vermin.

PORTLAND

City planning staff are recommending the permanent closure of two Old Port streets and a nearby block to traffic to allow restaurants to offer more outdoor dining. The recommendation was being considered even before the Covid-19 pandemic struck, which severely affected the restaurant and hospitality sectors across the nation. Money for the project is expected to be taken from the city's one-time \$46.3 million American Rescue Plan Act funding. The project also is just one part of a planned reshaping of the Old Port, one of Portland's most popular destinations. ■

MUNICIPAL BULLETIN BOARD

ZOOM EVENT OCT. 27

Legal Update on Recreational Marijuana

Rebecca McMahon, an attorney with MMA's Legal Services Department, and David Heidrich, Director of Engagement and Community Outreach with the state's Office of Marijuana Policy, will lead a virtual, afternoon webinar providing an update on legal marijuana use in Maine.

The workshop is designed to help leaders make decisions about commercial, retail, medical and social marijuana practices in their communities. It will run from 2 p.m. to 4:30 p.m. on Oct. 27. Cost is \$35 for MMA members and \$70 for non-members.

ZOOM EVENT NOV. 4

The ABCs of Assessment – for Non-Assessors

This class provides a brief introductory overview of municipal property tax assessment, roles and responsibilities. It is designed for town select boards and plantation assessors – basically, towns that do not employ a full-time assessor.

Presenters are Sue Pilgrim, director of Legal Services at MMA, and Breana Gersen, an MMA staff attorney. Cost for the program is \$35 for MMA members and \$70 for non-members. The class will run from 1:00 p.m. to 2:30 p.m.

ZOOM EVENT NOV. 8

Excel for Assessors and Appraisers

This course sponsored by the Maine Association of Assessing Officers highlights how Excel can assist assessors and appraisers with their everyday tasks. Additionally, this course highlights Excel's powerful analytical tools which are available to help solve many of the challenges facing assessors and appraisers.

Presenter: David Cornell, Certified Microsoft Trainer, Certified Excel Expert, MAI, and CAE. Cost for MAAO Members is \$210, and \$250 for non-members. It will run from 8:30a.m. - 4:00p.m.

ZOOM EVENT NOV. 9

Municipal Law for Treasurers

The Maine Municipal Tax Collectors' and Treasurers' Association will hold a basic-level class covering legal issues for treasurers on Nov. 9, running from 9 a.m. to 1 p.m. Attorneys from MMA's Legal Services Department will be the presenters.

Cost for the workshop is \$30 for MMTCTA members and \$60 for non-members. The class presenters will use several municipal manuals as the basis for their instruction. For more information about which manuals they will use, and about MMTCTA certification, please visit the MMA website.

ZOOM Event NOV. 30

Elected Officials Workshop

Attorneys from MMA's Legal Services Department will lead a Zoom webinar for Elected Officials on Nov. 30. The evening workshop begins at 4 p.m. and ends at 7 p.m. Officials who attend will receive a certificate showing they have met the state's Freedom of Access training requirement.

The webinar is designed for newly elected officials, but veteran councilors and select board members will benefit from the refresher and legal updates as well. Topics include: open meeting and records; roles and responsibilities; conflicts of interest and more. Cost for the workshop is \$45 for MMA members and \$90 for non-members.

ZOOM EVENT DEC. 8

Local Planning Boards & Boards of Appeal

Attorneys from MMA's Legal Services Department will lead a Zoom webinar session for local Planning Board and Land Use Boards of Appeal members from 4 p.m. to 7:30 p.m. on Dec. 8.

The workshop is designed as an introduction for new or less experienced members, but veteran board members may find an update useful as well. Among the topics to be covered: jurisdictional issues; public notice requirements; site visits; procedure for decisions; and variances. The cost is \$45 for MMA members and \$90 for non-members.

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LEGAL NOTES

FOAA Fee Changes

The Legislature has made two important changes to the fees that can be charged for public records under Maine's Freedom of Access Act (FOAA) or "Right to Know" law.

First, 1 M.R.S. § 408-A(8)(B) has been amended to increase, from \$15 to \$25 per hour, the amount chargeable for staff time to search for, retrieve, and compile requested records (see PL 2021, c. 375, eff. Oct. 18, 2021). But the law has also been amended to make the first two hours of staff time free. (Formerly, only the first hour was free.) For purposes of computing the first two free hours and the \$25 per hour after that, *all* cumulative staff time should be counted, regardless of how many staffers are involved.

The second change limits the copying fee for a standard 8 1/2-inch by 12-inch black and white hard copy to 10 cents per page (see PL 2021, c. 313, eff. Oct. 18, 2021). A per-page fee may not be charged for copies provided electronically.

All other FOAA fees and fee protocols remain as we described them in "FOAA Fees," *Maine Town & City*, Legal Notes, December 2015. (By R.P.F.)

FOAA Training Changes

The Legislature has expanded the list of municipal officials who must obtain training in Maine's Freedom of Access Act (FOAA) or "Right to Know" law.

PL 2021, c. 313, eff. Oct. 18, 2021, now includes municipal officers (members of a select board, councilors, and plantation assessors); and both elected and appointed municipal clerks, treasurers, managers and administrators, assessors, code enforcement officers, and deputies for these positions; plus both elected and appointed planning boards and budget committees; as well as public access officers.

Training must be completed within 120 days after the official assumes the duties of office (generally the date the official takes the oath of office).

For more on this requirement and how to get training, see MMA's "Information Packet" on the Right to Know law, available free to members at www.memun.org. (By R.P.F.)

Poverty Abatement for an LLC?

Question: We have an application for a poverty tax abatement for a primary residence, but the legal owner and the as-

MUNICIPAL CALENDAR

OCTOBER — Registrars of voters shall accept registration prior to the November election (if held) according to the time schedule for their population group (21-A M.R.S. § 122(6)).

BY NOVEMBER 1 — Any holder of tangible or intangible property presumed abandoned under 33 M.R.S. § 2091 must file a report covering the 12 months preceding July 1 of the last year to the Administrator of Abandoned Property in the State Treasurer's Office, except that certain life insurance, gift and stored-value property must be reported by May 1. (33 M.R.S. § 2093). See State Treasurer's website for forms.

BY NOVEMBER 1 — Or 30 days after the date of property tax commitment, whichever is later, the municipal assessors and assessors of primary assessing areas must file a municipal valuation return with the State Tax Assessor on forms supplied by the State Tax Assessor (36 M.R.S. § 383).

NOTE: Failure to file this return in a timely manner could result in loss of tree growth reimbursement (36 M.R.S. § 578).

BY NOVEMBER 1 — Local Roads Assistance Program (LRAP) certification forms providing information on how the previous fiscal year's LRAP funds were expended must be returned to Maine DOT Community Services Division prior to Nov 1. This annual certification must be completed in order for a municipality to receive LRAP funds. (23 M.R.S. § 1804).

NOVEMBER 11 — Veteran's Day, is a legal holiday (4 M.R.S. § 1051).

ON OR BEFORE NOVEMBER 15 — Monthly/quarterly/semi-annual expenditure statement and claim for General Assistance reimbursement to be filed via online portal or sent to Department of Health and Human Services, General Assistance Unit, #11 SHS, Augusta, ME 04333-0011 (22 M.R.S. § 4311; DHHS regulations).

essed taxpayer is a limited liability company (LLC). Is an LLC eligible for a poverty abatement?

Answer: In our opinion, no. A poverty tax abatement is available to any person who, by reason of hardship or poverty, is, in the judgment of the municipal officers, unable to contribute to the public charges (see 36 M.R.S. § 841(2)). But it is available only for a person's "primary residence," which means a person's home, appurtenant structures necessary to support the home, and acreage sufficient to satisfy the minimum lot size.

In our view, only a natural person (a living human being) can satisfy this test. A legal person or entity, such as a corporation or an LLC, cannot "reside" in a home in the customary sense of that term. A legal person or entity may well have a place of business with a residential address, but it cannot occupy a residence as would a living human being. For this reason alone, we believe that only a taxpayer who is a natural person (again, a living human be-

ing) would be eligible for a poverty abatement. (This is consistent with the Maine Law Court's decision in *Macaro v. Town of Windham*, 468 A.2d 604 (Me. 1983), which held that the purpose of the law was to prevent the town from forcing the taxpayer out of her home when she was unable to pay the taxes on it.)

There is, however, one likely exception to this rule. Since the "homestead" property tax exemption for Maine residents is available for a permanent residence either owned and occupied by an individual or held in a revocable living trust for the benefit of that individual and occupied by them, it is probable that a primary residence assessed to a revocable living trust would also be eligible for a poverty abatement if the beneficiary financially qualifies and actually occupies the residence.

For full details on poverty abatements, including legal guidance and sample forms, see MMA's "Information Packet" on the subject, available free to members at www.memun.org. (By R.P.F.)

LEGAL NOTES

Nepotism

(Reprinted from the February 2016 *Maine Townsman* Legal Notes)

Question: What is nepotism, and does State law prohibit it?

Answer: Nepotism is the use (or abuse) of a person's office or position to favor or benefit family members, especially by giving them jobs or contracts. Cronyism is the same thing, except it applies to friends and associates rather than family. Both are generally considered unethical if not illegal.

Surprisingly, however, Maine has no "anti-nepotism" law prohibiting favoritism toward relatives or friends in the making of appointments, hiring decisions, contract awards and the like. This is no doubt due to the fact that we are a state of mostly small towns, and in many instances those most active in municipal government are apt to be related to each other in some way. A strict prohibition against hiring or contracting with friends or relatives could seriously hobble a close knit community's ability to get things done.

Nevertheless, where a decision involving a friend or relative will financially benefit an official, that official will be disqualified from participating based on Maine's conflict of interest law (which applies regardless of whether a friend or relative is involved).

Also, in quasi-judicial proceedings such as license or permit applications, zoning appeals, and personnel grievances, Maine law will disqualify an official related to any party by blood or marriage within the 6th degree (see "'Familial' Bias," *Maine Townsman*, Legal Notes, December 2015).

Finally, note that some municipalities have adopted "anti-nepotism" rules by charter or by code of ethics, either of which is a local option.

For more on these topics, see our "Information Packet" on ethics and conflicts of interest, available free to members at www.memun.org. (By R.P.F.)

'Selectmen' Now 'Select Board'

Since the earliest days of the New England town meeting, well before Maine achieved statehood in 1820, the chief elected officials in towns have been called "selectmen." But Maine has now (some would say finally) joined a growing list of jurisdictions that have replaced

such nomenclature with more inclusive gender-neutral terms.

PL 2021, c. 275, eff. Oct. 18, 2021, substitutes "select board" or "members of the select board" wherever "selectmen" formerly appeared in state statutes.

Also, and for similar reasons, "overseers of the poor" has been replaced by "board of overseers" wherever the former appeared in the law.

These changes in statutory terminology do not require that local charters, ordinances, policies, or other governing documents be altered to be consistent with the new terminology. If and when the select board wishes to amend these governing documents to conform to the new nomenclature, they are free to initiate the process for doing so – generally by action of the local legislative body. But there is no pressing legal imperative to update them because it will remain perfectly clear whom these documents are referring to wherever they use the term "selectmen." The new law does not alter the legal authority or duties of the municipal officers, whether they are called "selectmen" or "members of the select board."

To be perfectly frank, we have some mixed feelings about language substitutions such as these. On the one hand, "selectmen" has a long and proud tradition in New England and seems a perfectly serviceable term. (We've known of more than a few newly elected women who insisted on "selectman" over "selectperson.") On the other, times change, as they always have, and titles seem to matter more now than they used to, as perhaps they should. In any event, "select board" also seems like a good choice, and a more inclusive one. For some, it may just take some getting used to.

For the record, this magazine, formerly the *Maine Townsman*, was renamed *Maine Town & City* in 2018. That was a good choice, too, and also more inclusive. We don't know anyone who disagrees. (By R.P.F.)

Shoreland Zoning Reminders

A recent issue of the Maine Department of Environmental Protection's "Shoreland Zoning News" included several reminders for local planners and code enforcement officials that we think also deserve repeating here.

Photos required. A 2019 amendment to the Mandatory Shoreland Zoning law requires shoreland zoning ordinances to be amended to require applicants to submit before- and after-construction photos of shoreland vegetation and the development site as part of the permitting process (see 38 M.R.S. § 439-A(10)).

Commercial solar projects. Commercial-scale solar projects, which generate electricity, are considered commercial uses in the shoreland zone; they are not considered "essential services," which are limited to facilities for the transmission and distribution of electricity. The difference is critical because whereas essential services are permitted in all districts, commercial uses are not allowed in Resource Protection, Stream Protection, or Limited Residential districts.

Expansion of nonconforming structures. Amendments made in 2015 to Chapter 1000, the DEP's minimum guidelines for shoreland zoning ordinances, changed the method for calculating the permissible expansion of nonconforming structures from the structure's area and volume to its footprint. For municipalities with ordinances that retain the "old" method, the Maine Attorney General's Office has advised that expansions must be reviewed under both methods and must be held to the more restrictive method as applied to the project.

Variance appeals. An amendment several years ago to the Mandatory Shoreland Zoning law requires municipalities to forward to the DEP all shoreland zoning variance appeals and supporting materials at least 20 days before the appeals board takes action (see 38 M.R.S. § 438-A(6-A)). The DEP commissioner, through staff, may advise against a variance, and this advice must be included in the record and considered by the board, although the board must still make its own findings and decision.

The DEP's shoreland zoning staff are available to answer any shoreland zoning inquiries. They are [Colin Clark](mailto:Colin.Clark@dep.state.me.us) 441-7419 (Coordinator), [Dawn Hurd](mailto:Dawn.Hurd@dep.state.me.us) 356-8318 (Bangor/Presque Isle), and [Jeffrey Kalinich](mailto:Jeffrey.Kalinich@dep.state.me.us) 615-7044 (Portland). (By R.P.F.) ■

Maine Municipal Bond Bank

2021 FALL BOND ISSUE SCHEDULE

Capital financing through the Bond Bank's General Bond Resolution Program allows borrowers to take advantage of the Bond Bank's high investment grade rating, low interest rates and reduced issuance and post issuance costs. Traditionally twice a year, in the spring and fall, the Bond Bank will consolidate eligible applicants and engage in a bond sale. From application to receipt of funds the bond issuance process usually lasts three to four months. Below is the schedule for the Bond Bank's Fall Issue.

AUGUST						
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

SEPTEMBER						
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

OCTOBER						
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

NOVEMBER						
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30				

Monday, August 2nd

Application Deadline

Wednesday, August 25th

Application Approval (Board Meeting)

Thursday, September 9th

Preliminary opinions and loan agreements due from bond counsel of each borrower

Friday, September 10th

Last date for signing school contracts and rates in place for water districts. PUC approvals due

Week of October 4th

Maine Municipal Bond Bank Pricing

Monday, October 25th

Final documents due from bond counsel

Wednesday, November 3rd

Pre-closing

Thursday, November 4th

Closing - Bond proceeds available (1:00pm)

If you would like to participate in or have any questions regarding the 2021 Fall Bond Issue, please contact Toni Reed at 1-800-821-1113, (207)622-9386 or tir@mmbb.com.



When you need a **lawyer**
who thinks like an **assessor**
and speaks like a **human.**



N. Joel Moser



Lee Bragg



Philip Saucier



Kevin Decker



Eben Albert



Shana Cook Mueller



Zack Brandwein



Patrick Marass

The COVID-19 public health crisis has and will continue to cause severe disruptions to the ways in which municipalities and taxpayers conduct business, including how real and personal property is locally assessed.

Our team is here to help municipal assessors navigate these novel challenges with a seasoned approach that is informed, compassionate, cost-effective and value-oriented. We understand what keeps you up at night, and we're here to help.

We'll get through this, **together.**



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