

Maine Townsmen

The Magazine
of the Maine Municipal Association

AUGUST-SEPTEMBER 2016

CHANGES

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80th Annual MMA Convention

October 5-6

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Bangor, ME

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MAGAZINE STAFF

Eric Conrad, Editor

econrad@memun.org

Valarie Pomerleau,

Circulation Manager

Jaime G. Clark

Graphic Designer/Advertising

MMA website: www.memun.org

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Maine Townsman

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The Magazine of the Maine Municipal Association

FEATURED STORY | 15 Sunshine on Our Shoulders



All across the state, municipalities are venturing into renewable energy projects, seeing them as ways to tap existing potential, better serve citizens and reduce operating costs.

2016 Convention speaker. Our keynote speaker, David Eaves, will explore the promise, pitfalls and enormous potential of technology, during an unfolding period of history that he calls the "Open Revolution." **Page 7**

MMA Convention program. Are you ready? For the first time in years, the MMA Convention heads to Bangor, and our lineup is chock full of interesting and provocative speakers and workshops. **Page 35**

Using Care with Care Givers

*The changing legal landscape regarding marijuana presents challenges as municipalities address marijuana use, dispensaries and care givers, all of which are permitted by Maine law. **Page 23***

Marijuana on the Job

*Augusta Attorney Stephen Langsdorf writes about how municipalities, as employers, need to consider and address legal marijuana use for medical purposes by employees. **Page 25***

New England Treasures

*Town meeting season concluded recently. Turn here to read about emerging trends, actions taken and who won, and lost, during the recent elections. **Page 31***

Executive Director's Message	5
People	42
News	43
Municipal Bulletin Board	44
Legal Notes	45

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A MESSAGE FROM MMA

BY STEPHEN W. GOVE / EXECUTIVE DIRECTOR

Important work being done by our Health Trust

I recently attended the Maine Municipal Employees Health Trust (MMEHT) Board of Trustees' annual strategic planning meeting. This event provides the 11-member board the opportunity to review trust medical and pharmacy payments and trends. Trustees also hear from their advisers and other healthcare experts about what is driving costs and what steps the trust must consider to address those costs and improve the health of its approximately 20,000 covered individuals. Under the leadership of Chairperson Diane Barnes, Town Manager of Lisbon, the board tackles the tough issue of balancing the need for offering quality, comprehensive healthcare coverage with keeping those benefits affordable. Not an easy task when you consider some of today's trends in medical care.

Before I mention one of those major trends, a few words about the Health Trust. The trust began operations as a self-funded medical plan in 1983. The Maine Municipal Association is proud to be the trust's plan administrator providing management, financial, operational, customer care, wellness programming and communication services to the 9,100 local government employees and retirees and over 450 individual employers that participate in the trust. The trust currently offers seven medical plan options for active employees and one Medicare supplemental plan for retirees. The trust also offers short-term disability plans, a long-term disability plan, a vision plan, a dental plan and life insurance. Financially strong, the trust has a proven track record of providing quality benefit plans and services that meet the needs of its participants and employer groups. It is also a leader in collaborative efforts to improve the quality of healthcare delivered in Maine and improve the health status of its participants through active health education and promotion programs.

Now, on to one of the biggest trends driving health care costs in general and specifically for the Health Trust. At the top of the list is the explosion in use of so called "specialty drugs" – the fastest growing segment of pharmacy spend. Specialty drugs, which are only available through specialty pharmacies, are manufactured drugs developed to treat specific disease states and require a high level of patient care and support in their use. In 2015, the specialty drug cost trend was 17.8 percent compared to overall consumer inflation of just 1.4 percent.

Examples of specialty drugs include those used to treat



(and in some cases cure) diseases such as inflammatory conditions, Hepatitis C, Multiple Sclerosis, HIV and cancer. You have probably seen a number of these drugs advertised heavily during the evening news. Harvoni is one example. It has a cure rate for Hepatitis C that is more than 90 percent. Remarkable. Harvoni is not cheap, however. The monthly cost of Harvoni is over \$30,000 and the length of treatment with the drug can run from two to six months, making the annual cost of treatment between \$63,000 and \$190,000 de-

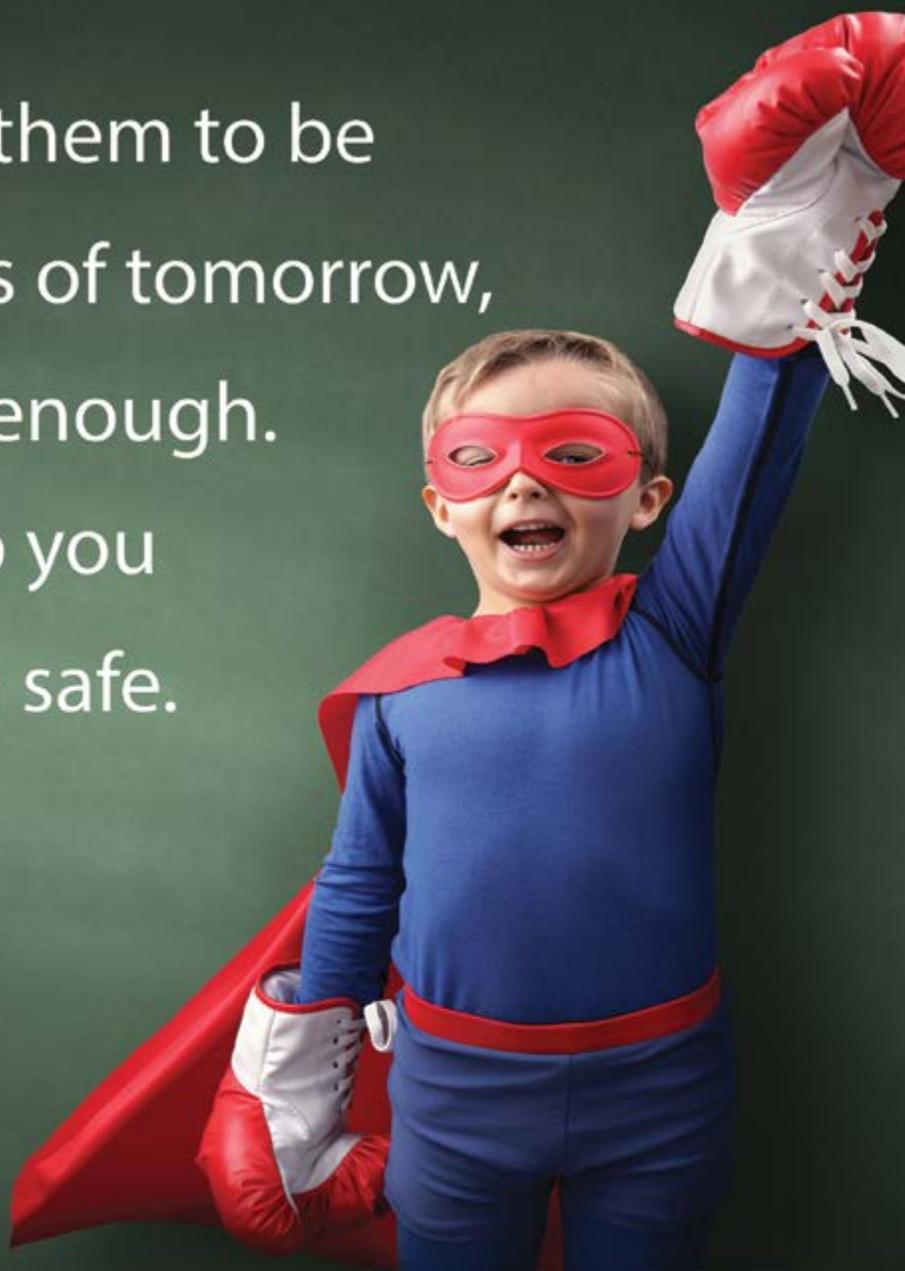
pending on the individual. Enbrel, another specialty drug used to treat the conditions of joint inflammation, costs nearly \$50,000 a year for indefinite treatment. The health trustees learned that the trust, in 2015, spent over \$2 million for inflammatory specialty drugs and nearly \$1 million for MS specialty drugs. The trust's total annual prescription drug (specialty, brand name and generic) spend has risen to nearly \$30 million.

Prescription drugs do make a difference. The trustees heard from a specialty drug expert, that medicines helped to raise the life expectancy from 47 years to 78 years over the past 100 years in the U.S. Death rates from HIV and cancer have fallen dramatically because of new drug therapies. The trustees learned that more than 7,000 medicines are currently in development around the world to treat a host of diseases. The cost of disease could bankrupt the United States' health-care system without the introduction of new medicines. The challenge trustees discussed at their strategic meeting is how to cover these very expensive "miracle" drugs while controlling overall pharmacy spend and premium costs.

The Health Trustees identified steps the trust can take through plan design and member education to reduce waste, improve patient adherence, and help lower specialty pharmacy spend.

Specialty drugs costs were just one of the cost driving trends the board examined at its planning meeting. Other trends include continued high rates of chronic medical conditions such as diabetes and asthma, high use of emergency departments for non-emergent issues and the growing number of very high cost claimants. Health-care spending is complex. The board has a successful history of analyzing utilization data, identifying opportunities to address issues and maintaining quality benefits and services for its members. This takes hard work from a board that puts members first. ■

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MMA keynote speaker to present evidence of 'Open Revolution'

David Eaves, a Canadian open-government scholar and research fellow at Harvard University, looks at the pitfalls and promise of today's fast-changing technological landscape.

By Eric Conrad, Director of Communication and Educational Services, MMA

He calls it “disruptive innovation.” We see a lot of it these days.

David Eaves, a renowned government/technology expert and scholar who will keynote Maine Municipal Association's 2016 Annual Convention in Bangor, wants local government officials to understand this above all else: Technology is not just an IT concern.

“In their day jobs, some people think about technology as being an IT issue,” Eaves said. “Elected officials might say, ‘I want a web page. Why can't I track this or track that?’ But there is so much more out there than IT questions.

“I want to get people thinking about technology much more broadly than IT.”

Take cell phones. Most of us have them, and they come with easy to use video and camera capabilities.

Sometimes, that's simply nice. Your family's having a special moment, maybe an unexpected one, and someone gets out a cell phone and takes photos or a video that will be cherished forever.

Sometimes, the video capability is a difference maker, especially when it's combined with everyone's access to social media and the worldwide Internet. Back in the day, when local police encountered unruly citizens or crowds, the police eventually would write reports about what happened and, generally speaking, that became most of the available public record. Those were the facts.



David Eaves

No longer. Today, those encounters are likely to be recorded – by cameras that police officers wear or have mounted on the dashboards of their cruisers, or by cell phones being carried by nearby witnesses and even by the potential defendants themselves.

Before an arrest is made, before the scene of an altercation can even be controlled, those images can be

posted on social media for all the world to see. That didn't happen at all 15 years ago. Now it happens – every day.

“Those are real changes,” said Eaves, from his office at Harvard University, where he currently works as a Research Fellow in the John F. Kennedy School of Government's Science, Technology and Public Policy Program.

“Police officials are used to being the sole authoritative voice” in making arrests and controlling public demonstrations and events, Eaves continued. “That is ending.”

This is an obvious change, one we've seen ourselves just by keeping up with the perpetually troubling television and Internet news. Eaves contends technology presents other pervasive challenges for government officials that aren't so easy to recognize.

Less visible technology concerns

For example, some cities and towns in the United States and Canada are centralizing their electronic records

AT THE MMA CONVENTION

David Eaves will give the keynote address at Maine Municipal Association's 80th Annual Convention at 9 a.m. on Wednesday, Oct. 5 at the Cross Insurance Center in Bangor. His presentation is entitled, “The Open Revolution.”

and information. It seems like a good, transparent decision, right? Keep the information in one place so municipal employees, elected officials and citizens all know where to find it.

However, many of these municipalities also rely on one company, one vendor, to store and protect all the information, some of which is historically very important and some of which is confidential by federal and state laws.

What happens if that company has a data breach – something, again, that we've all read about in recent years? What happens if that company goes out of business? What happens when that company wants to renegotiate with the municipalities it serves, and the company knows how much leverage it has?

“A firm or vendor can have a lock on the data,” said Eaves. “Cities have to be very careful about what they're agreeing to.”

Even in our private lives as individuals, this can happen. Take Facebook, for example. A company that started out of Mark Zuckerberg's Harvard dorm room in 2004 has grown to now have 1.65 billion – yes, *billion* – active users. Its annual revenues are \$18 billion.

Eaves acknowledges that Facebook is a wonderful tool.

Forget about the marketing aspects, millions of Americans use it to update friends and loved ones about the joys and sorrows of their lives. You see photos of birthdays, weddings, graduations, newborn babies, sports events, vacations – and on and on.

But what would happen if Facebook encounters a serious competitor or two, and consumers want to switch from Facebook to the new social media provider? Would Facebook allow all the historical images and posts to be transferred to a rival company? Presumably, no.

“You move over, you lose *all* of the history of what you put into Facebook,” Eaves said.

Eaves will offer MMA convention attendees much more than warnings.

A native of Vancouver, British Columbia, Eaves traces his public policy roots to his home country of Canada, where he was a negotiator and adviser on the Canadian Boreal Forest Agreement, where he still serves on Canada’s Open Government Advisory Panel and he was a member of the City of Vancouver’s Digital Strategy External Advisory Group. He also recently led a “boot camp” for scholars who participated in the Presidential Innovation Fellows program at the White House in Washington, D.C.

Eaves wants people who hear his presentation to leave with knowledge but also with tools that they did not have before hearing him speak. There are technological concepts and “tactical, low-cost tools” available for rural municipalities to run more effectively and efficiently, he said. Eaves will talk about them.

You might expect that someone as knowledgeable and educated as Eaves to be supremely comfortable in his position and career. That may be the case, but Eaves began a recent telephone conversation by saying he had just received positive feedback from Harvard, and he was happy to get it.

Students who took one of his recent classes at Harvard – “there were 70 students and 10 (classroom) auditors” – had just given his course one of the school’s highest ratings. He received a note from his dean praising those evaluations, after just his first semester at Harvard.

“It feels good,” he said. ■

“It feels good,” he said. ■

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'Building bridges,' finding tax balance are crucial, mayor says

By Liz Mockler

The most important duty of elected Maine municipal officials is to find the sweet spot between building up the tax base and holding down property taxes. Communities that can find that balance will grow and thrive.

That's what Waterville Mayor Nicholas Isgro believes, and that is his guiding principle in overseeing the workings of the city council. "When the right balance is struck, we will continue to grow our tax base and see new economic opportunities for our residents," he said.

Without a careful balance, communities risk closing doors of opportunity and alienating taxpayers, Isgro said.

"It is extremely important to continue building bridges with our partners who are investing in our community," Isgro said.

Isgro, 35, is serving his first three-year term as the city's 53rd elected mayor. He works as an executive vice president for Skowhegan Savings Bank. He and his wife, Amanda, welcomed their fifth child this summer.

According to Isgro, serving as the city's ambassador to the state and nation is one of the two most critical responsibilities of being mayor in Waterville, a city of 16,000 which has elected its mayor since 1888.

"It is equally important to be both ambassador for the city to the outside world, as well as to be the voice of people," Isgro said recently.



Nicholas Isgro

"Being mayor is unique in that unlike city councilors who are elected to represent the interests of their specific ward or district, the mayor needs to be aware of the entire city's well-being," he said.

Elected officials confront nearly all local government issues, in one fashion or another, and must always keep in mind the best interest of the public in making decisions – especially the tough ones, the mayor said.

"Fortunately, there are very few instances where there is serious conflict with the council or among councilors," Isgro said. "That said, it's bound to happen."

Isgro, who serves part-time without set hours, said he tries to personally talk to councilors when there is a problem. He said it is crucial that everyone works in good faith.

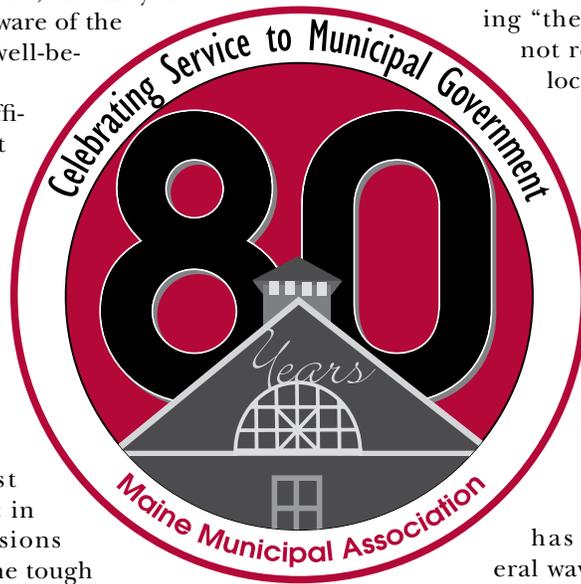
"The important thing in all cases is to remember that we are each doing what we believe in our hearts is the right thing for the people we serve," he said. "As hard as it is sometimes, leadership involves setting your own ego aside in order to mend fences and move forward."

Isgro said he decided to run for mayor in 2014 – his first foray into public service – after attending many council meetings and deciding "there were voices not represented" in local government.

"Knowing that Waterville was on the cusp of a potential turnaround if we could find the right leaders... That's when I decided" to run for mayor.

Waterville has enjoyed several waves of progress and new business in recent years. Most recently, city residents and officials welcomed Colby College to the downtown, where new student housing units will be developed.

The Colby project is an example of what Isgro says is pivotal in creating a place where people want to work and raise a family: Cooperation at every level that hits that sweet spot between what is desired and what is affordable. ■



ABOUT THIS SERIES

Elected and appointed municipal officials provide essential services to their communities all across our state. As Maine Municipal Association celebrates its 80th year – we were founded in 1936 – the Maine Townsman will highlight our members and honor the work that they do.

Liz Mockler is a freelance writer from Randolph and regular contributor to the Maine Townsman, lizmockler@hotmail.com



Purple
Loosestrife



Japanese
Honeysuckle

A Creeping Problem in Maine

Stopping invasive species

From hiking through our state parks and national forests, to picnicking in city parks, fall in Maine offers a variety of recreational activities to keep residents and visitors entertained.

With so many activities, there are greater opportunities to spread invasive plants, plant diseases and insects across the state. Seeds can be transported by shoes and clothing, weeds can move on boats and insects can move in firewood.

The Maine Natural Areas Program, a branch of the Department of Agriculture, Conservation and Forestry, considers 19 plant species invasive and nearly 30 others probably invasive, including the Japanese barberry, purple loosestrife, and bittersweet. With the number of invasive weeds in Maine growing, so does the potential harm to ecosystems and native plant varieties, which can result in loss of biodiversity, as well as threaten public health and safety.

Effective control of invasive species begins with an integrated pest management approach, which includes prevention, early detection and control. If you identify an invasive plant or insect growing in parks, lakes, or yards, report it to the Maine Department of Environmental Protection (DEP).

Visit www.DebugTheMyths.com to learn more about invasive species and how to control them.



East Millinocket has long prepared for mill closure

Angela Cote, Administrative Assistant to the Select Board in East Millinocket, says her town is down financially, but is 'cautiously optimistic' that a comeback can happen.

By Liz Mockler

Q: *What happens next for East Millinocket, now that the former Great Northern Paper mill has closed? What does the future look like?*

A: East Millinocket has experienced a dramatic loss of population and valuation due to the demise of our manufacturing base.

Our loss of population and reduced valuation needs to be considered in the context of ongoing population and similar economic losses across rural America.

Our problems are not different than those experienced by other rural communities over the last few decades. We need to aggressively pursue new occupant(s) for the former mill facility in order to provide jobs, which will attract the new residents we need to offset our losses. We are cautiously optimistic that the mill site will be repurposed, and that we will be able to find a good balance between skilled trade jobs and tourism and avoid an overdependence on any one sector of our economy.

Q: *Will the town and school district need to change the way they operate, beyond what's already been done? Are there new ways to consolidate or collaborate?*

A: East Millinocket and our school district need to adjust to our changing circumstances, including the loss of school-aged children, just as every other rural community needs to adjust.

Liz Mockler is a freelance writer from Randolph and regular contributor to the *Maine Townsman*, lizmockler@hotmail.com



Angela Cote

Over the course of the last several years, the school has consistently decreased the local share of local tax dollars needed for education as our valuation has decreased. As of today, taxes are nearly an even split between municipal and school expenses.

While the mil rate has continued to rise, taxes have remained stable. We are constantly exploring ways to improve educational opportunities for our children such as the Bridge Program, which provides students the chance to graduate with one year's worth of college credits.

Our school board has worked with our selectmen to deal with our changing circumstances and we expect the two bodies to continue to work in the best interests of our residents.

Q: *Do you think Greater East Millinocket will have to focus on tourism and recreation rather than traditional skilled trade jobs?*

A: We need a balanced economy and there has to be coexistence between both tourism and skilled trade jobs. Diversification is key to long-term stability.

East Millinocket was built to house workers who were constructing the (Great Northern Paper) facility. For years, we have been known as "The Town That Paper Made." If we are going to move forward, we have to transition to "The Town That People Made."

We need strong tourism and recreation, but we also need a manufacturing sector to avoid over-dependence

on any one segment of our economy. We have room for everyone in our economy and diversification is our goal.

Q: *What are some of the town's strengths that will help it rebound from the mill loss?*

A: For the past several years, East Millinocket has been preparing for the loss of the paper mill. We had consistently reduced the value to reflect the market. When the time finally came, we didn't have to make up a \$100 million in lost valuation.

This type of planning served us well. We will continue to look for new business opportunities to locate to the area. We have a skilled motivated work force, we are in the middle of a unique recreational area, and we hope to take advantage of these resources to grow our economy and return to our past prosperity.

Q: *The town recently won a \$7 million USDA grant-loan for wastewater treatment plant upgrades. Does the town face any other major infrastructure needs that have not been addressed?*

A: We are grateful that USDA Ru-

AT THE MMA CONVENTION

The future of Maine's forest products industry will be a major topic at Maine Municipal Association's 2016 Convention. A panel of experts, moderated by MMA's Geoffrey Herman, director of State & Federal Relations, will offer opinions and recommendations on Wednesday, Oct. 5 starting at 1:30 p.m.

ral Development awarded us \$3.5 million grant and \$3.6 million loan for construction of a new secondary wastewater treatment plant, which is the focus of our infrastructure efforts.

We are currently near our maximum bonding capacity with this project and we still have areas such as the aging water/wastewater distribution and collection systems to address as resources permit.

After several years of not being able to spend on paving, we have been able to put some money back in the budget to start addressing road issues/repairs. ■

ABOUT THIS ARTICLE

This question-and-answer profile is a follow-up to the July Maine Townsman special report on the future of Maine forests and the paper industry.

We'll handle the rest from here.

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MMA's services include advocacy, education and information, professional legal and personnel advisory services, and group insurance self-funded programs.

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

Local energy projects are moving full steam ahead

From Sanford to Vinalhaven, Lewiston-Auburn to Monhegan, cities and towns are teaming with private businesses to produce electricity and cut energy costs.

**By Garrett Corbin, Legislative Advocate,
State & Federal Relations, MMA**

With careful research and planning, several Maine municipalities are giving the green light to a variety of energy generation or intensive efficiency projects that go a step beyond traditional energy conservation programs. This article presents a snapshot of a few of those projects, some of which are being implemented entirely by the town or city while others involve significant public-private partnerships. The sources of energy run the gamut, including wind, solar, gas production and gas co-generation, with each community finding creative ways to use their available assets.

Geo-thermal with a twist

A new version of the geo-thermal heating and cooling system is coming on line in some communities' wastewater treatment plants. To help reduce the heavy electricity demands of wastewater treatment and other associated costs, both the Town of Freeport and the City of Saco have installed "effluent thermal" systems. The septage and wastewater running through those treatment plants holds a consistent year-round temperature of about 50-52 degrees Fahrenheit. When coupled with units that capture heat exhaust, effluent thermal pumps take advantage of that constancy of temperature to heat municipal building in the winter and cool them in the summer in a manner akin to how geothermal heat pumps use the earth's temperature for the same purpose.

Wind power

Although wind power may come to mind when considering energy production possibilities, to date there are no municipally owned or oper-



Sadie Lloyd of Belfast with her town's solar project. (Submitted photo)

ated wind farms in Maine. The closest a community has come is on the islands of North Haven and Vinalhaven, which host one of Maine's half-dozen customer-owned utility cooperatives. The Fox Islands Cooperative has been in existence since 1974, and in 2009 took a big step in the direction of clean energy when it installed three wind turbines at a cost of \$14.5 million. Each turbine produces up to 1.5 megawatts for a total of 4.5 megawatts of electricity, more than the residents and businesses on the two islands consume, allowing excess output to be sold to Central Maine Power via the Cooperative's undersea power cable.

Solar energy

In the private sector, solar PV panels are being installed all over the state, whether on a residential garage, unutilized farmland throughout Aroostook and Kennebec counties,

North Berwick's Olde Woolen Mill (the first project built using the Maine State Historic Rehabilitation Tax Credit Act of 2008), Dover-Foxcroft's Mayo Mill, across the former Loring Airforce Base in Limestone, or as part of the Madison Electric Company's efforts to lower rates. The same holds true locally in the public sector.

Solar panels have been installed on schools, wastewater treatment plants,

AT THE MMA CONVENTION

The topic of cutting-edge energy projects will be explored at MMA's 80th Annual Convention, on Wednesday, Oct. 5 starting at 10:30 a.m. The 2016 convention will be held at Bangor's Cross Insurance Center.

town halls, public works garages, libraries, or other municipal buildings in dozens of communities from the state's biggest cities down to towns with just under 1,000 residents, like Montville. These projects all produce several kilowatts of electricity that help reduce their buildings' reliance on electricity from the regional grid network, and some even sell excess electricity back to the grid.

New developments in Belfast and Sanford are going where no Maine municipality has gone before, installing large scale arrays that will produce megawatts of power on unused properties in the form of a capped landfill or former runway, respectively. Several other communities are looking to follow suit in their own way. For instance, last month Caribou issued a Request For Qualifications for solar panel development on a ten-acre tax-acquired parcel and Lincolnville's Select Board voted to direct its Town Administrator to prepare an RFP for a municipal solar project that would explore placing panels on a variety of buildings including its sand/salt storage shed as well as the bandstand and pier near the municipal beach. At the time of



Sanford officials tout their city's ground-breaking facility. (Photo by Garrett Corbin)

publication, Portland and South Portland's councils are slated to consider this month a proposal to move forward on a joint project that would add solar arrays to their capped landfills as well.

City of Belfast

Two years ago, the relatively substantial cost of fuel for municipal office buildings became a concern to the

Belfast Council. In the fall of 2014, the council appointed a City Energy Committee tasked with investigating cost-effective ways to reduce the amount of energy the city uses and its consumption of fossil fuels. The committee is comprised of city staff, two councilors, and residents with significant professional experience in the energy field. In addition to targeting energy conser-

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vation and efficiency measures such as indoor and outdoor lighting, the city explored energy production options, specifically investigating payback figures and timeframes. After securing council approval, by December of that year 180 255-watt solar PV modules were online atop the Belfast Fire Station.

The 45.9 kilowatts of power produced offsets the fire station's electricity usage, accounting for between 3-4 percent of Belfast's total municipal electric usage. The \$150,000 project cost was footed by ReVision Energy, which benefitted from federal tax credit incentives that would not have been available to the municipality. In exchange, Belfast agreed to purchase the electricity generated by the panels

for six years (the duration of the tax incentives) at a rate lower than the city's current electric costs. At the end of that term, the city will be able to purchase the array and would no longer need to pay ReVision for the panels' electricity.

To Belfast Assistant Planner Sadie Lloyd, this "Power Purchase Agreement," or PPA, arrangement is the way to go. The fire station PPA was so successful that it led to discussions in 2015 to replicate the project on a larger basis at the city's capped landfill. That project was underway in a matter of months, going online on the last day of last year and becoming the first solar array to be installed on a capped landfill in Maine.

With the 396 PV panel, 122 kilowatt

landfill array in operation, Belfast now expects up to 20 percent of its municipal electric bill to be offset, potentially in-house should the city choose to purchase these arrays in six years. The chief municipal investment to get the landfill installation underway included attorney contract review charges, some state regulatory fees and staff time. Proximity to existing utility transmission lines and a lack of abutter concerns helped the project move forward smoothly. Even with a relatively long payback period of 14 years, the Energy Committee and City Council decided to stand behind the project as offering long-term benefits given this array's minimum expected lifespan of forty years and the projected increased cost of grid-sourced electricity over that timeframe.

For municipalities with significant energy consumption, Lloyd sees little reason not to work out public-private partnership in the form of a PPA when solar installers are interested. The cost of PV panels has been cut in half over the past five years and continues to drop. By her estimate, at least four additional municipalities would be moving forward with landfill solar array installations right now had this year's legislation that would have incentivized Maine's solar industry been enacted.

These systems do require careful planning and consideration, but after the math is worked out the decision, as far as Lloyd is concerned, becomes easy: "For a municipality to give stability to its budget is a huge benefit that is otherwise hard to come by."

City of Sanford

In 2012, a non-profit requested assistance from the City of Sanford in developing a small solar array large enough to pay for that entity's electric use. New market tax credits and the federal "EB-5 visa" program offered some financing options, but the state net metering policy seemed the most applicable way to facilitate this partnership venture. Maine's net metering law, however, has a cap of 660 kilowatts which prevented the project from going forward. When new legislation that would have assisted Sanford's venture stalled, Sanford's Manager Steven Buck found a new angle in state regulations.

On a larger scale, Buck discovered,

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the rules for connecting to the regional energy grid are well established and project feasibility hinges more on market projections than statutory authority. The city identified three factors that made a “utility-scale” public-private partnership viable in this instance: federal solar investment tax credits (ITC’s) available to developers in combination with local PPA’s like the kind used in Belfast; federal renewable energy pricing credits; and, the utility scale itself, whereby solar power produced on the order of 20 megawatts or greater becomes more economically competitive against its alternatives.

As in Belfast, few local concerns were aired relating to Sanford’s proposal. The city had already made energy development one of its top three “Prime Initiative” priorities (alongside transportation and communications/broadband infrastructure improvements), and officials had been searching for ways to better utilize large, municipally owned non-income producing properties like landfills and brownfields. The acreage on these properties in Sanford was too small to accommodate utility scale arrays, but it turned out an unused parcel at the Sanford Seacoast Regional Airport that had previously been developed for aeronautical purposes was a perfect candidate.

The airport’s 226 base acres of flat exposed runway happen to be situated in a “weather banana” which long-term weather patterns make conducive to solar power generation. With this in



Scarborough’s Tri-Gen units. (Photo by Garrett Corbin)

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mind, Sanford entered into a Memorandum of Agreement with Ranger Solar, a Yarmouth-based company that developed the proposal from scratch. After securing land lease agreements and all necessary permits by the end of this year, the project will begin construction in the spring of 2017 – a year ahead of initial targets.

The runway will host 176,000 solar PV panels producing 50 megawatts of power, the country's largest airport installation. That output will be enough to provide for the electricity needs of more than 8,000 of Sanford's 9,700 households, and the additional land lease revenues will eliminate the need to raise property tax dollars for the support of airport operations. In the short term, 94 full-time construction jobs are being created and nine full-time operation jobs will remain after completion. Moreover, Sanford can anticipate an increase in taxable personal property revenues from the arrays themselves as well as spurred economic development resulting from favorable private-to-private PPA's between Ranger Solar and local businesses.

The cost of this development includes a \$29 million investment by Ranger Solar which covers all aspects of the normal development process, including survey work, appraisals, and leasing. In exchange, Sanford granted Ranger Solar airport-specific lease option terms and committed to clearing all regulatory hurdles surrounding the airport with the FAA and Department of Defense (necessary as the runway was formerly owned by the Navy). Sanford's share of the project included a serious commitment of staff time by Airport Manager Allison Rogers – her new Airport Master Plan addressing the project's siting was over 400 pages when submitted to the FAA.

In the end, Sanford officials and Ranger Solar have little doubt the effort will be worth it. To Buck, the moral of the story is that "there are multiple ways to derive an economic benefit from an appropriately structured public-private clean power partnership." State support for net-metering undoubtedly helps, but municipal endeavors need not be knee-capped by the state caps.

Gas co-generation

The final type of major energy



Travis Peaslee of the Lewiston-Auburn WPCA. (Photo by Garrett Corbin)

production initiative underway in municipalities uses gas to create both electricity and heating or cooling. In Lewiston and Auburn, an anaerobic digestion system is producing gas that is used in this way. Both capped landfills, like the one in Belfast, and active landfills hold similar potential. They contain decomposing organic materials that produce methane gas which can be used as an energy source on its own, or as a substitute for piped liquefied natural gas. The City of Augusta is currently studying at a staff level how to harness the gas produced within its Hatch Hill landfill. In Monhegan and Scarborough, so-called combined generation facilities are extracting serious bang for their buck from purchased diesel and natural gas.

Lewiston Auburn Water Pollution Control Authority

As part of its long-range planning efforts, the Lewiston Auburn Water Pollution Control Authority (LAWPCA) identified anaerobic digestion as a promising option.

The digestion project started as a point of discussion in the later part of 2008, with the LAWPCA board of directors approving a feasibility study in 2009 and preliminary designs completed by January of 2010. The board of directors chose to hire the international firm Arcadis during the spring of 2010 to conduct a value engineering study on the project preliminary design. Once the study found significant savings that were incorporated in its design, the project received support from both the Lewiston and Auburn

city councils in October 2010. Final design was completed in June of 2011 and the project advertised for bidding later that month.

By the spring of 2013, construction had ended and both anaerobic digesters began producing gas. In July 2013, LAWPCA's two engine units were fired on biogas and began producing electricity, going online about a year after the state's first private digester was up and running on Stonyvale Farm in Exeter, and well in advance of the second private digester starting up at Brunswick Landing this spring.

The major components of the project consist of two 65-foot diameter mesophilic digesters, a 50-foot diameter digested sludge holding tank with a flexible 30,000 cubic foot gas containment membrane, two 230 kilowatt reciprocating engine generator sets, and a standby gas flare. A number of pumps, heat exchangers, gas cleaning equipment systems and other appurtenances are also needed.

On average, LAWPCA pumps 50,000 gallons of municipal thickened waste to the digesters each day. In the absence of oxygen and kept between 95-98 degrees Fahrenheit, the anaerobic bacteria break down complex compounds into simpler acids that get broken down by another group of organisms (methanogens) which convert the acid to methane. The byproduct of the thickened waste break down is carbon dioxide, water and methane, along with the digested solids. The solids are dewatered and either composted or brought to area farms to be used as soil amendment. The gas is treated

and used to fuel the two 230 kilowatt engines and/or two boilers. The solids being sent to the digesters return in half their initial volume, sharply reducing the facility's waste disposal obligations. Additionally, LAWPCA had to add lime in order to meet pathogen reduction standards. That is no longer necessary due to the natural pathogen reduction that occurs during the anaerobic digestion process.

To capitalize the project, LAWPCA borrowed nearly \$15 million for a 20-year term from the State Revolving Loan Fund at an interest rate of 1 percent. Significant assistance was also provided through a grant of \$330,000 from the Efficiency Maine Trust to mitigate the \$817,000 cogeneration engine generator costs. The state-federal wastewater revolving loan program also provided significant (5.96%) principal forgiveness. The payback period is estimated to be between 15 and 17 years.

According to LAWPCA's Assistant Superintendent Travis Peaslee, permitting did not prove too difficult. The Lewiston planning committee and both Lewiston and Auburn councils were supportive in light of the lack of additional cost to ratepayers and taxpayers. While the digestion facility was somewhat new territory for the Maine Department of Environmental Protection, they were able to work with LAWPCA in way that allowed the project to move forward in a timely manner. On the other side of this coin, applying for an EPA air permit that was required for the engines took Peaslee into new territory given, as he put it, "we are water people."

After installation, something of a surprise came in finding that during low wastewater flows, nights, and weekends the plant was producing more power than needed onsite. LAWPCA therefore began net metering with CMP in order to fully utilize its equipment capacity. The facility now receives compensation for the power it exports, although the payback is modest.

With this investment, over 35,000 domestic ratepayers and 23 industrial users in Lewiston and Auburn are saving between \$800,000 and \$1 million per year while creating additional capacity at both the plant and nearby compost facility. Future biosolids disposal costs, which are projected to

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Howard Carter monitors effluent thermal system. (Photo by Garrett Corbin)

increase as landfill capacity becomes more limited, are also substantially reduced, as are the plant's electrical and heating costs and the eliminated expense for lime treatment.

Monhegan and Scarborough

A streamlined version of the type of engine utilized at LAWPCA got up and running in the Town of Scarborough, and another version is on the cusp of becoming operational on the island of Monhegan as this article goes to print. Unlike the LAWPCA facility, these municipalities will not use gas produced "in-house" to power their innovative

combined generation system, which is also known as "co-generation," "co-gen," "tri-gen," and "combined heat and power."

Rather, these systems work by taking the single energy input of gas or diesel fuel and converting it to electricity, which produces a "waste" product of heat or steam that can be used for thermal purposes, effectively extracting another product to increase the return on investment. For fuel, Monhegan will use diesel while Scarborough taps into nearby liquefied natural gas lines, allowing each municipality to reduce their carbon footprints and cut

costs. If the cost of these fuel supplies surge in the future, co-gen operations have the potential to switch to biofuels, which are derived from contemporary organic sources like corn and food waste rather than oil and gas fossil fuels.

Scarborough's ante was \$825,000, \$216,000 of which became offset by an Efficiency Maine grant. Before the check was cut, Scarborough's local Energy Committee devoted a decade to planning that resulted in the creation of a town Comprehensive Energy Plan in 2011. Subsequent small forays into solar and wind power on or near municipal buildings tested the waters, leading to the decision to install the co-generation system.

To Scarborough Manager Tom Hall, it made sense to replace six aging oil boilers with three efficient gas-fired units, trimming maintenance needs along the way. "Our Tri-Gen units not only mitigate electrical charges, they provide our municipal buildings with heat in the winter and cooling during these hot summer months as well." Another benefit is that the work, other than construction of the units themselves, was all Maine-based. An energy service company based in Scarborough, Self-Gen Inc., designed the system, Pittsfield-based Cianbro constructed the mechanical and electrical aspects of the installation and Portland-based Woodard & Curran managed the overall engineering and grant administration.

In its tight four to 4.5-year payback period, all of the electricity used by the Scarborough Town Hall, all of the winter heating, and 80 percent of the summer cooling will be produced in the engine unit, coolant tower, and water piping systems that have been integrated right into the Town Hall building itself. Some excess electricity will reduce the load at other municipal facilities via net metering.

Partnerships

If any of these projects seem beyond your municipality's means, keep in mind that many involved public-private partnerships. Should the financials not work for private sector assistance in your town, expanding the economy of scale of your endeavor by collaborating with neighboring communities may also be explored. ■



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Cities, towns struggle with medical marijuana caregivers

Growing, medical use of marijuana poses challenges because municipalities have valid concerns about marijuana operations, yet local regulation is limited.

By Edward J. Kelleher

Local officials in Maine have struggled to cope with the emergence of a large and expanding group of “medical marijuana caregivers,” who are licensed by the state to grow marijuana for medical marijuana patients. This article highlights and attempts to address some of the more daunting issues that towns are facing.

The Maine Medical Use of Marijuana Act (the “MMJ Act”), authorizes the use of marijuana to treat a variety of legally enumerated “debilitating medical conditions.” With a doctor’s certification, an individual with one of the qualifying conditions is authorized to grow or purchase marijuana as a means of treatment. Such a person becomes a “qualifying patient.” Qualifying patients can grow their own marijuana, or can buy it from one of two sources: one of the eight large licensed dispensaries scattered throughout the state, or from a “registered primary caregiver” (a “caregiver”). Caregivers are individuals with licenses from the Maine Department of Health and Human Services to grow and sell marijuana for up to five qualifying patients (plus themselves, if the caregiver is a qualifying patient). A caregiver can grow up to six flowering female plants per qualifying patient (including themselves), for a total grow of up to 36 plants. Two people who share a household can combine their grows, for a maximum grow size of 72 flowering plants.

The drafters of the MMJ Act could not have foreseen all the ways in which the cannabis industry would change over the last few years. Consequently, the MMJ Act is somewhat ambiguous

with respect to the powers of local municipalities to regulate various aspects of the cannabis industry. These ambiguities have resulted in confusion and disputes over the extent to which caregivers are subject to local ordinances and over the power of localities to impose zoning and other rules specifically on caregivers.

Pre-emption

Most broadly, some caregivers assert that the MMJ Act fully preempts the power of local municipalities to impose any regulation at all on caregivers. They rely on two provisions of the Act to reach that conclusion. First, 22 M.R.S.A. § 2423-E(1) provides that a “person whose conduct is authorized under this chapter may not be denied any right or privilege ... for lawfully engaging in conduct involving the medical use of marijuana authorized” by the MMJ Act. And second, 22 M.R.S.A. § 2428(10), provides, “(T)his chapter does not prohibit a political subdivision of this State from limiting the number of dispensaries that may operate in the political subdivision or from enacting reasonable regulations applicable to dispensaries. A local government may not adopt an ordinance that is duplicative of or more restrictive than the provisions of this Act. An ordinance that violates this subsection is void and of no effect.” This second provision is a subsection of a section dealing with the eight large dispensaries throughout the state.

The caregivers’ argument is a claim of express preemption. The provisions of 22 M.R.S.A. § 2428(10) provide the foundation for this pre-emption argument. However, while the MMJ Act does contain several provisions concerning the operations of

caregivers, there are many topics and areas of regulatory focus that the MMJ Act does not address with respect to caregivers. For instance, the MMJ Act is silent with respect to the application of life safety and building code requirements to caregiver cultivation facilities. Although not free from doubt, a court would likely conclude that a claim of express preemption should not stretch so far as to operate to deprive localities from regulating those aspects of caregiver operations to which the MMJ is completely silent. Any such reading of 22 M.R.S.A. § 2428(10) and of preemption doctrine would likely be seen as too broad. Consequently, regulations relating to building permits, site plan review, health and safety standards and zoning and siting would likely not be deemed preempted by the MMJ Act.

Additionally, the MMJ Act contains far more detailed provisions relating to the licensing and operation of dispensaries than it does to similar aspects of caregiver activities. Because dispensaries can have an unlimited number of qualifying patients and an unlimited number of employees, their operations pose a bigger public safety and welfare issue. Thus, dispensaries were a major concern of the legislature, reflected in the detailed statutory scheme applicable to them. In this context, and with 22 M.R.S.A. § 2428(10) being embedded in a section dealing only with dispensary operations, this subsection is best read as applying only to local regulations affecting dispensaries, and not generally to caregivers.

Finally, the provisions of 22 M.R.S.A. § 2423-E(1) make clear that no one can be denied a right or privilege simply as a result of engaging

Edward “Ted” Kelleher is an attorney with Drummond Woodsum, practicing out of Portland. Email him at: tkelleher@dwmlaw.com.

in activity protected by the MMJ Act. However, rights and privileges created under state law are routinely subject to compliance with local regulations; for instance, the right to construct a structure or engage in commercial activities on private property is subject to local zoning, land use and health and safety ordinances. The rights of caregivers are no different.

All this being said, a court would likely find some limits to the power of a municipality to regulate caregivers and qualifying patients. For instance, local regulations adding or removing enumerated debilitating medical conditions, or changing the number patients a caregiver could service or the number of plants grown would clearly be subject to a preemption claim.

Licensure and zoning

A harder case is local licensure requirements for caregivers. To be able to operate legally, a caregiver must apply for and be issued a caregiver registration from DHHS. Issuance of a caregiver registration is subject to various requirements such as a criminal background check. A town could not make a caregiver operation contingent on obtaining a local license that imposed additional licensure requirements. It is, however, conceivable that a town could require a caregiver to obtain a business license that did not impose additional requirements, but simply called for the caregiver to provide basic information about the operation and perhaps a licensing fee.

There has been some confusion as to how to characterize a caregiver's activities for zoning purposes. There are a few emerging themes here. First, if a caregiver is operating out of a primary residence, the emerging view is that the caregiver operation constitutes a home occupation, and should be subject to applicable zoning rules on home occupations. However, if a caregiver is operating in a non-residential space, such as a warehouse or commercial building, the emerging consensus is that a caregiver's activities constitute light manufacturing (contrasted with agriculture). Caregivers grow marijuana in indoor facilities, and much of their activity involves the processing of plant material into usable form by patients. These processing activities involve extensive trimming and sometimes extraction

of oils, and the parceling of marijuana into packages sized for purchase. These activities more closely describe a manufacturing activity than they do agriculture. The characterization of caregiver operations is ultimately, however a town's decision, based on the particular text of its zoning ordinance.

The MMJ Act contains extensive confidentiality provisions at 22 M.R.S.A. § 2425(8). In particular, 22 M.R.S.A. § 2425(8)(B) provides that "(A)pplications and supporting information submitted by primary caregivers ... operating in compliance with this chapter are confidential." Some caregivers have asserted that this creates an entitlement to operate anonymously, and that any local ordinance that requires a caregiver to disclose her or his name and status as a caregiver to a municipality is thus illegal. These controversies have arisen in the context of the "right, title and interest" requirement for local permits. Some caregivers assert that they are exempt from such a requirement because proving that they have right, title or interest would require disclosing their identity. One such case involving the Town of York is being litigated.

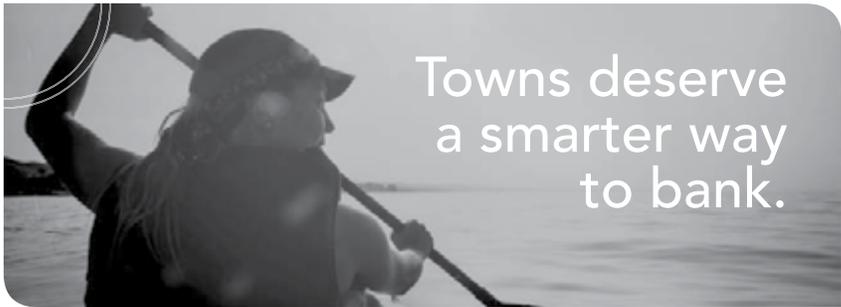
These confidentiality provisions appear to apply to the conduct of DHHS. They are part of a larger section of the MMJ Act governing the issuance of registry cards to patients and caregivers by DHHS, and do not

apply by their terms to other governmental entities. The "applications" in question are submitted to and processed by DHHS. Caregivers making a claim to an entitlement of anonymity are in essence asserting that the identity of a caregiver is a part of the application, and is therefore subject to complete confidentiality for all purposes.

This argument is undercut by the provisions of 22 M.R.S.A. § 2423-E(5)(B); this is a provision which describes what a person must do to get the legal protections of the MMJ Act. It says that "(I)f the person is a primary caregiver, [he must] present upon request of a law enforcement officer the original written document designating the person as a primary caregiver by the qualifying patient ... and the primary caregiver's driver's license ... or a nondriver identification card as described...." Thus, the MMJ Act itself conditions the protections it gives a caregiver on disclosure of the caregiver's identity. A claim to an entitlement to anonymity, thus, does not have support in the text and structure of the MMJ Act.

Conclusion

The continued development of the cannabis industry will surely present more challenges to cities and towns in Maine. A firm understanding of the state regulatory regime will be essential to local officials as they work to cope with these challenges. ■



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Medical marijuana at work: Best employment practices

Municipal employers must use care when handling employees who use marijuana for medical purposes. Maine's statute is well regarded, but case law is still evolving.

By Stephen Langsdorf

All Maine employers, including municipalities and all other state and local governments, are likely to be dealing with employees who are legally using medical marijuana. Unlike some other states, Maine has statutory protection of employees against adverse treatment in the workplace based on their status as a user. It is, however, appropriate to discipline any employee who is impaired in the workplace or unable to complete their work responsibilities due to marijuana use. Determining if someone is impaired is challenging because there are not objective tests.

Maine and 25 other states, plus Washington, D.C., have enacted statutory programs permitting the legal use of marijuana for certain medical conditions. Four states, Colorado, Washington, Oregon and Alaska, plus Washington, D.C., have legalized the recreational use of marijuana use for adults. The question of legalization is on the ballot in Maine in November.

Since marijuana, like narcotic pain medication, both relieves pain and causes a state of impairment for most users, employers have been challenged as to how to deal with their employees who are legal users. Under Maine law, employers cannot discriminate against an employee based on his or her status as a qualifying user. Employers may take action if an employee is under the influence while at work, but are not required to. Indeed, some employees are more effective and only able to work because of the physical and

AT THE MMA CONVENTION

The topic of municipal employers and medical marijuana will be discussed by Attorney Stephen Langsdorf at the MMA Convention on Wednesday, Oct. 5, starting at 10:30 a.m. This year's convention will be held at the Cross Insurance Center in Bangor.

emotional relief they received from using marijuana. A drug screening is not an effective way to determine whether someone is under the influence, so more practical impairment based testing and advice as to how to handle qualifying employees will be discussed in this paper.

There have been a few court decisions addressing medical marijuana in the workplace which will be reviewed.

Under Maine law

Maine adopted a comprehensive medical marijuana program in 1999 which was expanded to include retail dispensaries by a citizens' initiative in 2009.

Maine's program is seen as a model for the nation, as it is appropriately directed to those individuals who legitimately need marijuana because of their medical conditions and not a façade for those who simply wish to use recreationally. For example, Maine does not allow a doctor to recommend marijuana for such conditions as stress, anxiety, insomnia or a general inability to cope with life. In Maine, a licensed physician may recommend and certify a patient for medical marijuana usage if they have a "debilitating medical

condition" that has been defined as follows:

- Cancer, glaucoma, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, hepatitis C, amyotrophic lateral sclerosis, agitation of Alzheimer's disease, nail-patella syndrome or the treatment of these conditions.

- A chronic or debilitating disease or medical condition or its treatment that produces intractable pain, which is pain that has not responded to ordinary medical or surgical measures for more than 6 months.

- A chronic or debilitating disease or medical condition or its treatment that produces one or more of the following: cachexia or wasting syndrome; severe nausea; or seizures, including but not limited to those characteristic of epilepsy.

- Any other medical condition or its treatment as provided for in section 2424, subsection 2.

- Post-traumatic stress disorder, inflammatory bowel disease, dyskinetic and spastic movement disorders and other diseases causing severe and persistent muscle spasms. 22 M.R.S. § 2422.

Maine has established three different ways that medical marijuana may be obtained:

1. Dispensaries
2. Registered caregivers
3. Grow your own

The state established a limit of eight dispensaries, divided up in public health regions throughout the state. In 2010, the state Department of Health and Human Services, which administers the program, awarded eight licenses to five entities. Dispensaries are operating in the following municipalities: Auburn, Bath, Biddeford, Brewer,

Stephen Langsdorf is chair of Preti Flaherty's Municipal Law Group and a senior partner in the Employment Law and Litigation practice groups. He has 29 years' experience as an attorney in Preti Flaherty's Augusta office. Email him at: SLangsdorf@preti.com.

Eagle Lake, Ellsworth, Gardiner and Portland. There are also 2,725 caregivers registered with the Department.

Someone who is certified to use medical marijuana has the choice of registering with the state and receiving a card, which may be presented to law enforcement officials, or simply receiving the certification and not registering with any government authority. Certain users prefer the certainty of knowing that they have the registration card to present to law enforcement officials and others are more concerned about their privacy. Although the state keeps all such information confidential, because it is still illegal under federal law, there is no guarantee that it will be protected from disclosure to the federal government.

Qualifying patients may possess up to 2.5 ounces of marijuana and/or may cultivate or designate a dispensary or caregiver to cultivate up to six mature marijuana plants. Caregivers may serve five patients only and the dispensary may serve an unlimited amount of patients.

There are provisions of the medical marijuana law which are specifically applicable to employers and governmental agencies:

1. A person whose conduct is authorized under (the Medical Marijuana law) may not be denied any right or privilege or be subject to arrest, prosecution, penalty or disciplinary action, including but not limited to a civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau for lawfully engaging in conduct involving the medical use of marijuana; 22 M.R.S. § 2423-E(1).

2. A school, employer or landlord may not refuse to enroll or employ or lease to or otherwise penalize a person solely for that person's status as a qualifying patient or a primary caregiver unless failing to do so would put the school, employer or landlord in violation of federal law or cause it to lose a federal contract or funding. 22 M.R.S. § 2423-E(2).

Additionally, no one may be denied parental rights and responsibilities or contact with a minor child because they are acting in accordance with the law. 22 M.R.S. § 2423-E(3).

What the law prohibits is adverse action against someone lawfully complying with the medical marijuana law

based solely on their status as a medical marijuana user. That does not, however, mean that a medical marijuana user has the right to use in the workplace or to be under the influence of marijuana in the workplace. The law does not permit any person to:

A. Undertake any task under the influence of marijuana when doing so would constitute negligence or professional malpractice or would otherwise violate any professional standard; 22 M.R.S. § 2426 (1).

B. Possess marijuana or otherwise engage in the medical use of marijuana:

- In a school bus.
- On the grounds of any preschool or primary or secondary school.
- In any correctional facility. 22 M.R.S. § 2426(1).

C. Smoke marijuana:

- On any form of public transportation.
- In any public place. 22 M.R.S. § 2426 (1).

D. Operate, navigate or be in actual physical control of any motor vehicle, aircraft, motor boat, snowmobile or all-terrain vehicle while under the influence of marijuana. 22 M.R.S. § 2426 (1).

There is also an exception for possession and use of non-smoke medical marijuana on a school bus or at a school only if possessed by a caregiver for a minor who is a qualifying patient. The law also is not to be construed

to require any governmental medical assistance program or private health insurer to reimburse the user for costs associated with the medical use of marijuana, and does not require an employer to accommodate the ingestion of marijuana in any workplace or any employee working while under the influence of marijuana.

Note that what the law says is that it does not require an employer to accommodate someone who is working under the influence of marijuana. It does not, however, prohibit an employer from accommodating somebody who is working under the influence of marijuana if the employer so chooses.

There are no provisions in the statute explaining what the remedy is for violations. Although it is similar to claims which would be handled by the Maine Human Rights Commission, there is no statutory jurisdiction for the commission to handle. Most likely, a claim would be available for wrongful discharge because of a violation of public policy. This public policy is explicitly stated in the statute. In such case, compensatory damages would be available, but likely not injunctive relief nor attorney's fees. If the Legislature does not make this determination, the courts will have to work it out on a case by case basis.

What is impairment?

"Under the influence" is not defined by law. Does it mean any effects



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of marijuana or just those that cause impairment? Other definitions of impairment, intoxication and under the influence provide only a small amount of guidance.

“Intoxication” is defined as a substantial impairment of an individual’s mental or physical faculties as a result of drug use.” The concept of substantial or at least significant impairment is a part of the law. The motor vehicle statutes state that someone is presumed “not under the influence” if someone’s blood alcohol level is below .05%. Clearly someone can be affected by a substance but not under the influence.

But “under the influence of intoxicants” has a circular definition. It means under the influence of drugs, alcohol or a combination thereof.

The answer to whether under the influence means impaired or feeling any effects at all has yet to be addressed by the Maine courts.

There are a number of recognized effects from the usage of marijuana as defined by the Diagnostic and Statistical Manual of Mental Disorders IV (DSM-IV): “Clinically significant mal-

adapted behavioral or psychological changes (e.g. impaired motor coordination, euphoria, anxiety, sensation of slowed time, impaired judgment, social withdrawal)” that developed during or shortly after cannabis use, including two or more of the following symptoms:

1. Conjunctival injection (bloodshot eyes).
2. Increased appetite.
3. Dry mouth (cotton mouth).
4. Tachycardia (increased heart-beat).

Tetrahydrocannabinol (THC), which is the primary psychoactive ingredient in marijuana, binds to cannabinoid receptors and influences pleasure, memory, thought, concentration, sensory and time perception, appetite, pain and movement coordination. Since there is no test which will accurately determine whether someone is under the influence, employers must look to alternative ways to make a determination.

The first and most obvious is simply the observation of coworkers or supervisors. Some of the effects can be covered up (i.e. bloodshot eyes and

most likely the excessive hunger), but careful observation by an employer should be able to give some indication if someone is acting in ways that do not appear to be normal for them and are consistent with marijuana use. Factors which affect impairment include how much the individual has consumed, the frequency of usage and the degree of addiction. One problem may be, however, that an employer has no baseline, i.e. the employee has been under the influence continually since employment began.

Documented performance issues would be the best evidence of impairment. Showing specific work deficiencies should be a prerequisite to taking action against an employee. Otherwise a claim for status discrimination is likely.

Although numerous studies have shown that marijuana does not significantly impact driving, including the U.S. Department of Transportation, which considers it only a “moderate” impairment while driving, Maine law is specific that no one under the influence of marijuana should be operating any type of motor vehicle. Obviously,

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the same would apply to the operation of any type of heavy equipment and machinery. In this way it is no different from the use of other types of pain killers. Recent studies have shown that medical marijuana use reduces overdoses resulting from narcotic painkillers.

A fundamental question for some employers would be whether or not to take action against employees if they appear to be under the influence if they are productively engaged in their employment duties. A number of certified medical marijuana users simply would be unable to work if they are not using. The question then becomes if someone is functional while under the influence, should the employer take action?

When making that decision, the primary consideration should be safety to the employee, co-workers and the general public. The employee's productivity and potential inability to not be able to work without it should be considered.

Drug testing: Not the answer

The primary method used by employers to conduct drug testing of

employees is by urinalysis. Urinalysis will determine whether there is the presence of cannabis metabolites in the blood stream. Metabolites are molecules in blood which have resulted from a drug being broken down (metabolized by the body). The fundamental problem with drug testing is that the presence of cannabis metabolites in the blood stream is not indicative of being under the influence or intoxication. This is because the half-life of marijuana metabolites is approximately 50 hours, meaning that after one week approximately 25 percent of metabolites are still in the body. Positive findings can result up to 30 or more days after someone has ingested marijuana.

The euphoric effects or influence of marijuana depend on how it has been ingested. When someone smokes, the effects begin almost immediately and generally last between two and four hours depending on the individual and the amount of marijuana consumed. When someone is eating a marijuana product, it generally takes approximately 90 minutes to become effective and then lasts approximately three to five hours. In other words, a

positive drug test for cannabis metabolites in the blood stream simply means that someone has consumed within the past 30 days or so. Although tests are being developed which purportedly will determine whether somebody has used marijuana in a much shorter period of time, those tests are not necessarily considered reliable at this point. If you as an employer chose to terminate somebody who is a qualifying patient of the medical marijuana law because of a positive drug test, you likely will be liable for violating the anti-discrimination portions of the law. A positive drug test simply shows what the individual's status is.

The Legislature attempted in the last session to adopt a law setting a specific blood level standard applicable to drivers operating under the influence. LD 1628 was rejected because the testimony and evidence showed that there was no reliable standard.

Tests are being developed which measure cognitive functioning and motor coordination to determine impairment. These include psychomotor, psychopathology and pupillary tests. This will be a more effective tool than drug testing. The test will require a

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non-impaired baseline. This type of testing will be useful for return to work situations and suspected impairment of employees. Even when such testing becomes generally available at a reasonable price, documented work performance deficiencies will still be important.

Case law

There have been a few employment related medical marijuana rulings by courts.

The Colorado Supreme Court held that although Colorado law allowed for the use of medical marijuana, that law did not prevent an employer from terminating a medical marijuana user who had tested positive for marijuana in violation of the company's zero-tolerance drug policy. *Coats v. Dish Network*, 303 P.3d 147 (2013).

At the time of testing, the employee was not under the influence of marijuana, nor was there any evidence that he had used marijuana at work or had been under the influence at work during other times. The employer, however, had a zero-tolerance drug policy, and when the employee tested positive, it terminated his employment. The employee sued, claiming that his termination violated Colorado's off-duty conduct statute, which provides that employers may not terminate employees for engaging in any "lawful activity off the premises of the employer during non-working hours."

The key issue for the Colorado Supreme Court was whether the employee's medical marijuana use was a "lawful activity." Notwithstanding Colorado's constitutional amendment allowing for the use of medical marijuana, the Court concluded that for an activity to be "lawful" under the off-duty conduct statute, it must be lawful under *both* state and federal law. Because marijuana use remains unlawful under federal law, the court held that the employee had not engaged in a "lawful activity" that prohibited his termination.

Reaching a similar conclusion, a federal district court in Washington recently dismissed an employee's discrimination complaint and found that the law in Washington does not require employers to accommodate the use of medical marijuana where they have a drug-free workplace policy. *Swaw v. Safeway, Inc.* (W.D. Wash. 2015). In

Swaw, the court pointed to an earlier 2011 decision from the Washington Supreme Court, which held that Washington's medical marijuana law "does not regulate the conduct of a private employer or protect an employee from being discharged because of authorized medical marijuana use."

That courts in Colorado and Washington (and California and Oregon, to name a few others) have construed medical marijuana laws in favor of employers do **not** mean that employers in Maine can assume the courts would reach similar interpretations. This is because the medical marijuana laws in some states, such as Washington and Colorado, simply de-criminalize medical marijuana, without providing specific employment protections. Other states, such as Maine, include specific protections that prohibit employers from taking adverse action against an employee based on his or her status as a medical marijuana user. Consequently, court rulings from "de-criminalization" states should not be viewed as indicative of how a court would rule in another jurisdiction, such as Maine, where the applicable law expressly provides for some level

of employment protection for medical marijuana users.

In Maine, even though it is not an employment case, the Superior Court ruled on a case which implicates municipal government.

In *Briggs v. Town of York*, Superior Court Ap-14-028 (May 2015), the Court upheld a Zoning Board of Appeals ruling reversing a local CEO. The board found that cultivating marijuana met the local definition of manufacturing, but was allowed to continue as a non-conforming use not considered a change of use.

Conclusion

Maine employers cannot discriminate against employees or applicants because of their status as medical marijuana users. Drug tests are not effective as they do not determine if someone is under the influence. Employers may choose to accommodate usage in the work place, but are not obligated to do so. Practical observational testing and impairment testing is a better answer but is not well developed yet. This is on the cutting edge of the law as "under the influence" is yet to be defined by Maine courts. ■

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No question too little, or too big, for town meeting voters

From a bold broadband proposal on Islesboro to a staunch defense of fluoridated water in Machias, citizens spoke out in true New England fashion.

By Liz Mockler

With warrants and pencils, small pieces of paper and uncomfortable folding chairs, thousands of Maine voters this spring endorsed millions of dollars' worth of capital projects, passed municipal laws and decided priorities in what one moderator called "The only true form of democratic government left in the world." That is, the New England annual town meeting.

In addition to town meetings in May and June, residents of many towns and cities also voted on June 14 – primary Election Day. They had a chance to answer dozens of local referendum questions, pass budgets by secret ballot and decide the fate of projects and programs of every kind and size.

Still more special town meetings were held to decide a single issue or impose ordinance changes that voters wanted put in place right away, rather than waiting for the next annual town meeting.

Voters in scores of communities also elected or re-elected selectmen and councilors. Unlike most years, however, incumbents seemed to fare worse than usual at the polls. Many stepped down, which is common, but many were replaced at the ballot box, perhaps more evidence that some Americans are looking for perceived "outside" candidates, even locally.

Talk early and often

As is typical, Mainers showed faith in their communities and agreed to borrow millions for infrastructure, with some of the smallest towns making big moves in approving outlays.

Meanwhile, lots of meaningful but



Waldoboro voters cast ballots at special town meeting.
(Photo courtesy of the Lincoln County News.)

expensive projects were tabled or rejected for myriad reasons – not only fiscal.

There seemed few real disputes and, for many towns, only one or two warrant articles were questioned or heavily debated.

In Farmington, smooth town meetings are the rule, Selectman Stephan Bunker, Maine Municipal Association president, said recently.

Extensive public information and broad transparency are keys to helping voters understand the issues "long before town meeting," Bunker said. Ideas and proposals are "aired and vetted early," public hearings are held and every effort is made to answer questions or confront different views early and often.

"In my experience, there have been few times of real rancor between selectmen and the town" over the years, said Bunker, who served on the budget committee for 10 years before running for selectman more than 20 years ago.

Turnout is always important to consider, he said, adding that he and other town officials always wish for higher

numbers. He thinks there is likely a direct link between in-depth public knowledge and low turnout. Selectmen always hope that signals that residents feel informed and satisfied, he said, but they can never be sure.

"Our voters come to town meeting very well informed and ask intelligent questions," Bunker said. "I've been very pleased that by and large, our citizens have made some very solid decisions that I think have been beneficial to the town."

Big deal

Yard sales. Downtown development. Plastic bags. Broadband expansion. Dam replacement. Sewer expansion. Fluoride. Those are a sampling of the complex and varied issues decided by local voters in June.

Arguably one of the biggest municipal projects approved this spring was a \$3.8 million plan to build a high-speed broadband network on Islesboro. The vote was overwhelming at 145-23.

The island of 565 citizens in Penobscot Bay east of Lincolnville will become one of only a few municipalities

Liz Mockler is a freelance writer from Randolph and regular contributor to the Maine Townsman, lizmockler@hotmail.com

in Maine to actually own its own local fiber-optic internet service.

The town will raise money for the project through property taxes, regardless of who ultimately uses the system. Users will be charged an estimated \$30 a month, or \$360 a year, for the service, depending on the final project cost.

Presently, the island is served via the DSL phone line service that reaches only 30 megabits per second. The new system will offer 1,000 megabits per second while keeping the service affordable.

The population of Islesboro swells to 2,000 in the summer and is home to some of Maine's most famous and wealthy celebrities.

Smaller scale

Meanwhile, on the smaller end of the scale, Windsor voters acknowledged the heavy workload selectmen bear, just before cutting their annual \$1,500 stipend. The vote was 15-10. Selectman Chairman Richard Gray Jr. said the vote doesn't tell the whole story.

He said Windsor selectmen have worked many years without pay, a decision maintained until this year. He said a split board decided to include the stipend in the budget this year.

Once at town meeting, selectmen themselves asked for the article to be quashed. "That's the beauty of town meeting, you can add and subtract," said Gray, serving his third, three-year term. "It's a wonderful thing. The townspeople spoke."

Gray said selectmen may be local lawmakers, but they are still volunteers.

"If it's something you're doing because you want to do it for the good of community, to make it a better place, I just feel like we can give back" without pay, he said.

From paving to fire trucks

Despite hefty prices and the need to borrow money, voters in several towns still approved big projects. They included:

- \$2.5 million in Casco to pave five roads and replace a dam. The town will partner with Otisfield, with both communities contributing \$250,000 to replace the dam and stave off \$1,000 daily penalties from the Maine Department of Environmental Protection.

- \$1.5 million in Pownal for various road projects.

- \$1.4 million in Gorham for two new firetrucks, one ladder engine and a tanker. The new trucks will replace two 25-year-old trucks. The vote was 709-444.

- \$400,000 in Ogunquit for the fire/rescue department and a bathhouse, among other plans. Voters also authorized spending \$225,000 for the first town-wide revaluation in a decade.

- \$2 million in Rumford for downtown capital improvements. The vote was 565-428.

- \$275,000 in Wells for land abutting the public safety facility. The vote was 660-370.

- \$360,000 in Manchester for a new fire truck, to be financed with reserve money to avoid borrowing and interest.

- \$300,000 in Farmingdale for a fire truck and \$250,000 toward the future cost of Maine Street property for an expanded fire station and town office.

Not so supportive

Expensive projects were rejected, too.

In Rockport, a leader in building its own fiber optic network for the downtown village, voters rejected a \$300,000 request to pay for a design to expand the network town-wide at a projected cost of nearly \$8 million.

North Yarmouth voters rejected a \$500,000 request as the town's part in converting a school into a 10-acre housing development. Voters said the project was not a good fit for the community and asked for a new proposal for the school.

Kingfield voters opposed a \$450,000 village green plan after the project's advisory committee asked for more time to redesign the project and hopefully lower the cost. The panel also wants more fiscal data for the budget committee and selectmen.

In Bridgton, voters defeated a request for \$350,000 to develop and build a new welcome center.

And in Westport Island, after voters continued debating the need for a town-owned sand and salt shed, a local resident offered to donate the \$30,000 to \$60,000 in site work. He said the offer was good only if residents, after talking about it for 10 years, approved the \$300,000 project – which they did. The island has been paying \$203 a ton for salt and sand. Once the town has a facility for storage, the tonnage cost will drop to \$65 a ton.

Something different

Paris voters, by a margin of 2-to-1, decided to maintain the town police department rather than contract with Oxford County for coverage. The department budget is down nearly \$93,000 from last year. The department will still provide 24/7 coverage and retain seven full-time officers. The vote was 617-337.

Manchester and Wayne voters supported yard sale ordinances. While some voters complained about having to report to town officials if they wanted to have a sale, the majority agreed the ordinances would help protect the towns against ongoing "yard sales" that are in fact businesses.

Pownal voters agreed to a "backyards ordinance," which will allow property owners to subdivide their land to create a house lot to give to their children or to sell.

Madawaska officials were authorized to create a charter commission of six elected members and three appointed. It would be the Aroostook County town's first charter. Voters also OK'd a property tax club of 12 equal monthly payments as a way to help families budget while easing cash flow shortages during the year.

Machias voters took the opinion of two dental experts over a single resident and voted to continue adding fluoride to the public water supply. The experts denied fluoride causes cancer.

Livermore Falls voters slashed nearly all of the proposed \$2.7 million municipal budget. Town officials will essentially need to build a new budget and set a special town meeting. Among the cuts were all funding for police, insurance and public works.

Kennebunk voters banned single-use plastic bags by a vote of 1,480 to 845. While several communities have imposed a five-cent fee for each bag, Kennebunk joins York and Freeport in a total ban. York was the first Maine town to support a total ban, which passed last year.

And in Rangeley, voters passed a recall ordinance establishing a process to unseat elected officials for wrongdoing or failure to carry out their duties.

Rangeley residents also voted 64-34 to change the town meeting format from an open-floor session to secret balloting by referendum. ■

Rite of spring: Recapping recent municipal election results

By Liz Mockler

Following are among the municipal election results from May and June annual town meetings or secret balloting. Uncontested races are not included. Although many incumbents won re-election, others were defeated this year. Maine municipal candidates, with a handful of exceptions, do not run with political affiliations. Still, the national mood for “outside” candidates seemed evident in Maine municipalities, where incumbents and former elected officials lost their election bids.

Two Skowhegan incumbent selectmen held off challengers to win re-election to three-year terms. **Betty Austin** received 458 votes to win a fifth straight term. **Paul York** garnered 289 votes for a second term. Two challengers collected 277 and 175 votes.

Against the odds, Fayette voters elected two selectmen with identical totals of 73 votes. Former Selectman **Lacy Badeau** was returned to the board after a five-year hiatus. **Nancy Cronin** has served on the budget committee for several years before running for a higher position. Two other candidates received 66 and 63 votes. Badeau and Cronin replace **Mary Wright**, who served nine years, and **Ken Morrison**, who served for six years. Neither sought re-election.

Brian Bickford was elected to replace **Geraldine Dixon** as Clinton selectman with 210 votes. Former Selectman **Randy Clark**, who served a dozen years, picked up 114 votes. Clark also has served for more than 20 years as chairman of the Clinton Water District.

Chris Brennick and **James Windover** will replace **Bradford Adley** and **Frank DiConzo** as Rumford selectmen. In a competitive four-way race for the two open seats, Brennick won the most votes with 531, Windover collected 524, and the two challengers racked up 499 and 454 votes. Adley served nine years, while

DiConzo served six.

Winthrop voters elected **Barbara Buck** to continue serving the final year of the term of her late husband, **Ken Buck Sr.** Buck, who will serve through 2016, received 335 votes. She held off two challengers, who received 207 and 202 votes.

Waldoboro voters elected former Selectman **Robert Butler** over incumbent **Ronald Miller** by a vote of 401-315.

Retired Jay Town Manager **Ruth Cushman** defeated three challengers to win a seat on the Wilton selectmen board with 271 votes. Former Selectman **Irving Faunce** placed second with 196 votes. Two other candidates received 154 and 77 votes. Cushman replaces **Scott Taylor**, who served five years.

Richmond voters elected **Ryan Chandler** to replace outgoing Selectman Chairman **Peter Warner** with 215 votes. He held off two challengers, who garnered 135 and 53 votes. Chandler has held a number of positions for the town over the years, including code enforcement officer and a recent member of the budget committee and presently works as a state inspector. Warner did not seek re-election after serving a 3-year term.

Dixfield voters elected **Norine Clarke** and **Aaron Jamison** as selectmen, defeating incumbent **Dana Whittemore** and former Selectman **Scott Belskis**. Clark received 257 votes to Jamison’s 199 votes. Whittemore collected 194, while Belskis received 181.

Cheryl Coffman lost her re-election bid as Buckfield selectman by a single vote to challenger **Michael Iveson**. The result was confirmed by a vote recount. The town clerk asked the candidates to witness the second tally, which mirrored the first: 73-72.

Veteran Norway Selectman **Bruce Cook** was re-elected and budget committee member **Thomas Curtis** held off two other budget committee members to win the second open selectman seat.

Cook received 302 votes, while Curtis collected 190 votes to replace outgoing selectman **Michael Twitchell**, who is seeking election to the Maine House of Representatives. The challengers received 163 and 124 votes.

Former New Gloucester Selectman **Lynn Conger** and incumbent **Steve Libby** were elected to the board in a four-way race. Conger received 444 votes, while Libby garnered 439. The other candidates received 350 and 333 votes. Conger previously served for 11 years. Libby will begin his sixth term.

George Cummings and **Thomas Barker** were elected Livermore Falls selectmen to replace **James Collins** and **Mary Young**, who did not seek re-election. Both races were close: Cummings defeated his challenger by a vote of 196-177, while Barker defeated his competition by a vote of 162-153.

Richard Dolliver unseated incumbent Ogunquit Selectman **David Barton** for a three-year term as selectman. Dolliver received 252 votes, while Barton received 192 votes.

Four candidates sought two open Wells selectmen seats, with **John Howarth** receiving the most votes with 629, followed by **Daniel Hobbs** with 420. Two other candidates lost their bids, including incumbent **Christopher Chase**. Chase placed fourth with 351 votes. Selectman **Richard Clark** did not seek re-election.

Two Canton selectmen, **Brian Keene** and **Robert Walker**, held off a challenger to win reelection. The vote count was 77, 74 and 45, respectively.

A recount in a race for Litchfield selectman ended with newcomer **Timothy LaChapelle** unseating incumbent **Rayna Leibowitz** by 12 votes – confirming the first results. Leibowitz had served two full terms and was seeking a third. The vote was 195 to 183, with a third candidate garnering 131 votes.

Rockport voters elected **Brendan Riordan** over incumbent Selectman

Liz Mockler is a freelance writer from Randolph and regular contributor to the Maine Townsman, lizmockler@hotmail.com

Tracy Lee Murphy by a vote of 344-312.

Christine Torno easily won her first term as Lebanon selectman, defeating incumbent **Ben Thompson** by a vote of 585-235. A third candidate collected 162 votes. Torno, a former Lebanon town clerk, now works as assistant clerk for the town of Waterboro.

Dresden incumbent Selectman **Gerald Lilly** was defeated by 11 votes by his challenger, **Dwight Keene**, who collected 149 votes to Lilly's 138. Lilly served the town's fire department for 40 years before being elected selectman in 2013. The town clerk held a vote recount after the June 14 balloting and the results were unchanged.

In a five-way race for two selectmen seats, Oxford voters returned incumbents **Scott Owens** and **Floyd Thayer**. Owens received 250 votes, Thayer garnered 227 and three other candidates picked up 162, 152 and 74 votes. Thayer had filled a vacancy created by **Scott Hunter** for four months, so in June he won the seat outright for a full term. Thayer has previously served as selectman for 12 years, as well as another 11 on the planning board. Owens replaces **James Goforth**, who did not seek re-election.

Carol Roach was elected to a one-year term on the Peru selectmen board, replacing **Lee Merrill**, who resigned last November after being elected road commissioner. Meanwhile, **Raquel Welch** won 197 voters to replace outgoing Selectman **James Pulsifer**.

Greg Sirpis was elected Standish councilor to replace **Lester Ordway**, who did not seek another term in order to focus on winning reelection to the Legislature. The vote was 394-253.

Phillips voters elected **David Vincent** as selectmen over incumbent **Andrew Phillips** by a vote of 39-32.

Bridgton voters elected **Glen "Bear" Zaidman** with a 534-vote write-in campaign, unseating incumbent **Ken Murphy**, who collected 307 votes, and a third candidate who won 198 votes.

Madison Selectmen Chairman **Albert Veneziano** and retired State Trooper **Ron Moody** were elected to three-year terms as selectmen. Veneziano won 336 votes and Moody received 327. A third candidate won 249 votes. Moody replaces **Cyprien Johnson**, who did not seek re-election.

Former Selectman **Kathryn Mills Woodsum** and newcomer **John Parent** were elected by Readfield voters with 307 and 315 votes, respectively. In the four-way race for two seats, incumbent **Allen Curtis** received 265 votes and former Selectman **Sandra Rourke** collected 233 ballots.

Manchester voters elected **Doug Ide** as selectman, holding off a challenger by a vote of 223-143. Ide replaces **Jeremy Pare**, who did not seek re-election. ■

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Andy brings many years of experience to counseling municipalities. He has served as General Counsel for a number of Maine towns, and provides advice on economic development initiatives and environmental/land use matters.

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The single most important component to the future of Maine – its economy, vibrancy and retention of young people – may rest with the public University of Maine System. Plus, we all know how important our public university campuses are in Maine Communities from Presque Isle and Machias to Orono, Gorham and Portland.

Please listen to Dr. Page as he explains his vision for the University System, how it can grow and prosper and where municipal leaders, like you, fit in. Born and raised in Caribou, and educated at the University of Maine in Fort Kent, Dr. Page is the first University of Maine Chancellor, ever, to be born in Maine or to have been educated at one of its public university campuses.



An Active Shooter in Your Community

Michael Clumpner – Thursday, October 6 – 1:00-2:00 p.m. – **FEATURED SPEAKER**

Our convention takes a deliberate step toward the very serious as Michael Clumpner, an internationally recognized expert and speaker, talks about community leadership – and more – if there ever is an active shooter in your city or town. He will address how community leaders should plan for, staff and fund their emergency response priorities.

Dr. Clumpner, President and CEO of Threat Suppression Inc. in North Carolina, has qualifications almost too lengthy to list: a 24-year veteran of the fire service; adjunct college professor; flight paramedic; seven years in law enforcement special operations; co-chair of the North Carolina Active Shooter/Active Assailant Work Group; instructor with the U.S. Department of Homeland Security and Department of Justice; and, holder of a doctoral degree in Homeland Security leadership and policy.



www.memun.org

The 2016 MMA Convention: 80th Anniversary Year Preliminary Lineup

Wednesday, October 5, 2016

7:30 a.m. Registration Begins

7:30 – 10:30 a.m. Buffet Breakfast

9:00 – 10:15 a.m. WELCOME AND KEYNOTE SPEAKER

David Eaves – The ‘Open’ Revolution

Our special guest is **David Eaves**, a Research Fellow at Harvard University and government-access expert from Canada, whose premise is simple: Technology is changing everything. His invigorative and interactive presentation will challenge attendees to think about the challenges and opportunities presented by an instantly interactive world.

David is an expert in public policy, strategy, open government, disruptive innovation, negotiation and collaboration – all wrapped up in one person. At home both in Washington, D.C. and Ottawa, David recently led the White House boot camp for Presidential Innovation fellows. He is a prolific writer, both in print and online, and expert in U.S. and Canadian governmental affairs.

Certification: Valid for 1.25 MTCMA credits in the following category: Leadership.

10:15 – 10:30 a.m. Break/Visit with Exhibitors

10:30 – 11:45 a.m. Concurrent Sessions

Cutting Edge Energy Projects

Years of collaborative local planning efforts were realized this year, with a variety of municipal energy generation projects going online throughout the state. Whether using the sun or gas produced by organic materials, members of this panel will explain how they are saving money, and creating new revenue streams, in sustainable and environmentally friendly ways.

Moderator: Garrett Corbin, Legislative Advocate, Maine Municipal Association

Presenters: Sadie Lloyd, Assistant Planner, Belfast; Steven Buck, City Manager, Sanford; Thomas Hall, Town Manager, Scarborough; Travis Peaslee, Assistant Superintendent, Lewiston-Auburn Water Pollution Control Authority (LAWPCA)

Certification: This session is approved for 1.25 CMA/CAT re-certification credits through Maine Revenue Services. Valid for 1.25 MTCMA credits in the following categories: Leadership and Finance/Budget.

Elder Scams

Maybe it's because Maine has its share of senior citizens and maybe it's because they are a trusting lot, but scams that hurt senior citizens are the scourge of our great state. Here's an update on the problem and advice on what can be done to reduce it.

Presenter: Sheriff Bill King, York County Sheriff's Department

Certification: Valid for 1.25 MTCMA credits in the following categories: Leadership and Legal.

Medical Marijuana in the Workplace

Medical marijuana is legal in Maine and, in fact, small amounts of marijuana possession also are permitted in a few communities. What can municipal employers do when confronted with the fact that employees are using marijuana, legally?

Presenter: Stephen E.F. Langsdorf, Partner and Chair of the Municipal Law Group, Preti Flaherty, Augusta

Certification: Valid for 1.25 MTCMA credits in the following categories: Leadership, Legal, and Human Resources.

11:45 a.m. – Noon Break/Visit with Exhibitors

Noon – 1:30 p.m. Awards Luncheon

1:30 – 2:30 p.m. Concurrent Sessions

MMA Annual Business Meeting

Please join us as President Stephan Bunker, Vice President Laurie Smith and Executive Director Stephen Gove shed light on MMA's upcoming priorities and issues that arose in 2016, including the introduction of several new MMA programs and offerings.

Certification: Valid for 1.00 MTCMA credit in the following category: Leadership.

Trees Everywhere: What's the Future of Our Forests?

Paper mill closures and a tough market for biomass electricity make it easy to get discouraged about the vitality of Maine's woods-based industries, at least in the short-term. Four highly credentialed presenters who work in, or closely alongside, these industries will provide updates on emerging markets and innovations that offer what might be called "realistic optimism" as the forest-based industries explore new technologies and adapt. The municipal role in assisting in the inevitable adaptation process will be discussed.

Moderator: Geoff Herman, Director, State & Federal Relations, MMA

Presenters: Donna Cassese, Managing Director, Wood Resource Strategy, Sappi North America, Skowhegan; Peter Triandafillou, Vice President, Huber Resources, Old Town; Dr. Stephen Shaler, Director and Professor, School of Forest Resources, University of Maine; Michael Bilodeau, Director, Process Development Center, University of Maine.

Certification: This session is approved for 1 CMA/CAT re-certification credit through Maine Revenue Services. Valid for 1.00 MTCMA credit in the following categories: Leadership and Finance/Budget.

Making Good Employee Leave Decisions

Municipal leaders as employers must make decisions about employee leave requests and, believe it or not, a bevy of federal and state laws come into play. Join our expert legal speakers as they provide tips on what to do, and what not to do, when employee leave requests come along.

Panelists: Daniel J. Rose and Tom Trenholm, Attorneys, Drummond Woodsum

Certification: Valid for 1.00 MTCMA credit in the following categories: Legal and Human Resources.

2:30 – 2:45 p.m. Break/Visit with Exhibitors

2:45 – 4:00 p.m. Concurrent Sessions

Setting MMA's 2017 Legislative Priorities

Municipal officials are invited to meet and interact with the 70 members of their 2017-18 Legislative Policy Committee. The goal of this meeting is to prioritize the municipal issues to be addressed during the upcoming two-year legislative session. Please come and see how responses to

Wednesday, October 5, 2016

MMA's recent "Issues Survey," which was completed by more than 350 members, have influenced our legislative agenda and provide feedback as the LPC works to finalize municipal initiatives to be advanced to the Maine Legislature, in 2017 and 2018.

Chair: Laurie Smith, MMA Vice President and Manager, Town of Kennebunkport

Presenters: MMA State & Federal Relations Staff

Certification: Valid for 1.25 MTCMA credits in the following category: Leadership.

Following the Money: How Retail Is Changing

What is the future of retail sales? Is it more big-box stores, revitalizing downtowns, online sales and call-center employers – or all of the above? Our expert speaker has worked closely with Maine communities, and municipalities throughout the U.S., as they assess retail trends and projects.

Presenter: Scott Emison, Director of Retail Strategy, The Retail Coach

Certification: Valid for 1.25 MTCMA credits in the following categories: Leadership and Finance/Budget.

Making Your Comp Plan Meaningful

Communities large and small struggle with conceptualizing, organizing and getting "buy in" on comprehensive plans. Some even ask if they are worth doing in the first place. The truth is, the comprehensive plan process can be invaluable, if done right. Here are some best practices, lessons

learned, and new ways of thinking to make planning your community's future a more practical and valuable endeavor.

Moderator: Nancy Smith, GrowSmart Maine

Panelists: Amanda Bunker, Land Use Planning Consultant, Community Planning Studio, Brunswick; Pat Hart, Councilor, City of Gardiner; Kurt Klebe, Falmouth Long Range Planning Advisory Committee Member; Emily Newell, Selectperson, Town of Unity; Judy East, Washington County Council of Governments.

Certification: Valid for 1.25 MTCMA credits in the following category: Leadership.

4:00 – 5:30 p.m. Member Appreciation Reception

Music by jazz guitarist Steve Lynnworth

5:00 – 6:30 p.m. Eaton Peabody Bus Tour of Bangor

In Cooperation with Cyr Bus Line

Eaton Peabody, a Maine-based law firm, and Cyr Bus Line of Old Town will sponsor and host a bus tour showing highlights in and around the City of Bangor. A limited number of seats on two buses are available on a first-reserved, first-served basis. To reserve your seat, and to enjoy this fun experience, please contact MMA via email [now](mailto:now@convention@memun.org) at: Convention@memun.org.

MMA wishes to thank Eaton Peabody and Cyr Bus Line for taking on this fun event!

Thursday, October 6, 2016

7:30 a.m. Registration Begins

7:30 – 9:00 a.m. Continental Breakfast

9:00 – 10:15 a.m. FEATURED SPEAKER

Dr. James H. Page, Chancellor – The Future of the University of Maine System

The single most important component to the future of Maine – its economy, vibrancy and retention of young people – may rest with the public University of Maine System. Plus, we all know how important our public university campuses are in Maine Communities from Presque Isle and Machias to Orono, Gorham and Portland.

Please listen to Dr. Page as he explains his vision for the University System, how it can grow and prosper and where municipal leaders, like you, fit in. Born and raised in Caribou, and educated at the University of Maine in Fort Kent, Dr. Page is the first University of Maine Chancellor, ever, to be born in Maine or to have been educated at one of its public university campuses.

Certification: Valid for 1.25 MTCMA credits in the following category: Leadership.

10:15 – 10:30 a.m. Break/Visit with Exhibitors

10:30 – 11:45 a.m. Concurrent Sessions

Lewiston-Auburn Merger: What Lies Ahead?

One of the most ambitious and highest-profile municipal issues involves the cities of Lewiston and Auburn, which are discussing a full-fledged merger. Come hear a leader from the L-A region talk about the region's past, present and possible outcomes of the merger project.

Presenters: Chip Morrison, Business Development Officer, Androscoggin Bank (former Androscoggin County Chamber of Commerce Executive

Director; former municipal manager and MMA President).

Certification: Valid for 1.25 MTCMA credits in the following categories: Leadership, Legal, and Finance/Budget.

Making Healthy Downtowns a Reality

Downtown development is very important, but the ultimate goal is developing a downtown area that encourages good health. Please join Breanna and Sadie as they provide details about their town's successes and future challenges in creating a vibrant downtown that's welcoming to pedestrians and bicyclists.

Presenters: Breanna Pinkham Bebb, Executive Director, Our Town Belfast; Sadie Lloyd, Assistant City Planner, City of Belfast.

Certification: Valid for 1.25 MTCMA credits in the following categories: Leadership and Finance/Budget.

Addressing, Acquiring Properties with Unpaid Taxes

The experts say the economy has improved, but cities and towns still deal with whether to acquire properties with unpaid taxes – and how to force property owners, banks and lenders to maintain the properties they control. This workshop addresses legal and strategic considerations in the foreclosure process.

Presenters: Wendy Paradis and Phil Saucier, Attorneys, Bernstein Shur

Certification: This session is approved for 1.25 CMA/CAT re-certification credits through Maine Revenue Services. Valid for 1.25 MTCMA credits in the following categories: Leadership, Legal, and Finance/Budget. Valid for 5 points towards certification as tax collector or treasurer. Overall attendance at the MMA Convention is valid for 1 additional point for MMTCTA Certification.

11:45 a.m. – 12:50 p.m. Networking Luncheon

12:50 – 1:00 p.m. Break and Move!

Please make your way to the Exhibit Hall.

Thursday, October 6, 2016

1:00 – 2:00 p.m. FEATURED SPEAKER

Dr. Michael Clumpner – An Active Shooter in Your Community

Our convention takes a deliberate step toward the very serious as Michael Clumpner, an internationally recognized expert and speaker, talks about community leadership – and more – if there ever is an active shooter in your city or town. He will address how community leaders should plan for, staff and fund their emergency response priorities.

Dr. Clumpner, President and CEO of Threat Suppression Inc. in North Carolina, has qualifications almost too lengthy to list: a 24-year veteran of the fire service; adjunct college professor; flight paramedic; seven years in law enforcement special operations; co-chair of the North Carolina Active Shooter/Active Assailant Work Group; instructor with the U.S. Department of Homeland Security and Department of Justice.

Join Dr. Clumpner for this “can’t miss” address.

Certification: Valid for 1.00 MTCMA credit in the following categories: Leadership and Legal.

2:00 – 2:15 p.m. Break time with Exhibitors

2:15 – 3:15 p.m. Concurrent Sessions

Active Shooter: Tactical Instruction

Primarily aimed at police officers and fire-rescue personnel, Michael Clumpner of Threat Suppression Inc. – a nationally recognized expert on dealing with active shooters – begins a two-hour, 30-minute session that explores the most effective tactics of dealing with a major emergency.

Presenter: Michael Clumpner, Threat Suppression Inc.

Certification: Valid for 1.00 MTCMA credit in the following categories: Leadership and Legal.

Municipal Impact of New Overtime Rules

New rules from the U.S. Labor Department, which take effect on Dec. 1, will grant overtime pay to many non-salaried employees who previously were not entitled to OT. The change affects 4.2 million Americans, 16,000 Maine workers – and many municipal employees. What does the new rule say? And, how will it affect municipal staffs and budgets?

Moderator: David Barrett, Director, Personnel Services & Labor Relations, MMA

Presenter: Sarah Newell, Attorney, Eaton Peabody, Bangor

Certification: Valid for 1.00 MTCMA credit in the following categories: Leadership, Legal, and Finance/Budget.

Street Lights and Your Community

The issue of who owns street lights and utility poles has important ramifications for many municipalities, and the amount of money at stake can be surprising. This panel of local leaders offers insight and education into the issue and future trends.

Presenters: Nathan Poore, Manager, Town of Falmouth; Larry Pritchett, Councilor, City of Rockland; Tex Haeuser, Community Development Director, City of South Portland

Certification: Valid for 1.00 MTCMA credit in the following categories: Leadership and Finance/Budget.

3:15 – 3:45 p.m. Dessert and Grand Prize Drawing: Exhibit Area

3:45 – 4:45 p.m. Concurrent Sessions

Active Shooter: Tactical Instruction (continued)

Primarily aimed at police officers and fire-rescue personnel, Michael Clumpner of Threat Suppression Inc. – a nationally recognized expert on dealing with active shooters – continues a two-hour, 30-minute session that explores the most effective tactics of dealing with a major emergency.

Presenter: Michael Clumpner, Threat Suppression Inc.

Certification: Valid for 1.00 MTCMA credit in the following categories: Leadership and Legal.

Right to Know

Attorneys from MMA’s Legal Services Department offer Right to Know training that is required for both elected officials and municipally appointed Public Access Officers.

Presenters: Richard Flewelling, Assistant Director, Legal Services, MMA; Amanda Meader, Staff Attorney, Legal Services, MMA

Certification: Valid for 1.00 MTCMA credit in the following category: Legal. Valid for 5 points toward certification as tax collector or treasurer. Overall attendance at the MMA Convention is valid for 1 additional point for MMTCTA Certification.

Demonstrating the 2016 Municipal Salary Survey

This meeting will officially unveil MMA’s 2016 Salary Survey, an interactive tool that we hope members will use – and that we will build on – for years to come. Please join us in a live demonstration on how our interactive survey can help your municipality compare wages and benefits with other Maine communities.

Presenters: Holly Maki, Project Manager with Dynamic Benchmarking; Eric Conrad, Director, Communication & Educational Services, MMA; Carol Weigelt, Web Publishing Technician, MMA; Ben Thomas, Website & Social Media Editor, MMA

Certification: Valid for 1.00 MTCMA credit in the following categories: Leadership and Finance/Budget.

4:45 p.m. Adjourn

Overnight Accommodations

Discounted room blocks are available at the following Bangor area hotels (reserved under Maine Municipal Association) for Tue., Oct. 4 and Wed., Oct. 5:

Fireside Inn & Suites

570 Main Street, Bangor • (207) 942-1234

<http://firesideinnbangor.com/>

Rate: \$79/night plus tax

Hollywood Casino Hotel

500 Main Street, Bangor • (877) 779-7771

<http://www.hollywoodcasinobangor.com/>

Rate: \$89/night plus tax

Bangor Fairfield Inn by Marriott

300 Odlin Road, Bangor • (207) 990-0001

<http://www.marriott.com/hotels/travel/bgrfi-fairfield-inn-bangor/>

Rate: \$119/night plus tax (*reservations must be made by 9/4/2016*)

If requesting tax exemption, you will be asked to provide your tax exemption certificate and municipal payment (municipal credit card or check) at the time of check-in.

Affiliate Association Programs

Please see full convention program for additional offerings, highlights, special events and CEU/Certification credits/points. The following sessions have been prepared by and are sponsored by individual affiliate associations. All sessions are open to all attendees.

Maine Association of Assessing Officers (MAAO)

Co-Sponsored by Maine Chapter of IAAO

Wednesday, October 5

1:30 – 4:00 p.m. Using Aerial Photography for GIS

Presenters: Kerry Leichtman, Assessor, Town of Rockport and President, Maine Chapter of IAAO; Bill Healey, Assessor, City of Lewiston and Vice President, MAAO; Judy Mathiau, Assessor, Town of Winslow; Aaron Weston, Business Development Manager, CAI Technologies

Certification: This session is approved for 2.5 CMA/CAT re-certification credits through Maine Revenue Services

Maine Animal Control Association (MACA)

Co-Sponsored by Maine Town & City Clerks' Association

Wednesday, October 5

10:30 – 11:45 a.m. Dog Licensing from A-Z

Presenters: Janice Porter, Clerk, Town of Oakland; Kathleen Paradis, Deputy Clerk, Town of Oakland; Pat Faucher, Animal Control Officer, Town of Oakland and President, Maine Animal Control Association

Certification: Attendance at the MMA Convention is valid for 2 optional points for MTCCA Certification.

Maine Association of Local Emergency Managers (MALEM)

Thursday, October 6

9:00 – 11:45 a.m. It's a Disaster: Open the EOC!

Presenter: Dale Rowley, Director, Waldo County EMA and Vice President, Maine Association of Local Emergency Managers

Maine Chapter of American Public Works Association (MCAPWA)

Thursday, October 6

9:00 – 11:30 a.m. MCAPWA Annual Meeting & Sessions

11:30 a.m. – 1:15 p.m. MCAPWA Luncheon (pre-registration required)

Maine Fire Chiefs' Association (MFCA)

Wednesday, October 5

9:00 a.m. – 1:00 p.m. Annual Meeting and Maine Fire Chief of the Year Award and Luncheon – (pre-registration required)

Thursday, October 6

9:00 a.m. – 11:45 a.m. Violence Against Firefighters

Presenter: Chris Almy, Penobscot County District Attorney

Maine Local Government Human Resources Association (MLGHRA)

Wednesday, October 5

10:30 – 11:45 a.m. Session TBD

1:30 – 2:30 p.m. MLGHRA Annual Meeting

Maine Municipal Tax Collectors' and Treasurers' Association (MMTCTA)

Thursday, October 6

2:15 – 3:15 p.m. How to Read Your Municipal Audit

Presenter: Craig Costello, CPA, CGMA, Brantner, Thibodeau & Associates, Bangor

Certification: Valid for 5 points toward certification as tax collector or treasurer. Overall attendance at the MMA Convention is valid for 1 additional point for MMTCTA Certification.

Maine Resource Recovery Association (MRRA)

Wednesday, October 5

10:30 – 11:45 a.m. Effective Community Engagement and How Recycling Can Affect Your Town's Bottom Line

Presenters: Shelby Wright, Director of Communications and Development, MRRA; Victor Horton, Executive Director, MRRA.

Maine Town, City & County Management Association (MTCMA)

Thursday, October 6

10:30 – 11:45 a.m. ADA Requirements for Local Government and Public Projects

Presenters: Stacy Hart, ADA Trainer, Information and Outreach Specialist, New England ADA Center; Steve Landry, Traffic Engineer, MaineDOT

Certification: Valid for 1.5 MTCMA credits in the following categories: Leadership and Legal

Maine Town & City Clerks' Association (MTCCA)

Wednesday, October 5

1:30 – 4:00 p.m. State Agency Updates

Law & Policy Changes, Department Updates, Tips, Do's & Don'ts, Questions & Answers. 1:30-2:00 p.m. Division of Elections, Deputy Secretary of State Julie Flynn; 2:00-2:30 p.m. Inland Fisheries & Wildlife, Moses Training & Support, Management Analyst Chet Chessman; 2:30-3:00 p.m. Data, Research & Vital Statistics/Vital Records, TBD; 3:00-3:30 p.m. Division of Notary, Deputy Secretary of State Julie Flynn; 3:30-4:00 p.m. Animal Welfare Program, Director Liam Hughes

Certification: Attendance at the MMA Convention is valid for 2 optional points for MTCCA Certification.

Maine Water Environment Association (MEWEA)

Wednesday, October 5

10:30 – 11:45 a.m. What Do Our Clean Water Utilities Really Do?

Presenters: Matt Timberlake, President, Ted Berry Company and First Vice President, Maine Water Environment Association; Barry Sheff, Senior Project Manager, Woodard & Curran; Scott Firmin, Director of Wastewater Services, Portland Water District and President, Maine Water Environment Association

Attendee Registration Form

MMA Convention – Cross Insurance Center, Bangor – October 5 & 6, 2016

One registrant per form (please photocopy for additional registrations)

BILLING INFORMATION:	NAME BADGE INFORMATION: <small><i>*Name badge will read as indicated here.</i></small>
Full Name: _____	First Name: _____
Employer: _____	Last Name: _____
Billing Address: _____	Primary Title: _____ <i>(Please list one)</i>
City, State, Zip: _____	Employer: _____
Phone: _____	
Email: _____	

I am a current member of MMA's Legislative Policy Committee.

I plan to attend (choose ONE): Wed 10/5 Thur 10/6 Both Days

CONVENTION REGISTRATION FEES (For one or both days)			Cost
<input type="checkbox"/> MMA Members	Registration Fee	\$ 85.00	
<input type="checkbox"/> Non-members	Registration Fee	\$ 170.00	

MEALS			Cost
WEDNESDAY LUNCHEONS (OCT 5):			
<input type="checkbox"/> Awards Luncheon (Buffet) – Cross Insurance Center (Ballroom)		\$ 28.00	
<input type="checkbox"/> Maine Fire Chiefs' Association (MFCA) – <i>Hollywood Casino</i>		\$ 15.00	
THURSDAY LUNCHEONS (OCT 6):			
<input type="checkbox"/> Networking Luncheon (Buffet) – Cross Insurance Center (Ballroom)		\$ 28.00	
<input type="checkbox"/> Maine Chapter of American Public Works Association (MCAPWA) – <i>Hollywood Casino</i>		\$ 15.00	
TOTAL (Registration Fee & Meals) \$			

SPECIAL EVENTS - for Wednesday, October 5 and Thursday, October 6

For planning purposes, please select which complimentary activities you plan to attend:

Member Appreciation Reception on Wednesday 10/5 Dessert social on Thursday 10/6

Payment Options: Send invoice* Check will be mailed** Payment Enclosed** PO #: _____

*(*You will be invoiced after Convention – **Please send a copy of this registration form with payment)*

Fax registration form to: (207) 626-5947 **Mail form to:** Convention Registration, Maine Municipal Association, 60 Community Drive, Augusta, ME 04330

Signature: _____ Date: _____

Please make check payable to Maine Municipal Association

Questions/Cancellations: Please call Louise Ridley at MMA, 1-800-452-8786. Notification must be given three business days in advance of the start of Convention to obtain a refund. All cancellations are subject to a \$10 processing fee. Registrations may be transferred to another official or employee. Please inform us of any special dietary needs or special requirements you may have due to a disability.

Please keep a copy of this form for your records.

MMA'S 2016 – 2018 LEGISLATIVE POLICY COMMITTEE

LPC/Senate District 1:

Donald Guimond, Manager – Fort Kent
Vince Frallicciardi, Selectman – Madawaska

LPC/Senate District 2:

Martin Puckett, Manager – Presque Isle
Paige Coville, Chair of Selectboard – Island Falls

LPC/Senate District 3:

Matthew Pineo, Manager – Jackman
Tim Curtis, Manager – Madison

LPC/Senate District 4:

David Pearson, Chair of Appeals Board – Dexter
Jack Clukey, Manager – Dover-Foxcroft

LPC/Senate District 5:

Thomas Perry, Councilor – Orono
Charles Pray, Councilor – Millinocket

LPC/Senate District 6:

Harry Fish, Jr., Selectman – Jonesport
Lewis Pinkham, Manager/Police Chief – Milbridge

LPC/Senate District 7:

Gary Fortier, Councilor – Ellsworth
James Schatz, Chair of Selectmen – Blue Hill

LPC/Senate District 8:

Susan Lessard, Manager – Bucksport
James Smith, Assistant Manager – Brewer

LPC/Senate District 9:

*Bangor appoints 1 member
Nelson Durgin, Councilor – Bangor
Roger Raymond, Manager – Hermon

LPC/Senate District 10:

Michael Crooker, Manager – Glenburn
Serena Bemis-Goodall, Manager – Corinna

LPC/Senate District 11:

Kathy Littlefield, Chair of Selectboard – Waldo
Galen Larrabee, Chair of Selectboard – Knox

LPC/Senate District 12:

William Chapman, Chair of Selectboard – Rockport
Jay Feyler, Manager – Union

LPC/Senate District 13:

Jonathan Duke, Administrator – Newcastle
Harry Lowd, Selectman – Bristol

LPC/Senate District 14:

Peter Nielsen, Manager – Winthrop
Curtis Lunt, Manager – Monmouth
Scott Morelli, Manager – Gardiner

LPC/Senate District 15:

Kelly Couture, Selectman – Sidney
*Augusta appoints 1 member
Anna Blodgett, Councilor – Augusta

LPC/Senate District 16:

*Waterville appoints 1 member
John O'Donnell, Councilor – Waterville
Aaron Rowden, Councilor – Fairfield

LPC/Senate District 17:

Richard Davis, Manager – Farmington
Ruth Cushman, Selectperson – Wilton

LPC/Senate District 18:

Arthur Harvey, Planning Board Member – Hartford
Amy Bernard, Manager – Newry

LPC/Senate District 19:

Derik Goodine, Manager – Oxford
Lenny Adler, Selectman – Otisfield

LPC/Senate District 20:

*Auburn appoints 1 member
Robert Stone, Councilor – Auburn
Stanley Tetenman, Selectman – Poland

LPC/Senate District 21:

*Lewiston appoints both members
Robert Macdonald, Mayor – Lewiston
Ed Barrett, Administrator – Lewiston

LPC/Senate District 22:

Aaron Chrostowsky, Manager – Wayne
Kasie Kolbe, Councilor – Lisbon

LPC/Senate District 23:

William Post, Manager – Bowdoinham
William "Bill" Giroux, Manager – Bath

LPC/Senate District 24:

Kristi Eiane, Administrator – Harpswell
*Brunswick appoints 1 member
Katherine Wilson, Councilor – Brunswick

LPC/Senate District 25:

Claudia King, Councilor – Falmouth
Steve Moriarty, Planning Board Member –
Cumberland

LPC/Senate District 26:

David Nadeau, Councilor – Windham
Lou Stack, Assessment Review Bd. Mbr. – Standish

LPC/Senate District 27:

*Portland appoints both members
Jill Duson, Councilor – Portland
Justin Costa, Councilor – Portland

LPC/Senate District 28:

*Portland appoints 1 member
Ed Suslovic, Councilor – Portland
Jon Jennings, Manager – Portland

LPC/Senate District 29:

*South Portland appoints 1 member
Joshua Reny, Asst. Manager, So. Portland
*Cape Elizabeth appoints 1 member
Jessica Sullivan, Councilor – Cape Elizabeth

LPC/Senate District 30:

Shawn Babine, Councilor – Scarborough
David Cole, Manager – Gorham

LPC/Senate District 31:

Larry Mead, Manager – Old Orchard Beach
Kevin Sutherland, Administrator – Saco

LPC/Senate District 32:

*Biddeford appoints 1 member
John McCurry, Jr., Council Chair – Biddeford
James Bennett, Manager – Biddeford

LPC/Senate District 33:

*Sanford appoints 1 member
Steven Buck, Manager – Sanford
Gary Lamb, Administrator – Waterboro

LPC/Senate District 34:

Larissa Crockett, Chair, Warrant & Finance Comm.
– Acton
Richard Morin, Selectman – Kennebunk

LPC/Senate District 35:

Perry Ellsworth, Manager – South Berwick
(vacant)

LPC Chair:

(Until 12/16)
Laurie Smith, Manager – Kennebunkport

(2017)

Linda Cohen, Councilor – South Portland

PEOPLE

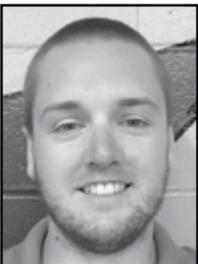
Christopher Branch was hired as Portland public works director. Branch has worked the past 11 years for Sebago Technics as an engineer. Previously, he worked his way through the ranks at the Lewiston Public Works Department, serving as director for the last 18 years. In all, he has nearly 40 years of experience. Branch replaces **Robert Leeman**, interim director and former Portland director of public buildings.



Diane Gove

Diane Gove retired in July after serving 16 years as Aroostook County administrative assistant. Previous to her county service, Gove worked in a number of positions for the City of Caribou for 20 years.

After three decades in law enforcement, Rockport Police Chief **Mark Kelley** retired effective July 1. Kelley said he isn't ready to quit working, and is looking for a new challenge in the field. Kelley is an Army veteran who served in Hawaii before starting his career in Maine as Washington County sheriff's deputy in 1979. He worked as a Camden police officer and a border agent in San Diego, Calif., before returning to join the Rockport force in 1986. He was promoted to captain in 1996 and then to chief in 1997.



Douglas Sharpe

Douglas Sharpe was named Limestone recreation director. Sharpe coached and supervised recreation in his hometown of Fort Fairfield for six years before being hired by the YMCA of Orlando, Fla., in 2009. Sharpe hastened to apply for the Limestone post as soon as he heard of the opening. He replaces **William Tucker**.

Howard Kroll was hired as Hermon town manager after serving in numerous administrative positions in Auburn since October 2012. Kroll served 11 as Brewer city clerk and assistant city manager before taking the assistant manager's job in Auburn in. He was named interim Auburn

manager in 2014 and then city manager since last August. A Navy veteran, Kroll was also is a former manager for the towns of St. Agatha and Milbridge.

Lincoln Town Manager **Ron Weatherbee** will step down on Sept. 1 and return to teaching high school students. Weatherbee is staying on the job until school starts to help smooth the transition to a new manager. A former town recreation director, Weatherbee was unanimously selected to replace manager **William Lawrence** in July 2014. Weatherbee taught school for 33 years and wants to end his work career as he started it.



David Brooks

Lisbon Police Chief **David Brooks** retired in June, ending a 42-year career with the same department. Brooks was believed to be the youngest police chief in Maine at age 26, at the time of his promotion 36 years ago. Brooks said he has loved his work and will miss it. He was working part-time for the Town of Richmond when the full-time patrolman job opened in Lisbon in 1974 at the age of 20.

Michael Reynolds retired as selectman after serving 12 years. Town officials and leaders said Reynolds earned respect for his many efforts to improve the community. Reynolds was serving as a volunteer on the town's technology committee when he was elected in 2004.

Kyle Ellis was named supervisor of the Franklin County dispatch center. He was among four dispatchers to seek the job. He will replace **Melinda Caton**, who retired earlier this year after a long career.

Brenda Gould was hired as the new West Paris librarian after serving as a volunteer for six years. The historic "castle" library is vital to the small western Maine town, according to Gould. In addition to library services, including internet access, the library serves as a focal point for recreational and social events. Gould also operates her own business a certified clinical herbalist. She has completed all three levels of certifications offered through the Maine State Library.

Mikial Mazzeo was promoted to Thomaston fire chief after serving more than 15 years with the department. **Jamie Leo**, who has been with the department since 1988, was promoted from assistant chief to deputy chief. Mazzeo replaces **Michael Leo**, who resigned in May for health reasons. Meanwhile, selectmen in July appointed **Michelle Winchenbach** as interim administrative secretary until **Louise Demers** returns to work. Demers was injured in June when struck by a tractor-trailer while walking in a crosswalk near the town office.

The Town of Cumberland hired **Eliza Porter** to fill the newly created position of public communications director. The newly minted college graduate also will serve as deputy town clerk, a post that has been left vacant since 2010. Porter worked as a town office intern before being named to the position. ■

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STATEWIDE

Five Maine fire departments will share a federal grant of \$551,000 to pay for new breather apparatus. The awards were made under the Assistance to Firefighters grant program. The city of Caribou received the largest award at \$253,000, followed by: Fort Kent, \$122,000; Dixfield, \$89,000; Farmingdale, \$69,000; and Aurora, \$19,000.

EDGECOMB

A district court judge in July sided with the town in its lawsuit against a property owner who failed to clean up what selectmen ruled “an illegal junkyard.” The property owner failed to meet the conditions of a 2013 consent decree with the town, so officials filed a contempt of court lawsuit. The property owner now could face severe fines and even prison time, according to town officials. The judge appeared perturbed that the owner had taken no action in three years, according to published reports. The property owner began cleaning up the site shortly after the ruling.

FORT KENT

State leaders have reversed their decision to close the regional Department of Health and Human Services office, a relief to St. John Valley residents, the 17 state workers involved and the community. The state had planned to close the office on Sept. 5 and move the jobs to Caribou, about an hour south. After protests from elected officials, pickets by residents of “The Valley” and pressure from state lawmakers, DHHS officials decided to find new office space in Fort Kent instead.

FRENCHVILLE

The town was presented a plaque in July recognizing 35 years of administrative and financial services to the Valley Recycling Facility, a municipal collaboration that takes solid waste from the towns of Fort Kent, Frenchville, St. Agatha and Madawaska. Effective July 1, Madawaska assumed the administrative services for the group.

GORHAM

In an effort to grow with the community, the police department now has a deputy chief and is looking for a volunteer chaplain to help during the

NEW ON THE WEB www.memun.org

Highlights of what’s been added at www.memun.org since the last edition of the Maine Townsman.

Grant Writing. The University of Maine’s Hutchinson Center in Belfast will offer fall courses on Grant Writing and Relational Health. Both of these programs may hold municipal interest.

Top Municipal Issues. The National League of Cities has released a 32-page report that looks at top issues facing municipalities throughout the U.S. No surprise, but economic development, public safety, infrastructure needs and opioid abuse top the list.

Veterans Services. The Maine Bureau of Veterans Services recently overhauled and updated its website, which includes many listings about programs and opportunities for Maine veterans. Municipal officials may find the new offerings to be useful to citizens.

hardest times. The changes will allow more police to patrol the town of 16,300 people spread over 51 square miles. The department now has a complement of 23 officers.

NEW GLOUCESTER

Selectmen in July voted to join the second stage of a branding campaign for the Greater Sebago region in western Maine. The town’s share of the project is \$2,100 and will involve producing a half-hour program promoting each town in the region. The project is being spearheaded by the Sebago Lakes Region Chamber of Commerce, which represents 10 communities from Windham to Casco.

ROCKLAND

The city council in late July agreed to ask voters to approve three bonds in November totaling \$14 million for sewer, roads and library projects. The council told residents the projects will not cause any sewer or property tax rate increases because the city will retire an equal amount of debt over the next two years. The largest proposal is to spend \$10 million upgrading the wastewater treatment plant.

WHITEFIELD

A local couple who own a restaurant building has converted space to create the Food Forge, a commercial kitchen incubator facility for small businesses that cannot afford commercial space of their own. Large-scale food production can be accommodated at a rate of \$125 for a five-hour time block. There also is

event space available for rent. The new state-approved Forge is expected to reinvigorate organic farming in the region.

YARMOUTH

Residents will vote in November on whether to set limits on where sex offenders can live in the town of 8,300. Councilors could not act on the proposal because it made the ballot by citizen petition. The council has been split on the issue. The proposal would not allow convicted offenders to live within 750 feet of where children frequent, if the offense was against a child age 14 or younger. There are three convicted sex offenders in Yarmouth.

UPPER ENCHANTED TOWNSHIP

There’s nothing enchanting these days about washed-out private roads that remain clogged after more than a month. Residents of this Somerset County township learned in July that there is little hope they can get government money to help repair the damage to miles of roadway. The destroyed private roads spur off another private road, which connects with Route 201 near Jackman. Federal, state and local officials recently toured the area and determined taxpayer money would not likely be available. More than 100 property owners are affected, many of them camp owners. On June 28, flash flooding sent boulders and large rocks onto some roads, making them impassable. The Mile Ten Road Owners Association, one of three area owners associations, projected that repairs will cost \$70,000 to \$100,000. ■

MUNICIPAL BULLETIN BOARD

SEPT. 6 and OCT. 12

Voter Registration: Augusta, Bangor

The Maine Town & City Clerks' Association will hold day-long sessions on voter registration on Sept. 6 at MMA Conference Center in Augusta and on Oct. 12 at the Spectacular Event Center in Bangor. Patti Dubois, City Clerk in Waterville, Kim McLaughlin, Town Clerk in Old Orchard Beach, and Maine Deputy Secretary of State Julie Flynn will conduct the workshops. They will include a review of duties for registrars of voters and outline their tasks before, during and after Election Day.

The workshops start with registration at 8:30 a.m. and end at 4 p.m. The cost is \$55 for MTCCA members and \$75 for non-members.

SEPT. 7 and OCT. 13

Title 21-A: Augusta, Bangor

Kim McLaughlin, Town Clerk in Old Orchard Beach, Patti Dubois, City Clerk in Waterville, and Julie Flynn, Deputy Secretary of State, will present workshops on Title 21-A at the MMA Conference Center in Augusta on Sept. 7 and at the Spectacular Event Center in Bangor on Oct. 13. The workshops will cover all aspects of administering state and federal elections at the municipal level.

Sponsored by the Maine Town & City Clerks' Association, the workshops will begin with registration at 8:30 a.m. and end at 4 p.m. Cost is \$55 for MTCCA members and \$75 for non-members. Member attendees are encouraged to wear their name badges. Clerks who have never overseen an election before are strongly encouraged to attend.

SEPT. 7-9

MAAO Fall Conference, Sebasco Estates

The Maine Association of Assessing Officers will hold its Fall Conference Sept. 7-9 at the Sebasco Harbor Resort. Many topics will be covered, including: Understanding Public Sector Data; Personal Property Lien Procedures; an Introduction to Cooperative Housing; and, more.

Costs for the conference vary depending on how many days one will attend and lodging preferences. There will be a golf tournament on the first day, Wednesday, Sept. 7. Other scheduled events include a spaghetti dinner and bowling.

SEPT. 13

MTCCA Networking Day, Business Meeting

Effective communication and "Municipal Mayhem" – a game show style competition – will highlight the Maine Town & City Clerks' Association's Annual Networking Day on Sept. 13 at the T & B Celebration Center in Waterville. Speakers and instructors will include: Joe Powers, Town Clerk from Wellfleet, Mass.; Patti Dubois, City Clerk in Waterville; and Twila Lycette, Town Clerk in Lisbon and President of MTCCA.

The event begins with registration at 8 a.m. and will conclude at 4:30 p.m. (Pre-registrations are accepted until Sept. 6.) Cost is \$55 for MTCCA members and \$75 for non-members.

SEPT. 14-16

MeWEA Fall Convention: Sugarloaf

The Maine Water Environment Association will hold its Fall Convention Sept 14-16 at the Sugarloaf Resort and Conference Center in Carrabassett Valley. Various sessions will run on Thursday, Sept. 15 from 8 a.m. to 4:15 p.m., followed by a 50th anniversary event. On Friday, Sept. 16, the convention will conclude at 3 p.m.

The 2016 event will celebrate the organization's 50th year. MeWEA officers have organized a series of technical sessions, which will be supported by more than 60 vendors and service providers. Sessions will be led by industry experts who will talk about the many advances in the wastewater field over the past five

decades. The Fall Convention is MeWEA's largest annual event.

OCT. 24

Verbal Judo! in Augusta

A special MMA session – Verbal Judo: Tactical Communications for the Contact Professional – will be offered on Oct. 24 at the MMA Conference Center in Augusta. If you work with the public and you ever find yourself in conflict situations, this workshop is for you. The featured speaker is Janine M. Paul of the Verbal Judo Institute.

The workshop, which includes five distinct "modules" addressing conflict resolution, begins with registration at 8 a.m. and concludes at 4:30 p.m. A reserved seat, workshop materials and light lunch will be provided. Cost for the workshop is \$95 for MMA members and \$190 for non-members.

NOV. 1

Planning Boards/BOA: Calais

MMA's Legal Services Department will host a session for local Planning Board and land use Boards of Appeal members from 4 p.m. to 8:30 p.m. on Nov. 1 at Washington County Community College in Calais.

The workshop is designed as an introduction for new or less experienced members, but veterans may find an update useful as well. Among the topics to be covered: jurisdictional issues; conflicts of interest and bias; public notice requirements; site visits; procedure for decisions; and, variances. The cost is \$55 for MMA members and \$110 for non-members. ■

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LEGAL NOTES

No Secret Ballots @ Board Meetings

Question: Our board customarily votes by show of hands or voice vote, but we have a controversial decision to make, and several of our members have asked for a secret ballot vote. Is this legal?

Answer: No, it's not. According to a 1981 opinion by the Maine Attorney General (*Op. Me. Att'y Gen.* (Oct. 6, 1981)), a secret ballot vote is not a permissible method of voting at any board meeting required by Maine's Freedom of Access Act (FOAA) or "Right to Know" law to be open to the public. (Virtually all municipal board meetings are subject to FOAA's open meeting requirements, see 1 M.R.S.A. §§ 402(2)(C), 403.)

The AG's reasoning was simple: Section 401 of the law states that FOAA's intent is for public bodies to deliberate and act openly. A secret ballot, being designed to ensure privacy and anonymity, defeats the purpose of the law because it shields officials from public scrutiny and personal accountability. Thus, it is an impermissible method of voting at open board meetings.

Although there was (and still is) no Maine case directly on point, and although the AG's opinion is just that (an opinion), we couldn't agree more with it.

Speaking of having to make controversial decisions, while Maine law does not obligate officials to vote unless excused (by conflict of interest, for example), some boards have adopted bylaws incorporating a no-abstention-unless-excused rule, to prohibit the cowardly or frivolous refusal to vote. For details, see "Board Members & the Duty to Vote," *Maine Townsman*, Legal Notes, June 2001. (By R.P.F.)

Special Notice Requirements

Most local officials know that Maine's Freedom of Access Act or FOAA requires public notice of all "public proceedings" (board meetings) to be given in ample time to allow public attendance and in a manner reasonably calculated to notify the general public (see 1 M.R.S.A. § 406). But the law specifies neither a minimum time period nor a particular method for giving notice. Instead, it relies on the good faith and sound judgment of officials to give notice of board meetings in a sufficient time and manner to enable interested members of the public to at-

tend. In many cases posting notice at the municipal office about a week in advance may well be enough.

This generic FOAA notice does not always suffice, however. In fact there are numerous instances, under other statutes, in which special notice in one form or another is legally required. For example, notice of public hearings before a municipal charter commission must be given at least 10 days in advance by publication in a newspaper (see 30-A M.R.S.A. § 2103(5)(B)).

Another example: Notice of public hearings before the municipal officers on junkyard applications must be mailed to all abutters, posted at least 7 days in advance in at least 2 public places, and published in a newspaper, as well as given to any affected public water supplier (see 30-A M.R.S.A. § 3754).

And yet another: Notice of public hearings on new or amended zoning ordinances must be posted at least 13 days in advance at the municipal office, published in a newspaper at least twice, and

MUNICIPAL CALENDAR

ON OR BEFORE SEPTEMBER 1 — Clerks of organized plantations shall make return to the Secretary of State, on blanks furnished by him for that purpose, of the names of the assessors and clerks of their plantation and that the same have been sworn. There is a penalty for failure to make such return (30-A MRSA §7005).

SEPTEMBER 5 — (first Monday in September) — Labor Day — a legal holiday (4 MRSA §1051).

ON OR BEFORE SEPTEMBER 15 — Monthly expenditure statement and claim for General Assistance reimbursement to be sent to Department of Human Services, General Assistance Unit, 11 State House Station, Augusta, ME 04333 [22 MRSA §4311].

BETWEEN MAY 1 and OCTOBER 1 — Municipal officers may initiate process to close certain roads to winter maintenance [23 MRSA §2953]. For further information see MMA's Municipal Roads Manual.

BY OCTOBER 1 — Assessors should receive the municipality's proposed current state valuation from the State Tax Assessor. [36 MRSA §208].

ON OR BEFORE OCTOBER 15 — Monthly expenditure or quarterly statement and claim for General Assistance reimbursement to be sent to Department of Human Services, General Assistance Unit, DHS #11, Augusta, ME 04333 [22 MRSA §4311].

OCTOBER — Registrars of voters shall accept registration prior to the November 8 election according to the time schedule for their population group [21-A MRSA §122(6)].

■ The Registrar shall publish his/her time and hourly schedules in a newspaper having general circulation in the municipality at least 7 days before it becomes effective. In municipalities of 2,500 or less population, this publication is discretionary rather than compulsory [21-A MRSA §125].

■ The hourly schedule for voter registration established by 21-A MRSA §122 may be changed by the municipal officers according to the needs of the municipality [21-A MRSA §122(8)].

ON OR BEFORE OCTOBER 31 — Every employer required to deduct and withhold tax for each calendar quarter shall file a withholding return and remit payment as prescribed by the State Tax Assessor (36 MRSA § 5253).

BY NOVEMBER 1 — Any governmental subdivision holding tangible or intangible property presumed abandoned under 33 MRSA §1953 must make report to the Administrator of Abandoned Property of the State Treasury Department, pursuant to 33 MRSA §1958.

LEGAL NOTES

in certain cases mailed to all property owners in and abutting the affected area (see 30-A M.R.S.A. § 4352(9), (10)).

For a detailed list of these special statutory notice requirements, see our "Information Packet" on the "Right to Know" law, available free to members at www.memun.org.

We should also note that local ordinances (especially land use ordinances), municipal charters and even board by-laws or rules of procedure may impose special notice requirements that go well beyond the generic FOAA notice requirement. (By R.P.F.)

More on the Oath of Office

Last year we published what we thought was a definitive summary of the law on taking an oath of office (see "The Oath of Office," *Maine Townsman*, Legal Notes, June 2015). The law requires, among other things, that every official (1) be sworn before assuming the duties of office, (2) take a separate oath for each office to which they have been elected or appointed, and (3) take a new oath for each new term of office. But it turns out we missed something.

Apparently the practice in some municipalities is to swear in officials every year even if they serve a multi-year term of office. This is wholly unnecessary and a waste of everyone's time, including the clerk's or whomever administers the oath. For officials who've been elected or appointed to a multi-year term, an oath of office need be taken only once, at the outset of the term. The oath remains valid for the full term and need not be retaken except for a new term.

For what happens if a newly elected or appointed official fails or refuses to take the oath, see "Failure to Take the Oath," *Maine Townsman*, Legal notes, July 2015. (By R.P.F.)

Tort Claims Notice Must Be in Writing

Under the Maine Tort Claims Act or MTCA (14 M.R.S.A. §§ 8101-8118), governmental entities, including municipalities, must be notified in writing by a claimant within 180 days after the claim arises (see 14 M.R.S.A. § 8107). This is a legal prerequisite to filing suit.

The notice must specify all the particulars of the injury or damage, the amount

of money sought, and contact information, among other things. The purpose is to give the government an opportunity to investigate and evaluate the claim and, if appropriate, to settle it without litigation.

In the past the Maine Supreme Court has granted a "substantial compliance" exception to this notice requirement, but only when written notice was timely filed but failed to furnish all the information required. Never, though, has the Court decided whether *oral* notice could constitute substantial compliance – until recently.

In *Deschenes v. City of Sanford* (2016 ME 56), the plaintiff fell during a visit to city hall. Just two days shy of the 180-day deadline, and for the first time since his accident, he spoke with a city official and handed him some notes but provided no other information until written notice was filed by his attorney 17 days after the deadline had passed. Based on this and the law's plain language, and also given the crucial purpose of the notice requirement, the Court held that "oral notice can never constitute substantial compliance."

Although this decision will be of interest primarily to personal injury and government defense attorneys, it also underscores the Law Court's historically strict reading of the MTCA in favor of governmental immunity. (By R.P.F.)

The State Junkyard Law

Like Ben Franklin's dark observation on death and taxes (they're both certain), illegal junkyards and auto graveyards are, it seems, an inevitable part of the Maine landscape. That's too bad, because this doesn't have to be.

Maine has, and has had for many years, a tough law prohibiting outdoor junkyards and automobile graveyards unless properly permitted and operated in compliance with strict aesthetic and environmental standards (see 30-A M.R.S.A. §§ 3751-3760). The law, commonly called the "State Junkyard Law," is administered by the municipal officers (selectmen or councilors) and is enforceable by them or their designee. No municipal ordinance is

required, though the law does acknowledge municipal home rule authority to enact additional restrictions relating to hazardous waste, fire and traffic safety, noise, proximity to residential uses, groundwater and surface water, etc.

To ensure compliance, municipal officers or their designees are expressly authorized to enter any junkyard or automobile graveyard property and inspect all outside areas at reasonable hours and to enter any building with the owner's consent. If entry is denied, an administrative inspection warrant can be obtained from the Maine District Court.

If voluntary compliance is not forthcoming, the law is enforceable by filing a land use complaint in the District Court. Penalties include a court order to correct violations, substantial monetary fines, attorney fees and court costs. If the violator does not complete a court-ordered correction within the ordered schedule, the municipal officers or their authorized agent can enter the property, correct the violation, and recover the municipality's expenses via a special tax on the property in the next annual tax commitment; the tax is subject to interest and collection by lien, in the same manner as other property taxes.

For more on this potent but often overlooked remedy for combating manmade blight in Maine's outdoors, see MMA's "Information Packet" on junkyards and automobile graveyards, available free to members at www.memun.org. (By R.P.F.) ■

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