

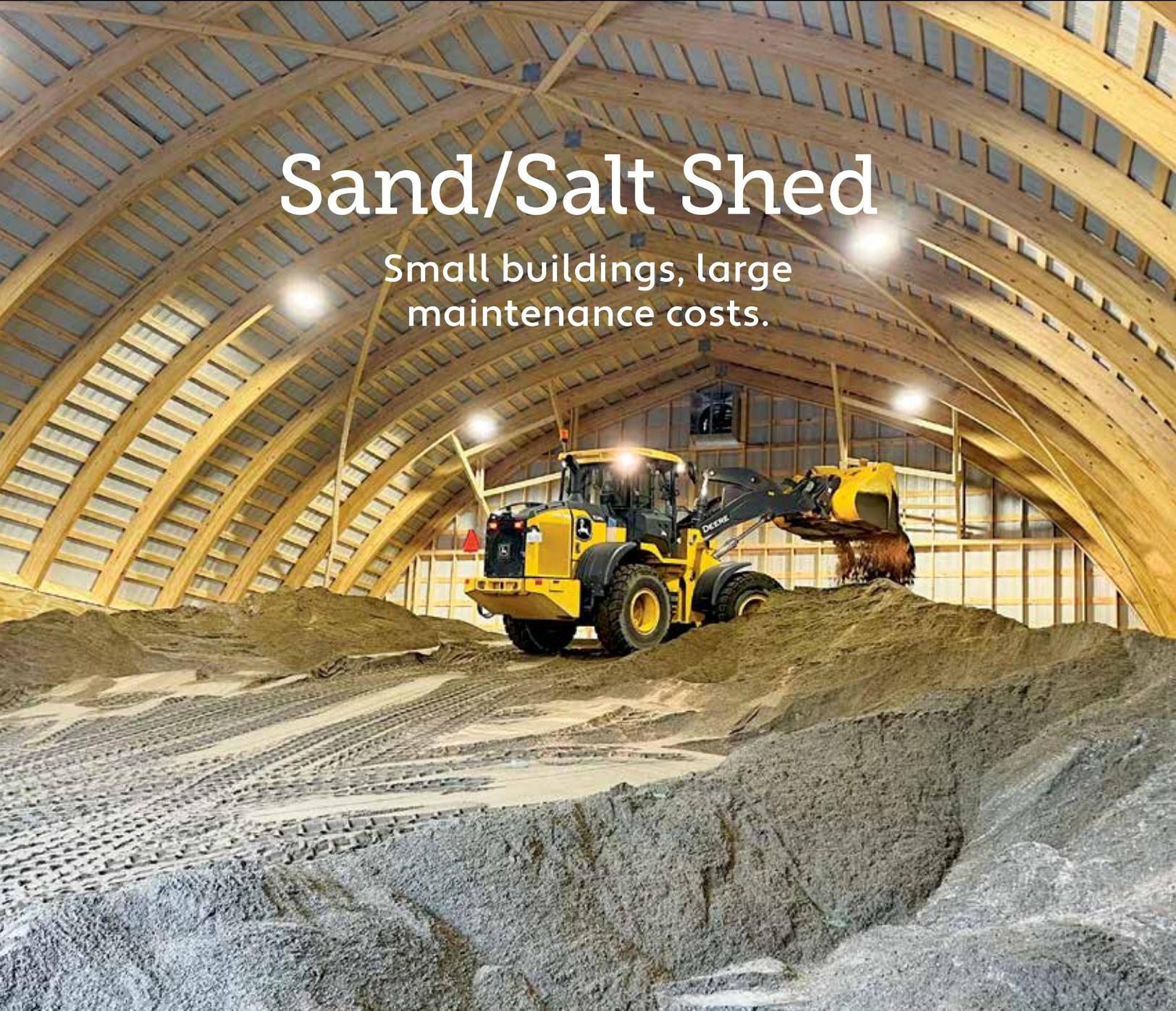
# Maine Town & City

The magazine of the Maine Municipal Association

MARCH 2024 | VOLUME 86 | ISSUE 3

## Sand/Salt Shed

Small buildings, large  
maintenance costs.



### ALSO IN THIS ISSUE:

Q&A WITH PAUL BURGESS ■ MMA HEADS TO D.C. ■ FIRST RESPONDER SERIES



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MAINE TOWN & CITY (ISSN 2578-4374) is published monthly, except in November, by the Maine Municipal Association, 60 Community Drive, Augusta, Maine 04330. (207) 623-8428. Periodicals postage paid at Augusta, Maine, and at additional mailing offices. All rights reserved. Postmaster send address changes to: Maine Town & City, 60 Community Drive, Augusta, Maine 04330. Information, policies and opinions do not necessarily reflect the views or policies of the Maine Municipal Association. Subscription price: \$25 per year.



**In this issue**

**THE PFAS RESPONSE.** Special to this edition of the Town & City, SL Environmental Law Group discusses the steps municipalities can take now to protect their water and wastewater investments and the health of their residents from the impacts of PFAS. **PAGE 7**

**MUNICIPAL AUDITS.** While the audit function serves to verify the proper operations of government, retirements of long-term employees coupled with dwindling access to the professional resources needed to conduct the required audits are having adverse impacts on the process. **PAGE 13**

**ELECTED OFFICIALS SERIES.** In this series, MMA staff provide the advice, tips and tools elected officials need to fulfill their roles. This month, attorneys from Norman, Hanson & DeTroy discuss the actions municipal officials can take to avoid claims of employment discrimination, while MMA's Risk Management Services staff provide an overview of their services, including public officials' liability coverage. **PAGE 17**

**FIRST RESPONDER SERIES.** This is the first article of a three-part series looking at the recruitment, retention, and training challenges of Maine's first responder community. This month the series focuses on the somber realities surrounding recruitment, but also the spirit of ingenuity as out of the norm solutions are being explored and implemented. **PAGE 21**

**DIGITAL MUNICIPAL CAPACITY.** This is the first article in a series by the Island Institute that will explore the topic of digital equity in relation to Maine's municipalities and digital capacity. **PAGE 23**

**COMMUNITY HEART & SOUL.** From Van Buren to the Bethel area, municipal leaders are getting behind a program to build a better future for their towns and cities. While a financial contribution is required of the municipality, this is not a government program. Instead, it is one fueled by the community. **PAGE 29**

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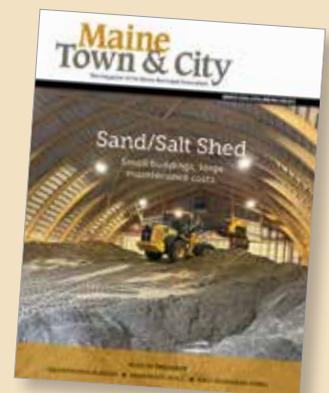
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Interior of the new sand/salt shed in Houlton  
(Submitted Photo)



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# Advocacy Road Trip!

By Kate Dufour / Director, Advocacy & Communications



By the time you are enjoying the articles and updates salted among the pages of this edition of the magazine, a group of municipal officials and MMA staff will be heading to Washington, D.C. to partake in the National League of Cities' Congressional City Conference. The annual event gathers municipal leaders and association staff from across the country under one roof to learn about important federal issues, rub elbows with acclaimed experts on matters of local interest, meet federal agency secretaries and staff, and occasionally hear from the resident of either 1600 Pennsylvania Avenue or Number One Observatory Circle.

While the learning and networking opportunities are worthwhile, the event comes to a pivotal crescendo on the last day of the conference with "Hill Day." Referred by many as the highlight of the conference, this event provides elected and appointed municipal officials the opportunity to meet with their members of Congress to discuss issues of local importance.

This year, MMA's president and vice president, Diane Hines, Ludlow town manager and Melissa Doane, Bradley town manager, will be joined by MMA staff and municipal officials from Bangor, Brewer, Hampden, Portland, and South Portland, who will meet with Senators Collins and King, Congresswoman Pingree and Congressman Golden. Those meetings will be guided by the Federal Issues Paper (FIP), which focuses on the federal level issues municipal officials across the state have identified as important. A copy of the 2024 FIP is posted on MMA's website ([www.memun.org](http://www.memun.org)) under the Advocacy & Communications tab.

As provided in her opening letter, Hines notes that the focus of this year's meetings will be on the challenges facing municipal leaders, including homelessness, the mental health crisis, and the provision of emergency management services, as well as the role each level of government can play in advancing a solution. As Hines states, in the process of "recognizing that each layer of government has a specific role to play, the solutions must be coordinated among levels of government to ensure

that available financial and technical resources are directed to those implementing needed programs and services."

To that point, several of the programs and services that towns and cities are required to provide have been mandated by law since statehood, and in some cases are in response to the demands the federal government places on

states. This long-standing reliance on local governments recognizes the capacity of municipal government to deliver an array of public services more efficiently and effectively than larger, more centrally located governments, while providing the greatest level of accountability to the public being served.

Several of the issues highlighted in the paper point to how collaboration among levels of government and shared resources can be maximized to benefit all Maine residents. Of note, the paper focuses on the need for an evaluation of federally funded housing programs to determine whether existing programs are working and if changes are necessary to ensure our unhoused population is being served.

A request that asylum seekers be afforded the permits necessary to work shortly after relocating to the U.S. is offered as an avenue for addressing Maine's workforce challenges. Additionally, municipal officials are asking for amendments to IRS regulations that have discouraged private companies from using federal grants to expand broadband access statewide, as well as the need to implement PFAS pollution solutions that do not simply shift mitigation burdens and expenses on the municipalities and their property taxpayers.

While these meetings provide a much needed and appreciated venue for having conversations on important issues, Maine's delegation also deserves tremendous credit for its commitment to this annual event. As we have learned from our peers in other states, the ability to meet with all members of the congressional delegation is an anomaly and not the norm, giving credence to our motto...Maine leads. 🏔️



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# The PFAS Problem

## The Threat of “Forever Chemicals” to Maine Municipalities and How to Take Action Now

Michael DiGiannantonio - SL Environmental Law Group, P.C.  
Kyla Tengdin - SL Environmental Law Group, P.C.

The rising threat of PFAS (per- and polyfluoroalkyl substances) has brought water and wastewater management issues to the forefront for many municipalities. The largely unregulated manufacture and use of PFAS over decades has led to widespread contamination, with detectable levels of PFAS found in drinking water sources, wastewater effluent, and biosolids across the country. Local governments and public utilities are not the ones responsible for producing PFAS, but nonetheless may be responsible for removing these contaminants to protect public health and maintain regulatory compliance. Unfortunately, traditional water and wastewater treatment methods are ineffective for PFAS removal. PFAS treatment requires the construction of new, specialized facilities, the cost of which often puts stress on municipal budgets.

Faced with new state regulations and impending federal standards, plus increasing public scrutiny over PFAS, municipal decision-makers may wonder what they can do now to protect their water and wastewater utilities as well as their residents. By understanding regulations, creating a clear action plan, and exploring cost recovery options, leaders can lessen the burden on their cities and towns.

**Impending Federal PFAS Regulations.** The EPA has announced plans to enact PFAS regulations that would affect both drinking water and wastewater utilities na-



(Submitted photo)

tionwide. On March 29, 2023, the agency proposed national drinking water standards for six types of PFAS. The proposed maximum contaminant levels (MCLs) would limit the concentrations of two PFAS chemicals, PFOS and PFOA, in drinking water to four parts per trillion (ppt) each. Four additional PFAS, PFNA, GenX, PF-HxS, and PFBS, would also be restricted according to a hazard index.

If these federal standards are finalized in the first half of 2024 as expected, they will bring an end to the current patchwork of differing regulations across the country. In addition to the drinking water standards, the EPA has also proposed the designation of two common PFAS compounds, PFOA and PFOS, as hazardous substances under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). The EPA’s latest timeline update indicated a commitment to finalize this designation by March 2024. Also known as the Superfund, a CERCLA designation would require entities that discharge PFOA and PFOS, including wastewater utilities, to report release levels above a set threshold to the National Response Center and the appropriate local authorities. This could lead to further investigations,

### What are PFAS?

PFAS are a group of man-made chemicals that have been linked to various health issues including birth defects, certain cancers, thyroid disease, high cholesterol, preeclampsia, and more. They are often called “forever chemicals” because of their persistence in the environment and in the human body. PFAS have been used in many industrial and consumer products over the years because of their durable, waterproof, and nonstick qualities.



(Submitted photo)

cleanups, and required public notifications of contaminated areas.

Maintaining compliance with these new regulations will require a significant investment of municipal resources. Updated treatment facilities, ongoing testing, maintenance, and staff training will be necessary to ensure that PFAS concentrations remain below the maximum allowable levels.

**PFAS Regulations in Maine.** While federal PFAS water regulations have yet to be finalized, the State of Maine already has several active laws addressing the contaminants, with others expected to be enacted soon. In June 2021, Maine passed legislation establishing an interim drinking water standard of 20 ng/L (equal to 20 parts per trillion) for six specific PFAS compounds, alone or in combination. The state's Department of Health and Human Services is currently working towards finalizing standards for these PFAS.

Maine has also created laws that aim to reduce the impact of PFAS released by wastewater treatment systems, particularly regarding biosolids. Historically, the sludge or biosolids removed from wastewater through treatment could be land applied and reused as fertilizer. This provided a beneficial and low-cost method of

waste disposal. However, after discovering that sludge from some treatment plants contained PFAS due to contaminated wastewater entering the plant, land application of sludge was prohibited throughout the state. This left many wastewater utilities searching for alternatives with few viable options. Most have turned to landfills for disposal of biosolids, but their available capacity is limited. Some utilities have turned to out-of-state support for biosolids disposal, but the cost of trucking biosolids longer and longer distances has been a financial burden on municipalities throughout Maine.

With limited options to safely dispose of biosolids, some Maine wastewater utilities have begun taking a different approach. Advanced treatment systems have shown success in destroying PFAS in biosolids, allowing utilities to use easier and more economical disposal methods for the remaining waste. While promising, these systems are also very expensive to build.

Achieving compliance with current state standards and imminent federal regulations may be a challenge for many municipalities. While each water or wastewater system's PFAS situation is unique, all can benefit from planning ahead for contamination management and exploring funding sources to cover the cost of cleanup.

**Creating a PFAS Action Plan.** Cities and towns with PFAS detections will benefit from creating a response plan as soon as possible. Not only do utilities need to prepare for compliance with state and upcoming federal regulations, but public awareness of PFAS is at an all-time high. Some may assume that by postponing action to address PFAS issues, they can avoid negative perception. In reality, taking a proactive approach demonstrates a municipality's commitment to public health, the environment, and transparency, boosting trust in local government. In addition, cities and towns that act quickly may benefit more from cost recovery strategies, protecting residents from the high cost of PFAS management.

Below are several initial steps that municipalities may take upon detection of PFAS in their drinking water, wastewater, or biosolids.

**Establish a Cross-functional Team.** Detecting and communicating PFAS concentrations requires a cross-functional team to collaborate within a utility. Ideally, this team includes representation from laboratory staff, utility communications staff, plant operations, and leadership to routinely test water quality, manage lab results, and communicate these results to the appropriate authorities and the public.

**Assess Water Sources.** Because PFAS tends to spread throughout the environment, it is important to identify the full extent of contamination. For example, PFAS in wastewater effluent could infiltrate into nearby drinking water supplies. Local groundwater, surface water, and drinking water treatment and distribution systems should be tested to ensure that no PFAS chemicals go unnoticed.

**Implement Testing and Evaluate Results.** Water and wastewater utilities can work together to test prioritized sampling sites to track and monitor PFAS entering the water supply. Labs across the country now have the means to determine PFAS concentrations in drinking water, wastewater, and biosolids to determine PFAS concentrations and the risk they pose to local water sources.

**Develop a Mitigation Plan.** Upon determining PFAS concentrations and their sources, municipalities can begin exploring treatment options to ensure compliance with state and federal regulations. In addition to considering mitigation options, teams can communicate the presence of PFAS in local water supplies and what's being done to address the issue, easing residents' concerns.

**Explore Funding Strategies.** A good PFAS action plan

should also propose funding strategies to cover the cost of implementation. The total cost of designing and building new PFAS treatment plants, continued testing, maintenance, and staffing will present a financial challenge for most cities and towns. Municipalities considering PFAS treatment systems will want to explore all potential funding sources, including grants, loans, and legal cost recovery solutions.

Litigation as a cost recovery strategy allows utilities to seek to hold manufacturers accountable for the pollution caused. This strategy has already proven effective for public drinking water systems across the country, which have been offered settlements worth billions of dollars in total from PFAS manufacturers 3M and DuPont to cover the cost of removing the contaminants from water supplies. Now, many wastewater systems are following drinking water providers' example by filing lawsuits of their own. It is important to keep in mind, however, that the legal process can be complex and difficult to navigate. Regardless of a utility's unique needs, it would be advisable to first seek counsel from a law firm experienced in water and wastewater contamination litigation. An attorney with experience in this area can help systems evaluate their legal options and choose the best path forward to maximize their potential cost recovery.

**Strengthen Public Trust, Restore Environmental & Financial Resources.** As state and federal PFAS regulations loom, it is crucial for utilities to understand the potential implications and take necessary steps to prepare. Municipalities should act as soon as possible by evaluating their system's contamination management needs and exploring cost recovery solutions. A proactive approach can help cities and towns build public trust and ensure compliance once new standards take effect. 🏡

#### About SL Environmental Law Group:

SL Environmental Law Group has over 20 years of experience helping municipalities, water systems, and states hold polluters accountable. We've helped over 150 clients, resulting in over \$1.2 billion recovered in settlements and trials to pay for the cost of contamination cleanup. We already represent about 200 clients in the current AFFF multidistrict litigation, helping public entities recover the costs of PFAS contamination. Learn more at [www.slenvironment.com](http://www.slenvironment.com).

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# Burgess: Keeping Pace with Progress

By Liz Mockler



Jimmy Carter was elected president the year Paul Burgess won his first election to the Wales Select Board. Almost five decades later, he's decided it's time to retire. Except he's not going to.

After 48 years, Burgess is stepping aside as selectman "to get some young blood and get them trained" in municipal governance, he said. In June, he's hoping to get a spot on the planning board.

"I want to stay involved in town government," he said. But unlike serving as selectperson, Burgess can take on the planning board and still enjoy some free time for himself.

"I thought I'd go south a little bit in the winter and get out of this cold weather," he said. "I can't take vacation as a selectman, but I could as a planning board member."

Burgess, 81, was MMA's 2023 Ethel N. Kelley memorial award winner, an honor reserved for municipal officials who exceed the required standards of public service. From the beginning, Burgess has served his community with dedication and hard work.

Burgess serves as first selectperson and chairman of the select board for the Androscoggin County town of 1,700. Perhaps the most significant change over the decades, Burgess said, was the transition from an agricultural town to a bedroom community for Portland and Lewiston/Auburn.

The first selectperson's job in the scores of Maine towns that operate local government with a select board and town meeting is to take care of essentially all town business. For decades, Burgess handled most of the workload by himself, but in recent times the three-member board divvies up the work equally, he said. The town also now has a small office staff of three – a town clerk and two deputies.

Wales is located 10 miles from Lewiston/Auburn and is flanked on all sides by other bedroom communities– Monmouth, Litchfield, Greene and Sabattus.

As he prepares to step down from the select board, Burgess shared his thoughts about small-town government as he begins a new chapter in his public service career.

## Q Why did you first run for election and why have you stayed 48 years?

A. I ran for election in 1976 to get more involved in my community.

## Q At what point did you decide to serve long-term, in a way few do?

A. As I served, I found I enjoyed the work and involvement within my town. Years pass by fast and before you know it you've been serving for 48 years.

## Q What is an issue that keeps coming up for the Wales Select Board?

A. How to keep pace with progress without losing your community's identity and history. Also, trying to keep pace with progress without outpacing the town's capacity for taxation.

## Q What accomplishments by the select board are you most proud of?

A. Enduring the fire of 1971 that destroyed our town office and most of our records. Bringing forward change in a responsible and affordable way. Being fiscally responsible and, until recent years, being able to save enough money over time to purchase major equipment without debt. Embracing the demographic shift from rural farming to suburban community and being able to adapt to the progressive needs that accompany that growth.

About the Author: Liz Mockler is a freelance writer from Newport and regular contributor to Maine Town & City, [lizmockler1@hotmail.com](mailto:lizmockler1@hotmail.com).

**Q** As first selectperson, and without a manager or administrative assistant, are you responsible for the day-to-day business of the town?

**A.** For decades, yes. As the town grew, we made changes to our charter that allowed hiring necessary staff to help with daily operations. Thankfully, now we have an extremely talented staff that handles the daily operations.

**Q** How is your experience working with the state?

**A.** By and large, my experience working with the state has been positive.

**Q** What are a couple things that have changed the most over the decades you have served?

**A.** Our office operations have progressed and grown dramatically since I started, especially with technology. Our community itself has grown and changed significantly.

**Q** Do you think Maine municipalities rely too heavily on the property tax and, if so, how should that be addressed?

**A.** Absent major industrial development, towns really only have property tax to rely on. As Maine is vastly rural, I believe that property tax is unavoidable. Our little town has no industrial development and is short of serious infrastructure development so it will be difficult to envision any development of that kind. As a bedroom community the property tax, alleviated mostly by state subsidy and other revenues, is our only source of revenue.

**Q** How long do you plan to keep serving?

**A.** I am not seeking reelection in June so I will be retiring at that time. 🌲

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# The Municipal Audit

While the municipal audit provides the needed checks and balances for the proper operations of government, retirements and lack of resources are having impacts on the process.

By Betty Adams

Every municipality in Maine must have its books audited annually, and the auditor must file that audit with the Office of the State Auditor.

The requirement is formalized in statute, which states “Each municipality and quasi-municipal corporation shall have an annual post audit made of its accounts covering the last complete fiscal year...” but compliance can occasionally lag behind.

Neglecting to do or file the audit has consequences—and can trigger a reaction from the state office and even a call from the state auditor, and it could mean the municipality pays in borrowing costs.

“The net impact is you can’t get financing,” said Maine State Auditor Matthew Dunlap. “It could jeopardize your school funding from the state and the feds. The small towns, they kind of shrug. So, there we are.”

Correctly following the rules can reassure the residents that their municipality’s finances are in order and that the elected and appointed officials are spending the dollars responsibly. “It’s the public trust, and when people don’t have good information, rumor always rushes in to fill the void,” Dunlap said.

He provided a definition of an audit: “The budget is what you agree to spend; the audit is how you spent it.” And he quoted another auditor who told him, “If accounting is the language of business, auditing is the spell-check.”

But even finding an auditor can be difficult these days.

“We have towns that in some cases have not had audits done for 10 years,” said Dunlap. “And some of these towns – to be fair to them – have challenges of their own, which is they can’t find accounting firms to do the work. Accounting firms are increasingly getting out of the business. It is a lot of work to do municipal audits.”

In some cases, the auditors have to put the financial



Matthew Dunlap

books together before they can begin to audit the finances.

That can result when municipal officials are unfamiliar with the work and untrained.

“In our world, small towns represent the biggest challenge,” Dunlap said. “Out of those 34 or so towns more than a couple years behind (in submitting audits) probably 32 have fewer than 5,000 residents.”

The State Auditor’s Office catalogs the municipal audits and makes them available on the website at <https://www.maine.gov/audit/municipal/annual-audit-reports.html>. The website lists the date filed as well as the name of the auditing firm or certified public accountant which did the work.

“Part of what I do is I chase towns for their audits,” Dunlap said. “It’s brutal, talking to some of these beleaguered town clerks.” He offers resources to help, and noted, “Eventually they swim their way out of it.”

A case in point is The Forks Plantation. The late Keel Hood, who was the certified public accountant doing the audit for that Somerset County municipality (population of 48), issued “a disclaimer of opinion,” noting a material weakness in the financial statement.

In a July 14, 2022, letter to the plantation’s Board of Assessors, Hood reported material deficiencies for the fiscal year ending June 30, 2021, including this: “During the year, the Second Assessor and the Treasurer processed and cashed payments to themselves without placing them on a warrant and getting them approved – a practice which continued subsequent to my informing the Board of Assessors and the employees in question of its impropriety.”

And in his “Independent Auditor’s Report,” Hood wrote, “During the year, multiple deposits were made without being recorded, multiple checks were recorded which were not issued, and multiple checks were issued without source documentation. I was unable to deter-

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Susan Hathaway



Charles Hathaway

mine or verify by alternative means the correct recording or propriety of these transactions.”

That assessment led some taxpayers to create an informal coalition of local residents known as Citizens for Integrity, Transparency and Accountability.

And in October 2023, voters elected a new second assessor, Charles Hathaway; a new treasurer, Evan Anderson; and a new town clerk, Susan Hathaway, who had been the town clerk/treasurer for about four months in 2018. They had helped form the coalition.

“We’re trying to clean up the town and do things right,” Susan Hathaway said. “We’ve called MMA Legal on two different items. We’re trying to do this the right way and create standards and build a town where if we aren’t in office next year, someone has a roadmap in which to know how to proceed.”

Her husband, Charles Hathaway said, “At this point there’s no policies, no procedures, no job descriptions.”

The Hathaways have owned property in The Forks Plantation since 2002 and resided there full time since

2017, and Susan Hathaway noted that Anderson has financial expertise having worked previously for the Federal Deposit Insurance Corporation. The town’s current tax commitment is about \$550,000.

“We did a lot of research and are trying to follow the legal pathways so that we are doing things the way they should be done,” Susan Hathaway said in mid-February. “We’re trying to be cooperative and build a new and better trustworthy town. That’s our goal.”

She said the town is in the process of initiating procedures for remote meetings and that all assessors’ meetings are now videotaped and available on YouTube.

For municipalities, Dunlap said there should be segregation of duties to avoid problems: “The same person should not be depositing and issuing checks. In the ‘fraud triangle,’ you have the opportunity, the motivation, and then you can rationalize it.”

He added, “You want people to feel confident that what they’re looking at in the town report is real and that they can trust their town officials, they can trust their selectboard, and that’s what you’re really after,” Dunlap said.

The City of Augusta ran into some difficulty because of a delayed audit for fiscal year 2022 after its auditing firm lost personnel to retirement, the city finance officer left a month before the end of the fiscal year, and the deputy city auditor left that August. “It was a confluence of events related to staffing really,” said City Manager Susan Robertson. “That ended up getting things delayed, and we didn’t get a finance director until that September, and the deputy audit position filled in December.”

Robertson said that typically the audit work each year

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Susan Robertson



Ron Smith

would be completed by December, with a draft by early January, and a presentation to City Council in February.

“We were planning to go out to borrow in February-March 2023 and did not get the audit until August 2023, and were not able to go out and get our bonds sold until October 2023,” she said. “We were a good nine months behind where we had planned to be because we didn’t have the audit. One of the consequences was interest rates went up in the meantime, so it ended up costing us a bit more in our borrowing costs.

“There wasn’t anything that could be done about it if there weren’t enough auditing professionals to do the work, and that was about the time a number of auditing firms were dropping their clients.”

She and other city officials talked with the state auditor about the problem.

“Like everywhere else in the country, it’s staffing,” Robertson said. “All those baby-boomers retired, and then we had people from the pandemic that didn’t want to go back to work or wanted to do something different.”

In an article published in February 2023, Chris Morrill, executive director of the Government Finance Officers Association of the United States and Canada, noted, “The No. 1 challenge I hear about when I speak to members is attracting and retaining talent. I’ve even heard it described as a crisis for government finance. While the solutions to the talent problem are multi-faceted, we believe that education and professional development are critical.”

Ron Smith, managing partner of RHR Smith & Company, certified public accountants, based in Buxton, Maine, estimated the firm does audits for two-thirds of the municipalities in Maine as well as a considerable number in Vermont.

When auditors go to a municipality to do the work, they are looking for organized books and cash reconciliations. “Those are the biggest areas of concern that we have,” he said. “Cash is king. We’ve got government that hasn’t reconciled the books since the last time we came in and audited. How disturbing is that?”

In February, Smith said he was reviewing “potential



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poor choices” in almost a dozen audit cases. “I would argue two out of every five have reconciliation problems; one of those two are cash reconciliation problems, banking reconciliations. That’s pretty sobering when you think about a municipality having to have a treasurer, and the sole job or responsibility needs to be making sure that cash is king and that these accounts are being reconciled, and it’s not happening. We get tired of it.”

Smith himself investigates the audits that appear to have errors or irregularities. “I probably have 12 active cases going on right now where I’m investigating fraud in local government. Nine of them are with elected officials: treasurers, clerks, tax collectors.” He also noted that larger communities can have problems as well.

“In my 35 years of doing this, I have never seen the state of government as ugly (now) as I’ve seen it from every aspect: fiscal management, fiscal best practices, fiscal finances, fiscal accountability,” he said.

He offered some reasons: retirements – some probably accelerated by the COVID-19 pandemic; the dearth of people to fill those positions, and the lack of institutional knowledge at the local, state and federal level. “People I grew up with over these 35 years, I would argue 95% of them are gone,” he said.

RHR Smith is hoping to buck the trend of disappearing auditors. “There are few people now going to school to be accountants and auditors.” Smith said.

And both Smith and Dunlap voiced concerns about municipal officials who are elected to serve but without the skills or training to do the job.

While the University of Maine suspended its master of public administration program in 2011 for “very low enrollment” as well as the related undergraduate programs, the University of Maine at Augusta continues to offer an undergraduate public administration program.

Nick Nadeau, director of governmental outreach for RHR Smith & Co. and a former town administrator in Blue Hill, is working with others at the firm on setting up a four-to-six-month internship program with two different paths. The “Explore” path is for younger college students and designed to raise their interest in the fields of financial accounting and government accounting. The second path would be for those preparing to graduate from college or recent grads who take a liking to financial reporting and could work with experienced auditors.

“Ideally at the end of this program, we can either hire them ourselves, or if they don’t want to be an auditor, maybe they want to help fill a finance role in municipal government or school government,” Nadeau said. “We’ve put this web together to try to attack this problem. It’s a dying profession in the sense that some folks are not taking the interest or the engagement in trying to get into these programs, so we’re trying to generate interest.”

The program is being set up in conjunction with the Office of the State Auditor, the Attorney General’s Office, the Department of Education and others.

And while some auditing firms closed or have fewer employees, RHR Smith added more.

“We saw this coming,” Smith said. “I chose not to go down the path that many other auditing firms went, and that was to get out of the business. I said at that time, ‘I can either downsize or manage somewhat or I can go all in. I decided to go all in, and we have doubled the size of the company in less than two years.’”

The firm now has 63 employees. “I know it was the right move to do,” Smith said. “I just couldn’t go out and ride into the sunset knowing how ugly the world of government was.” He recruited Nadeau as well as Tyler Backus, a former manager of the School Finance & Compliance team for the Maine Department of Education, who works on the federal compliance team and others.

Smith said he did that “so we could influence this profession out there, work with our partnerships, and work with legislators so we could get this figured out.” 🏔️



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# Training & Written Policies Are Key Factor for Avoiding Discrimination Claims

By Attorneys Jonathan Brogan and Brad Pattershall at Norman, Hanson & DeTroy, LLC in Portland

The Maine Human Rights Act (the “Act”) prohibits discrimination in employment because of race, color, sex, sexual orientation, or gender identity, physical or mental disability, religion, age, ancestry, national origin or familial status. This prohibition includes failing or refusing to hire, discharging, or otherwise discriminating with respect to the terms, conditions, compensation, or privileges of employment based on the above categories. Regarding discrimination on the basis of sex, the Act protects pregnant women who are unable to perform the duties of a particular job, and case law recognizes that a hostile work environment based upon sexual harassment is a form of discrimination on the basis of sex.

The Act prohibits inquiries seeking to elicit information pertaining to the above categories. The Act also prohibits employers from retaliating against employees who have previously asserted a claim under the Act as well as against employees who in good faith report to the employer or a public body what they believe to be a violation of law (i.e. whistleblowers). The Act prohibits discrimination against employees who have sought and received a protection from abuse order.

Given the breadth of protection provided by the Act, it is critical that employers provide training to their employees to recognize the different forms of discrimination that could lead to a viable legal claim. It is especially important that employees who serve in a supervisory capacity are trained to recognize discrimi-

natory conduct. An employer should create a written policy that both explains what forms of discrimination are prohibited by the Act and what steps employees should take if they feel they have a legitimate claim. The written policy should include to whom a complaint should be made and describe the procedure by which the employer handles such complaints.

The written policy should also explain that the employer takes all claims of discrimination seriously and will investigate them thoroughly. Employers must document any claims of discrimination that are asserted. Documentation includes a description of what the employee claims is discriminatory conduct, the dates, times, and manner by which the alleged discriminatory conduct was communicated (i.e. text, email, video, voicemail, verbal etc.), and the identities of all alleged perpetrators and witnesses. The employer has to immediately collect all written and video evidence relating to the claim.

In addition to reviewing the written, audio, and video evidence, the employer should interview the complainant, the alleged perpetrator(s), and all witnesses who observed the allegedly discriminatory conduct. Evidence can be lost over time, so it is important to gather as much information regarding the claim as soon as possible. This will help with an internal investigation of the claim as well as in later proceedings before the Maine Human Rights Commission or in Superior Court if a claim proceeds that far.

Finally, the employer’s policy should explain that the employer will make a determination on each claim of discrimination and convey that determination to the alleged perpetrator(s) of the discriminatory conduct. The employer’s primary goals are two-fold: (1) stop the allegedly discriminatory conduct as quickly as possible, and (2) prevent similar conduct from occurring in the future. 

## EO101

“An Elected Official’s Survival Guide.” In this series MMA staff will provide the advice, tips and tools elected officials need to fulfill their roles and to be prepared for the challenges that await.



# RISK MANAGEMENT SERVICES

Maine Municipal Association's Risk Management Services is a partnership of Maine municipalities and governmental entities that have joined together to create unparalleled coverage, services, and support. The Risk Management Services team of dedicated professionals provides all underwriting, member services, claims and loss prevention services to program participants. Each program is managed individually and overseen by its own board of elected and appointed municipal officials. We take great pride that municipal risk management is what we do and all we do. MMA Risk Management Services offers three self-insurance programs:

- **Workers' Compensation Fund – Current membership of 583**, designed to assist members in managing their workers' compensation costs through effective claims management and loss prevention activities including active claims management, training, claims mitigation and return to work practices.
- **Property & Casualty Pool – Current membership of 479**, provides members with a broad range of property and liability coverages at favorable rates. Coverage is uniquely designed to provide public entities with the protection of the Maine Tort Claims Act immunities and limits of liability.
- **Unemployment Compensation Fund – Current membership of 248**, is a self-funded program that serves as a liaison between participants and the Bureau of Unemployment Compensation in the handling of unemployment claims.

The primary purpose of local government is to implement the public services that the legislative body of a community determines it wants to provide. Local officials are then tasked with the duty of providing those services and collecting the necessary funding to pay for them. Title 30-A M.R.S.A. § 2001 defines "municipal officers" as the "selectmen or councilors of a town, or the mayor and alderman or councilors of a city." That same section defines "municipal official" as "any elected or appointed member of a municipal government." Therefore, with all of these responsibilities tasked to local officials, the question arises as to the associated liabilities if an error or an alleged error occurs while fulfilling those responsibilities. The answers and protections are found in Public Officials Liability Insurance (POL).

Public officials' responsibilities to their communities

grow more and more complex, and your management and professional liability insurance needs to reflect this reality. The Maine Municipal Association offers such protections through the Risk Management Services Property & Casualty Pool. The core coverages provided by the Property & Casualty Pool include protection of:

- Buildings and contents (including floods and earthquakes);
- Mobile equipment / inland marine;
- Liability and physical damage to vehicles;
- Computers;
- General liability;
- Public officials' liability, including employment related practices;
- Bonding/ employee dishonesty;
- Law enforcement liability;
- Ambulance malpractice; and
- Firefighter liability.

So, what exactly is Public Officials Liability Insurance (POL) and how does it help? POL insurance provides indemnity for the officials of a town or public entity against their legal liability to pay damages to third party claimants as a consequence of the third party having suffered financial loss through the negligent act, error or omission of the official in their managerial capacity. Therefore, if you provide a service or make decisions that affect others, you have an exposure. It stands to reason that if the executive officers of a profit-making corporation can be sued for making mistakes or poor decisions that can result in a loss, so too can the elected and appointed officials of municipalities. Such claims against public officials includes:

- Mismanagement or improper administration of funds, grants, or budgets;
- Improper zoning approvals or denials;
- Illegal or poorly worded ordinances;
- Denial of permits and 1<sup>st</sup> Amendment claims (political posters); and
- Violation of employment law, discriminatory employment practice, sexual harassment, or failure to hire, promote, train or terminate employees.

For a claim to be established and afforded protection under POL insurance, the following must apply:

- A legal obligation to pay damages on the part of the insured due to neglect of a professional duty

- of care must exist;
- The damages must arise from performing or failure to perform the particular functions or services defined in the policy; and
- The service or failure to render service must take place during the policy period (Occurrence-based Policy) or the claim must be made during the policy period (Claims-made Policy).

The most common and typically the most severe POL claims arise from violations of employment law. Employment Practices Liability Insurance provides critical coverage for violations of:

- Age Discrimination;
- Disability Discrimination Act;
- Race Relations Act;
- Employment Rights Act (Whistleblower Act); and
- Sex Discrimination Act.

As a result of the severity of such claims, MMA Risk Management Services has established a number of tools that are available to members of the Property & Casualty Pool (The P&C Pool). The P&C Pool provides its members with an Online University that offers critical training on such topics as:

- Legal Environment in Human Resources;
- Equal Employment Opportunity Law;
- Performance Reviews;
- Discipline and Terminations;
- Diversity Toolkit;

- Excelling as a Manager or Supervisor;
- Code of Conduct;
- Leadership;
- Effective Communication;
- Privacy and Ethical Behavior;
- And many more.

MMA Risk Management Services has also partnered with our reinsurer to offer members of the P&C Pool access to cutting-edge online services, as well as direct communication with employment practices attorneys through the Employment Law Hotline.

Risk Management Services recognizes the unique burdens faced by municipalities and governmental entities in today's employment arena, and we are pleased to have partnered with the nation's foremost and largest employment and labor law firm in the U.S., Littler Mendelson (Littler). This partnership grants members the ability to interface directly with Littler lawyers dedicated to assist in navigating the turbulent waters of employee management.

MMA Property & Casualty Pool members have unlimited access to expert legal advice and counsel on employment law issues at no cost through EPL Assist™ a cutting-edge risk management program. The program provides no cost, online and live access to the legal experts at Littler, as well as employment law updates, newsletters, related publications, and a compendium of online employment law resources through a secure website. 🏡



**Michael A. Hodgins**  
Land Use and Zoning Attorney

Mike represents towns in contract disputes and other general litigation, land use enforcement actions, Rule 80B appeals to Superior Court and he has participated in several appeals to the Law Court. Mike was recently recognized as a Lawyer of the Year by The Best Lawyers in America® for land use and zoning law. Mike has been recognized for his general litigation practice by New England Super Lawyers.

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# Recruiting First Responders

As municipalities continue to struggle to fill vacancies in first responder ranks, outside-of-the-box solutions are becoming more commonplace.

By Colleen Hennessy

Municipal services can at times be opaque or even invisible to residents. Sanitation, street maintenance, water, library and even schools are critical public services, yet exactly how they're funded and managed can feel removed from citizen's everyday lives, and even from their town or city hall depending on the different agencies involved. However, when anyone, albeit in Liberty or Portland, needs help they expect a first responder to arrive, and they definitely don't care about budgets, town lines, or staffing issues. It is becoming clear to Maine's first responders that despite being at the most urgent intersection between municipalities and residents, local communities aren't quite as clear about the critical issues facing town and city governments who are trying to maintain firefighters, police officers, and emergency medical services in communities across the state.

General workforce shortages in public service have been persistent in Maine because of a number of complicated factors: housing costs, an aging population with low rates of immigration, increased demand for services, relatively low salaries, and increasingly difficult work conditions. Public safety agencies of course face all these challenges in addition to safety issues, jobs with 24-hour schedules and demands, as well as complicated and stringent training requirements for new hires. Police departments in Maine face the added pressure of national and state-wide political rhetoric around policing that heightens tensions on the job and at budget time when municipalities try to increase salaries or contracts are negotiated.

According to the Maine Municipal Association's Salary Survey, the average patrol officer salary was around \$56,000 in 2023. This puts Maine's compensation at the lowest in New England. Currently cities and towns are competing to increase salaries in an attempt to compete for staff. Auburn Police Chief, Jason Moen, reported losing five officers to Lewiston after the neighboring city councilors increased pay at the end of 2022.

While increasing pay in municipalities attracts candidates, it doesn't solve the problem on a statewide level and so the Maine Chiefs of Police Association, with the support of Husson University and the Maine Municipal Association have launched a campaign focusing on recruiting qualified officers from out of state, rather than trying to recruit green candidates to the industry. While Maine's pay might be low, its violent crime rate is too. Attracting officers from out of state has proven successful in supplementing, rather than splitting and shifting the workforce, in the past two years. According to a report by Maine Public, over 120 officers moved from other states in the past two years. If officers from other states have received training that passes Maine's standards, they can apply for a waiver which bypasses the need for the 18 weeks of training here. The recruitment strategy features a video, made by Husson University students, promoting Maine's quality of life, including safe working conditions, and opportunities to be part of strong communities through working in law enforcement. With currently over 250 openings in law enforcement across the state, the video is intended to be distributed to a national audience and hopes to assist with recruitment by targeting already qualified candidates.

Other measures taken by departments to fill recruitment gaps are creative service arrangements with sheriff departments (county services) or the Maine State Police. Boothbay Harbor Police Department faced an "unprecedented staffing crisis" last year and so the Town agreed to pay for patrol coverage from the Lincoln County Sheriff's Office throughout the year, particularly in the busy summer months. The Lincoln County Sheriff themselves haven't been fully staffed in five years. Competition for recruits in the Fire and Emergency Services is no less fierce, but in a State where more than 70% of fire departments are staffed by volunteers the options for coverage are even more limited. Maine does not have county or state-level fire service, so it is solely up to municipalities and communities to compete with each other while recruiting staff.

Colleen Hennessy is a freelance writer and a former employee of the City of Portland from 2016-2017. She is a regular contributor to *Maine Town & City*, [info@colleenhennessy.com](mailto:info@colleenhennessy.com)

Chief Bill Gillespie, of the Maine Fire Chiefs' Association and Liberty Fire Department, has seen the stems and flows of staffing over his 35-year career in the fire service, and this prolonged stem in the pipeline feels different. Gillespie began his career with the Portland Fire Department and is currently the chief of a volunteer fire department.

Although there's been a lack of new people joining the volunteer EMS and Fire Services for the last twenty years, it's now starting to affect the career departments, and this has changed the pressure on municipalities to pay for full-time services. "Because suburban and town departments have had to expand their pay and full-time services since volunteers were no longer there, they're mining volunteer departments for trained staff and there aren't many volunteers left to mine," says Gillespie. Trained firefighters (and EMTs) can hop around, chase pay, incentives, and benefits and that leaves career departments in competition with each other.

Gillespie estimates the state has about half the force it needs to be fully staffed. Because many municipalities are paying per diem for EMS since the volunteer model is no longer feasible, people are going between localities, working all the hours they can get, not earning benefits, and not embedding in any one community. The social capital derived from, and sustaining the volunteer model for these services, among others, in rural Maine is gone and no longer an option as more and more residents live in a rural community, yet commute outside of it for work, school, and other activities.

All these services are connected and gaps in one result in delays in others for people needing help in communities because many calls, such as car accidents or shootings, require all three services to respond together. Gillespie's organization has been hard at work on solutions, but they need the support of municipalities and the State to create a new system that will provide a sustainable first response to all of Maine communities. Support for financing people and equipment varies greatly from town to town, and without licensure or a governing

body it is difficult to plan on a regional basis. First, towns need to accept they won't be able to attract enough staff on a voluntary basis to safely staff all the existing departments so Gillespie believes municipalities can facilitate the planning around regionalization and service sharing. This begins by communicating the reality of financing and staffing fire services today, safely.

Volunteer departments have the same equipment, training, and workplace safety regulations as the paid departments, in addition to the need for 24-hour response, and taxpayers don't understand that cost. The industry urgently needs a statewide study of Maine's fire and EMS capabilities and a registration firefighter database to track firefighters' service, analyze data, and recommend solutions for the staffing issue. The Fire Marshal's office has the potential for coordination but needs state funding for a study and database.

Recruitment programs, combined with direct, streamlined training, and an increase in pay, will require an immediate increase in Medicare and MaineCare reimbursement rates for EMS services. Over 70% of Maine's patients are insured under MaineCare and ambulance services aren't reimbursed fully for the actual cost. The shortfall in revenue makes it impossible to pay competitive, or even reasonable wages for a licensed job. This is a key issue in recruitment and can be immediately impacted by federal and state rate changes if Maine's state and federal lawmakers understand the urgency of the issue.

Public safety is personal and the disruption to police, fire and ambulance services is already putting pressure on the existing services and staff and further disruption seems inevitable. "In a perfect world, we'd have 10,000 groups and we probably have 4,000," said Gillespie. This gap is no longer fillable so creative efforts at collaboration, such as the sharing of a police chief between Winthrop and Monmouth described in last month's *Maine Town & City*, might be a challenge, but need to be planned now across services and municipalities. 🏔️

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# Municipal Digital Capacity – a Dirigo Moment for Maine

Christa Thorpe, Community Development Officer, Island Institute

Zuzana Duffy, American Connection Corps Service Member, Island Institute

Mainers love their *dirigo* moments – those opportunities to lead the nation with shining examples of how we *git ‘er done*. Last month featured one of those moments, when Maine’s Digital Equity Plan was the first in the nation to be approved by the National Telecommunications and Information Administration (NTIA). When congratulating the Maine Connectivity Authority (MCA) “for being the first in the nation to hit this milestone,” NTIA’s Director of Digital Equity, Angela Thi Bennett commented that “the state’s intentional work...will make certain everyone in Maine possesses the digital skills, tools, and capacity to thrive.” NTIA estimates that 89% of Mainers identify as a population likely to be most impacted by the digital divide, referred to as “covered populations” in the Digital Equity Act. These important audiences include older adults, low-income households, people living in rural areas, veterans, individuals with a disability, individuals with a language barrier, individuals who are members of a racial or ethnic minority group, and people who are incarcerated.

## What does digital equity mean for Maine’s municipalities?

Maine municipalities are already proving to be critical partners in the broader goal of digital equity for the simple fact that almost everyone in Maine has to interact with their town office or city hall in one way or another. Municipal officials often know who the most vulnerable residents are and the local organizations meeting their needs, and therefore are well positioned to help address inequities. Municipal officials and staff themselves are often among those who feel left behind in the digital age, not surprising given the 89% statistic mentioned above.

This article will provide an overview of the State’s plan, dig into the components of the plan that most directly relate to municipal roles and functions, and high-



Community members from the Blue Hill region pose with partners from Island Institute, Maine Connectivity Authority, Maine Broadband Coalition, and ISP partner Consolidated Communications in May 2023

light some important Maine-based research on connections between municipal digital services and community resilience.

## Overview of Maine’s Digital Equity Plan

Maine Connectivity Authority (MCA) is a quasi-governmental agency established in 2021 and charged with achieving universal access to high-speed broadband in Maine. According to MCA, the purpose of the Digital Equity Plan is to outline the steps the state will take to expand access to high-speed, reliable internet and break down barriers to connections, especially for populations most impacted by the digital divide. Its approval is the first step for Maine to qualify for federal funding through the Digital Equity Act as part of the Bipartisan Infrastructure Law passed in November 2021. Maine’s estimated allocation of digital equity funding will be between \$12 and \$14 million and will complement the \$270 million Maine will receive for infrastructure improvements under the Broadband Equity Access and Deployment (BEAD) program.

To create this plan, MCA assembled a broad coalition of stakeholders to conduct significant public outreach and engagement efforts between January and June 2023. MCA also partnered with the Maine-based National Digital Equity Center and Maine Broadband Coalition to convene community meetings, focus groups, and more. Through the planning process, MCA identified several

## ABOUT THIS SERIES

This article is the first in a series by the Island Institute exploring the topic of digital equity in relation to Maine’s municipalities and digital capacity.



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## Maine's Strategies to Achieve Digital Equity:

- Increase access to broadband through grant funding for local and regional infrastructure projects.
- Improve affordability of internet service by increasing enrollment in the Affordable Connectivity Program (ACP) and improving connections for those in subsidized housing. ACP is a subsidy program for low-income households administered by the Federal Communications Commission, which recently announced funding is slated to run out in April 2024.
- Secure at least 25,000 donated devices for refurbishment from businesses, institutions, and agencies statewide to provide access to no-cost and low-cost devices (e.g., desktops, laptops, tablets) that meet the user's needs - and include technical support - by distributing 50,000 new and refurbished devices to Mainers in need of the resources.
- Improve Mainers' digital skills through outreach and training.
- Help Mainers stay safe online by providing internet safety training.
- Make it easier to access government resources and programs online.
- Sustain and grow Maine's investment in digital equity through outreach and education to policymakers, policy changes, and by establishing the Maine Digital Equity Fund to raise \$15 million in additional capital to match federal funding by additional investment from the federal government.

key challenges that need to be addressed to close the digital divide, including a focus on the affordability of service, access to internet-capable devices, digital skills, and online safety training. The resulting plan articulates several key strategies to reduce barriers to connectivity for those who face the most challenges.

Improving accessibility of online government programs is one of the state's key strategies that resonates with town managers like Kathleen Billings of Stonington, who commented on this barrier during the planning process: "We are forced into more government interactions with State and Federal portals which don't always work, complicated passwords, resetting passwords, no people to call if there is a problem, or it is weeks before you get an answer back and deadlines have already passed."

Staying safe online is another pressing concern for municipal offices across the state. Cybercrime is on the rise, and the cost for robust cybersecurity can be a bur-

den on small and large towns alike, but not compared to the cost of a ransomware attack. Having a well-trained municipal office and citizenry is the best protection for a local government that doesn't want to miss out on the rich benefits of increased civic engagement and government efficiency created by online tools. Participation in remote and hybrid meetings can now play a much larger role in government processes thanks to recent years' statutory changes. Palermo community member Bob Kurek in Waldo County welcomes these changes for making it easier to accomplish the hard work of local government. "I'd rather sit here in my slippers and do work electronically and share it with my other board members." In neighboring Liberty, firefighter Joe Meadows notes that Zoom has made it easier to engage volunteers - local champions who are the lifeblood of Maine's towns and cities.

Digital skills training and adequate funding are critical for helping municipal offices take advantage of 21st century technology. Philip Pinto is a select board member in Roque Bluffs, a downeast town that is investing in a municipally owned network funded by a grant from the USDA Rural Utilities Service. As a leader of the broadband effort, Pinto had helped the town build a website a few years ago, but as he put it, "anyone can make a website, it's maintaining and keeping stale info at bay which is the real challenge." This brings us to the issue of "municipal digital capacity."

## Municipal digital capacity and community resilience

Municipalities of all sizes have a role to play in advancing digital equity in their communities and by doing so, they might also become more resilient in the process. This topic has been explored through an ongoing research collaboration between three of Maine's higher education institutions starting in 2020. Led by Vanessa Levesque of USM, Kathleen Bell of the University of Maine, and Eileen Johnson of Bowdoin College, the early research points to the strength and resiliency specifically of smaller Maine communities during the COVID-19 pandemic that were better able to communicate information and conduct transactions with residents remotely, thanks to the availability of digital services.

Digital communication and information sharing is just one aspect of the conversation. Public safety and emergency response are intrinsically tied to broadband and digital technology in the modern world, and access to crucial information or resources during a time of crisis is the glue of community resilience. Enhanced civic en-

gagement and participation, thanks to provisions of digital platforms and features such as Zoom selectboard and council meetings, along with consistent nuanced communication, can strengthen the social fabric of communities. In their most recent [article](https://www.sciencedirect.com/science/article/pii/S0740624X23000837) (<https://www.sciencedirect.com/science/article/pii/S0740624X23000837>), published in the March issue of *Government Information Quarterly*, Levesque, Bell, and Johnson conclude that “incorporating digital capacity as a component of community resilience may help minimize the potential for exacerbating inequities, particularly in rural communities.”

“Our town office is at the wharf. We need to make sure anything that is paper-based is as far from the ground as possible until it is digitized.”

- Beth Marchak, IT Administration in Long Island, Casco Bay

The correlation of climate resilience and broadband is another topic worthy of more study. In coastal and island communities, town offices are oftentimes right on the waterfront and their paper documents are sitting on the floor, unprotected in the case of flooding. Having digitized municipal records not only protects critical assets, but also enhances planning processes as municipal staff and local volunteers can access information remotely. This is especially significant for many rural Maine communities that experience an influx of seasonal residents in the summer, many of whom bring valuable knowledge and skills that can fill local planning capacity gaps. Improving digital literacy among municipal officials and planners can also support efforts to map and record changes to their natural environment and provide access to the concrete data that towns can use when applying for funding to address climate impacts.

### What’s Next

Over the next four months, this series will dive deeper into municipal digital capacity topics and stories of communities navigating uncharted waters toward the goal of digital equity. We’ll explore the value of local-level digital equity planning, as well as the collaborations with community anchor institutions like libraries and regional entities that can assist municipalities to build digital capacity. We’ll follow the process of a small island town tackling a goal in their updated comprehensive plan “to modernize the town’s IT practices,” which includes replacing the capacity of an 83-year-old tech wizard whose generous voluntarism the town has relied

on for years. Finally, we’ll highlight local leaders who see digital equity planning as part and parcel of the work they are doing to prepare their communities for the next pandemic, storm surge, or economic upheaval.

This series will celebrate many *dirigo* moments, but also reveal gaps in the funding and resources needed to support municipalities to achieve digital goals. The journey ahead may feel daunting to towns and cities trying to catch up, let alone *keep up*, with our rapidly evolving digital world. MCA and its partners have committed to “create a foundation for digital equity” in Maine. This work will be deeply local but involve collective advocacy to achieve greatest impact. Maine communities can begin by telling their unique stories and sharing solutions with each other, which is the secret sauce to how we lead.

### Who We Are

Island Institute is a 40-year-old nonprofit organization, based in Rockland, that works to sustain Maine’s island and coastal communities and is committed to a just, resilient, and vibrant future for the coast of Maine. Since 2016, Island Institute has been working at both state and local levels to strengthen Maine’s broadband infrastructure, not as an end in itself, but as a means to ensure equitable access to education and healthcare, to support civic engagement and aging in place, and to spur economic diversification and prosperity. Island Institute also serves as one of Maine Connectivity Authority’s thirteen Regional & Tribal Broadband Partners across the state helping write and implement the Digital Equity Plan, specifically in Hancock and Waldo counties. 🏠

### Maine’s Digital Equity Plan – By the Numbers

Outreach efforts to create the plan in 2023 included:

- 6 stakeholder groups;
- 117 people/orgs leading engagement;
- 3 formal tribal consultations;
- 3,200 responses to statewide survey;
- 12 language translations of the survey;
- 13 focus groups;
- 16 community meetings; and
- 20 Mainers at national digital equity conference.

# MAINE MUNICIPAL BOND BANK

## 2024 SPRING BOND ISSUE SCHEDULE

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

February						
S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29		

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

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

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

**Wednesday, February 7<sup>th</sup> - Application Deadline**

**Wednesday, March 13<sup>th</sup> - Application Approval (MMBB Board Meeting)**

**Monday, April 8<sup>th</sup> - Preliminary opinions and loan agreements due from bond counsel of each borrower**

**Wednesday, April 10<sup>th</sup> - Last date for signing school contracts and rates in place for water district. PUC approvals due**

**Week of April 22<sup>nd</sup> - Maine Municipal Bond Bank Pricing**

**Monday, May 13<sup>th</sup> - Final documents due from bond counsel**

**Wednesday, May 22<sup>nd</sup> - Pre-closing**

**Thursday, May 23<sup>rd</sup> - Closing - Bond proceeds available**

If you would like to participate in or have any questions regarding the 2024 Spring Bond Issue, please contact Toni Reed at [treed@mmbb.com](mailto:treed@mmbb.com) or (207)622-9386 ext. 213.



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Damariscotta Pumpkinfest (Contributed photo)

# Community Heart & Soul

A successful process for getting all interested parties involved in building a sense of community.

By Stephanie Bouchard

At three a.m. one morning, Luke Dyer’s eyes popped open. Wakening at three isn’t unusual for Dyer, nor are all the ideas and questions ping-ponging in his brain. What was on the mind of Van Buren’s town manager this particular morning was the urgent need to engage his community.

How to engage residents is a question on the minds of municipal leaders across the country, says Mark Sherman, president of the nonprofit community engagement organization, Community Heart & Soul.

“We see [the lack of community engagement] all over the country,” he says. From the organization’s experience, the drivers of low community engagement are inertia—compounded by the isolation of the pandemic—and the current divisive political environment.

“There’s so much hostility and conflict that a process like Community Heart & Soul is a wonderful antidote,” he says. “Instead of coming in and focusing on what’s broken and having a lot of charged conversations that are kind of grievance oriented, we’re just the opposite. We flip the script and we focus on what everybody cares about.”

That focus—on the things that people love about their community instead of what they don’t like—caught Luke Dyer’s attention on that pre-dawn morning as he scrolled through the internet looking for a community engagement framework that would work in his Aroostook County hometown.

The town of Van Buren is in the midst of revitalizing its downtown and looking forward to its future. It has received several grants to help the town achieve its goals,

but the specter of what happened in other communities that were in similar positions as Van Buren’s had Dyer worried.

Dyer, a former police sergeant for the town of 2,000, had learned that other communities who had gotten grants like the ones Van Buren was now benefitting from ran into trouble from residents when the plans that had been labored over were criticized and even shot down.

Those places hadn’t involved their community members in the process, and they paid a price for it. Dyer was determined that Van Buren wouldn’t suffer the same fate.

“This is a once-in-a-lifetime opportunity,” he says. “I started searching the internet, looking for a model that we could follow—how to do our own community workshops—something that we could follow that I thought would keep us from getting in that same situation—where we wouldn’t suddenly find ourselves on the defensive.”

It was during that early morning search that he found Community Heart & Soul. Its grassroots emphasis looked promising to Dyer, and best of all, it had a proven track record of working with communities in Maine.

## A town divided sparks an idea

Vermont-headquartered Community Heart & Soul grew out of an experience with small town municipal government. Founder Lyman Orton, who is one of the co-owners of the Vermont Country Store, served on his hometown’s planning commission. While the planning commission always invited residents to its meetings, few went.

Usually, the lack of resident engagement didn’t result in big problems, until one particular business proposal

About the Author: Stephanie Bouchard is a freelance writer from Nobleboro and regular contributor to Maine Town & City, stephanie@stephaniebouchard.net.

passed by the commission created a controversy that divided the town's residents and resulted in yearslong bad feelings.

From this painful experience, Orton recognized that while the commission had only been doing its job, maybe all the misery that followed could have been avoided if the community had been more involved from the beginning of the process. But how to get more community engagement stumped him.

It would take many years before Orton formed Community Heart & Soul as a model for engaging communities in towns with a population under 30,000. Today, the organization has helped communities across the country. More than a dozen of those communities are in Maine.

As Van Buren's Luke Dyer read through the experiences of the towns in Maine, he was encouraged by what he learned. A coach trained in the Community Heart & Soul process is hired by the community to engage the entire community in identifying what community members love about their community, what future they want for it, and how they will achieve it.

Dyer contacted the organization, who put him in touch with a Maine-based coach. The initial visit with the coach went well, and the town applied for a Seed Grant from Community Heart & Soul. The Seed Grant is a matching grant. Community Heart & Soul provides \$10,000 and the community must put in \$10,000.

The grant can be used to cover any expenses related to the Community Heart & Soul process, such as the fee charged by the coach. Community Heart & Soul doesn't charge for its program, explains Sherman, but communities do pay a fee to the coach, who is an independent contractor. The fee is negotiated between the coach and the community.

Last fall, Van Buren's grant application was approved and the town held its first Heart & Soul community meeting right away. The town is taking its matching contribution from its economic development budget, and is splitting the amount into two payments over two years.

"Our first community meeting was just to identify stakeholders in our community—who are the clubs, who are the organizations—who are the main players in our community that can help contribute to this revitalization? I was crossing my fingers hoping 12 people would show up to this meeting," says Dyer.

"We had over 30 people attend, and it was standing room only. The room actually wasn't big enough. That was quite an eye opener—more of the community than we think wants to be involved in these decisions."

### The community comes out

Dyer's experience mirrors that of many of the other Maine communities that have gone through the Community Heart & Soul process.

After Bucksport's largest employer closed in 2014, the town was determined it would not only survive the shuttering of the paper mill, but would figure out a way to thrive, says town manager Sue Lessard, who began her tenure with the Hancock County town in 2015.

A resident had seen a Community Heart & Soul presentation and gave Lessard one of the nonprofit's brochures. Town council approved funds to get the process started and soon, they'd hired a part-time coordinator. "It's not a government-driven program," Lessard says. "All we provided was money."

The coordinator and a committee of volunteers drove the process, opening up an office in an empty storefront on Main Street, holding block parties to interact with residents, and getting local students to interview members of the community about the things that were important to them about Bucksport.

What came out of the process was a list of more than 80 projects community members wanted to see happen in town and a list of value statements that guide town council to this day. "[The value statements are] posted in our council chamber," Lessard says, "so when we're looking through things sometimes [we ask ourselves] 'Is this



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Bucksport Heart & Soul (Contributed photo)



Gardiner Heart & Soul (Photo by Nancy Barron)

consistent with the values that the community has said are important to it/us?”

And those 80-plus projects aren’t the council’s or town staff’s responsibility, she notes. Part of the Community Heart & Soul process is to bring community members together at the end of the process to approve an action plan, Mark Sherman explains. Often, at that meeting, people can sign up for the projects they’re interested in, and the organizations and businesses from the community offer to spearhead and manage projects, too.

That’s what happened in western Maine, when a network of nonprofits picked up the reins of nearly 90 projects that came out of the Mahoosuc Heart & Soul process.

The towns of Bethel, Greenwood, Newry and Woodstock, and the townships of Albany and Mason partnered together to form Mahoosuc Heart & Soul in 2016. “We were networked together,” says Christine Landes, then the town manager in Bethel and now the town manager in Chelsea. “We wanted to make this region one that people wanted to improve and make it so that it’s attractive and it offers what people want to continue to live here, continue to thrive, continue to visit.”

The Mahoosuc volunteers did lots of small functions to engage the community, and even left out special drink coasters at local bars so that everyone—even visitors going to the region’s ski resorts—could use them to write down what they loved about the area. “It really became a fun project for a lot of volunteers,” she says.

### Making it stick

Once the 18 to 24 month Community Heart & Soul process is completed, that’s not the end. Projects that come out of the process get picked up by community

groups and partners, the value statements developed help inform comprehensive plans, the new connections made become long-term relationships, and those who participated take what they’ve learned into other areas of their lives.

In the coastal Lincoln County town of Damariscotta, it’s been more than 15 years since the town went through the Community Heart & Soul process. The value statements the town created during that process still grace the walls of town hall and continue to drive projects in town, says Steven Hufnagel, executive director of Damariscotta-based nonprofit, Coastal Rivers Conservation Trust.

“The process was really solid and it gave rise to a new way of doing things, and I think that’s continued,” he says. “There’s more reaching out; that’s become the norm.”

Hufnagel was an active participant in the town’s Community Heart & Soul process, and even applies what he learned to his work at Coastal Rivers.

“That public engagement way of thinking has really fed into what we do,” he says. “Where we can understand better what that public interest really is in a more comprehensive and robust way, that makes our work that much more relevant, that much more true to that public nature of the goal.”

While Van Buren is at the beginning of its community engagement process, Luke Dyer is hopeful, that like in Damariscotta and other Maine towns, it’ll have legs. It’s still early days, but things look encouraging. That first community meeting “was a very, very positive meeting,” he says. The goal going forward, he says, is “[Making] sure the community is getting what they want; it’s not just the government saying, ‘Okay, we’re doing this.’”



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# The Municipal Salt/Sand Shed

A small building with a big price tag.

By Janine Pineo

**Fun fact:** For one Maine municipality, its most expensive building is also its least used building. How does that happen?

For Holden, it was a case of bad timing, but there is probably never a good time when the sand and salt shed needs to be replaced.

Regular inspections throughout the year can bring to light emerging problems that possibly mean repairs and not a full-blown replacement. But then there are times when the structure needs to be replaced, a process that takes time for most municipalities, often a couple of years or more and usually depending on the will of the voters. That alone can push the process out even longer.

Sand and salt sheds tend to be vulnerable to heavy snow loads, which can topple the entire structure. Wind can damage not only the roof of a shed, but walls, doors, and ventilation. Add in the corrosive power of salt on metal and concrete and issues can begin at ground level. Damage also can come from the heavy equipment maneuvering in and around the building.

All of that adds up to the unfortunate vulnerability of an important municipal structure protecting thousands of dollars' worth of product that helps keep roadways safe.

The good news is that the Maine Department of Transportation has extensive guidance on sand and salt sheds (located at [www.maine.gov/mdot/csd/sandsalt/](http://www.maine.gov/mdot/csd/sandsalt/)), including tips and checklists, as well as notes on laws governing construction. The DOT encourages municipalities to contact the state right at the beginning when it's determined work needs to happen. "We have plenty of information on building types and their pros and cons, costs, and design features," the site states. "Before you tackle this issue or form a committee to build your facility, call us and we can help you with your planning process and funding."

State law also requires Maine Department of Environmental Protection approval on all site locations with multiple requirements, including proximity to wells. More than one shed has contaminated waterways or private wells, which can end up costing the municipality when it has to correct the situation.

Risk Management Services at the Maine Municipal Association also has documentation to help municipalities assess their structures. In addition to lists of typical hazards for the most common types of shed structures, there is an audit checklist available to use when inspecting the building, noting everything from trusses to concrete to ventilation.



A contractor works on replacing some of the 10,000 screws on Whitefield's sand and salt shed roof.

## 10,000 screws

Whitefield needed to replace 10,000 screws.

"We had an arch that got damaged a few years back," said Yolanda Violette, who is town clerk and administrative assistant to the select board. "That's what started it."

Last June, the Lincoln County town put out a request for proposals involving three areas of its shed, including the screws.

Violette said a contractor initially said the entire structure needed to be replaced at a cost of \$85,000. Further inspection showed the structure was sound but needed longer screws to anchor the roof more firmly.

The RFP also looked to replace a dozen corrugated polycarbonate panels that offer light transmission and two fixed metal intake louvers for air flow.

About the Author: Janine Pineo is a freelance writer from Hudson and regular contributor to *Maine Town & City*, [jepineo@gmail.com](mailto:jepineo@gmail.com).

Violette said they had one bidder on the RFP, with the work finished in December at a cost of just over \$35,000.

It wasn't the only repair the town made on the shed last year. The tracks for the large overhead door were damaged, Violette said, when high winds pushed the tracks inward during what is now called the May Day Storm of 2023. The door itself escaped damage.

"Now we've replaced all the screws," Violette said, solar panels are next on the docket.

The plan, she said, is to buy solar panels and equipment outright to install an array on the shed roof since it has been secured. The town already has panels on the fire station roof.

Whether the town adds solar to the shed roof is in the hands of the voters. The item is on the March town meeting warrant.

### Sun space

This time back in 2007, Lamoine had an open pile of sand and salt. That was about to change.

"When I started, the town stored salt/sand in an open pile and managed to contaminate wells in the neighborhood," said Stu Marckoon, longtime administrative assistant to the Lamoine Select Board. "For several years the plowing contractors had their own private sites for storage, but there were also open piles. It was a poor environmental option for such things."

The Hancock County town decided to construct a sand and salt shed on the site where the pile used to be, with the structure finished in November 2007 at a cost of \$190,000.



Outside of the new Holden sand and salt shed, inside. (Submitted photo)



Washburn and Wade's joint sand and salt shed interior. (Submitted photo)

Sixteen years later, the structure "is in pretty good shape," Marckoon said. "We have an occasional fix up from time to time inside. The plow contractor occasionally whacks a roof truss, and there has been some bowing, but it's been repaired."

The December 18 storm that brought torrential rains and damaging winds to Maine didn't leave the shed unscathed as it "blew a bunch of shingles off," he said, along with some on the fire station.

Next up for the shed is the installation of a solar array coupled with another array on the school. The town sought a power purchase agreement last year when it called for proposals to install heat pumps in municipal buildings. The goal was to cover the town's electrical costs, including those added by the new heat pumps. In 2022, the town was just shy of using 120,000 kWh for the year.

Marckoon said the panels will cover the entire shed roof once they are installed later this year. Between the two facilities, it is expected that the solar installation will generate about 159,000 kWh annually.

### A shared shed

The continuing venture of sharing services between the Aroostook County towns of Washburn and Wade now includes a sand and salt shed (pictured above).

2022 saw the towns' highway departments combined, which was followed by the construction of a new shed to replace the older Wade shed. "Washburn was in dire need of one," said Donna Turner, a Wade selectperson and Washburn's town manager.

Wade's shed was about 30 years old, she said, with some of the trusses in rough shape. It also wasn't in a convenient location, a crucial factor in deciding where to place a new shed.

The new 40 x 146-foot shed had a price tag of just over \$418,000. The cost was split according to the road mileage

within each municipality: \$287,607 for Washburn and \$130,681 for Wade.

The entire structure was from Sanford-based Rubb Building Systems, which specializes in salt storage buildings including foundations.

Turner said it took just a couple of weeks to put up the shed because of the contractor's building system.

The structure is rated for 105 mph winds, Turner said, with a snow load of 110 pounds per foot, adding that no snow collects up there. Plus, there is a warranty on different parts.

Overall, it was cheaper, she said, than a wooden structure.

### A big price tag

Holden's sand and salt shed was about six years in the planning. "We had to do it during COVID, so we paid for it," said Town Manager Ben Breadmore.

The end of the saga played out during 2021 and 2022 when costs for construction supplies skyrocketed and worker shortages spiked.

The Penobscot County town's RFP deadline on architectural/engineering services was mid-January of 2021 and it would be more than a year later when Holden would schedule a special town meeting in April on funding the new shed.

The estimated cost for the building was \$839,615, which would require the town to borrow \$600,000 on a 10-year loan. The remaining amount would come from the town's Municipal Building Review Account.

The 2022 highway report in the annual town report documented the late-summer removal of the old shed, which had deteriorating roof trusses along with problems with the back wall. Once demolition was done, the groundwork began, because the new building was to be erected on the same site.

Holden's new shed is shorter and narrower but taller. It was ready for use by November 2022, getting filled with 2,700 yards of sand for the winter.

Breadmore's memo in the town report for 2022 also noted the completion of the shed. He wrote that the building could hold up to 3,200 yards of material and had an expected life span of 50 years.

For Holden, the new shed is part of its continuing initiative at its town office complex, Breadmore said, doing little updates where needed, making structures look "cohesive" and tackling obvious issues, such as putting nearly all of the power lines on the complex underground because they had been knocked down three times.

The town even had additional conduits run just in case they were needed for future work.

As for the sand and salt shed, Breadmore said preventative maintenance is on the calendar. A special coating has to be reapplied every other year to keep the salt from eating away at the concrete. And the back side of the building has been paved to keep snow away from the base.

"End of day, it's a great project to be done with," Breadmore said. 

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One month after the Presque Isle council named **Tyler Brown** as its next city manager replacing Martin Puckett who retired last October, Brown resigned the position citing personal reasons. Meanwhile, Presque Isle deputy Police Chief **Chris Hayes** will take on the top job permanently. His promotion was effective February 7. Hayes had been acting chief since **Laurie Kelly** retired in early January. Hayes joined the police force in 2007, working his way up through the ranks to the top job.

Former Gardiner wastewater director **Douglas Clark** retired in January. He was hired in 1982 and has served a total of 37 years over two stints: from 1982 to 1999 and from 2014 to 2024. Despite a five-month notice to allow the city to find his replacement, no one who has applied has shown the training and experience to assume the job.



Jared Mills

The Augusta City Council voted unanimously on February 28 to appoint the city's assistant city manager and former police chief **Jared Mills** as the next city manager, succeeding **Susan Robertson** who, after stepping up to serve as city manager since 2021, announced she was planning to retire at the end of March ending a 40-year

career in municipal government. Mills, who was promoted to police chief in 2018 after beginning his career as a patrol officer in 1998, added the duties of assistant manager to his job in 2022 and retired from the chief position in November 2023.

**Tyler Damon** has been named Tremont harbormaster, effective in January. He replaces **Eilon Zboray**, who resigned after four months. Damon, a longtime stern man who won the approval of the waterfront community, was praised for his work ethic and experience on the water.



James Gardner

**James Gardner** will retire on April 30 after serving as Easton town manager for 13 years. His municipal work spans 25 years, beginning as code enforcement officer for the City of Presque Isle. Gardner became interested in managing a town and applied for the manager's job in both Ashland and Washburn in 1998.

After getting offers from both towns, he chose Washburn. In 2005, he took the manager's job in Ashland,

where he served until 2010. Town Clerk Cheryl Clark has been named the new manager after Gardner's departure. Gardner, a former president of the MMA Executive Committee, plans to offer grant writing services to other Aroostook County municipalities.



George Gervais

**George Gervais** has been named director of planning and development for the City of Biddeford, replacing **Gregory Mitchell**. Gervais was the longest-serving commissioner of the Maine Department of Economic and Community Development, a position he held from 2011-2018. As commissioner, he served on more than

20 boards or committees, representing the department. Most recently, Gervais served as founder and president of Focus On It, where he worked with businesses to reach their goals and generate more growth.

The Gouldsboro town council will search for a police chief and public safety director following the resignation of **Patrick McNulty**, who has been on leave for several months to help his daughter and grandsons cope with the loss of his son-in-law to cancer. He told the selectmen the situation was very difficult, and he did not know when he could return to Maine. McNulty, hired in 2021, had been retired for a decade after a 25-year career with the Providence Police Department in Rhode Island. In Providence, he worked as a detective sergeant and supervised the narcotics division. He also worked for the U.S. Drug Enforcement Administration and the FBI, leading a task force focused on public and police corruption. He was named Gouldsboro public safety director last year. During his leave of absence, he stayed in close contact with police officials and traveled to Maine to take care of police business. He told selectmen he will ensure that ongoing investigations and court cases are completed before officially resigning.



Misty Parker

Lewiston assistant director of economic and community development has been hired as the City of Bath's new development director, effective February 23. **Misty Parker** joined the city in 2014 and worked as an economic development specialist and manager prior to her promotion to assistant director in 2022. 🏔️

# TRAINING CALENDAR

Maine Municipal Association & Affiliates

## MARCH

3/20	Wed.	Basic Municipal Budgeting	Augusta - MMA + HYBRID	MMA
3/27-3/29	Wed.- Fri.	MFCA Professional Development Conference	Newry - Sunday River	MFCA
3/29	Fri.	MTCMA 44th Annual Statewide Manager Interchange	Bangor - Hilton Garden Inn	MTCMA

## APRIL

4/2	Tues.	MLGHRA Spring Training	Augusta - MMA + HYBRID	MLGHRA
4/2	Tues.	Elected Officials Workshop	Lewiston - The Green Ladle	MMA
4/3 - 4	Wed. - Thurs.	MTCCA New Clerks Workshop	Bangor - Hilton Garden Inn & Zoom Webinar	MTCCA
4/11	Thurs.	MMTCTA Basic Excise Workshop	Augusta - MMA	MMTCTA
4/18	Thurs.	MMTCTA Accounting 101 Course	Augusta - Civic Center	MMTCTA
4/19	Fri.	MAAO Northern Maine Spring Workshop	Caribou - Northern Maine Development Commission + HYBRID	MAAO
4/19	Fri.	Understanding Diversity, Equity, and Inclusion Immersion Workshop	Augusta - MMA	MMA
4/22	Mon.	MMA For A Day Town Hall	Farmington - Community Center	MMA
4/22-4/23	Mon - Tues.	MWDA Spring Training Seminar	Bangor - Hilton Garden Inn	MWDA
4/23	Tues.	MTCCA Records Management	Augusta - MMA + HYBRID	MTCCA
4/24	Wed.	Women Leading Government Symposium	Augusta - MMA	MMA
4/24-4/25	Wed - Thurs.	MCAPWA Supervisory Leadership in Public Works Program - Part I	Augusta - MaineDOT	MCAPWA

## MAY

5/1	Wed.	Personnel Practices	Augusta - MMA + HYBRID	MMA
5/6 & 7	Mon.-Tues.	Verbal Judo for the Contact Professional - 2 DAY	Augusta - MMA	MMA
5/8	Wed.	MAAO Board of Assessment Review	Augusta - MMA & Zoom webinar	MAAO
5/9	Thurs.	MMTCTA Annual Conference	Bangor - Hilton Garden Inn	MMTCTA
5/13	Mon.	Customer Service Excellence	Augusta - MMA	MMA
5/15	Wed.	PFAS in Maine: Regulatory Updates & How Municipalities Can Take Action	Zoom Webinar	MMA

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## STATEWIDE

The state received good news in January when the annual Attorney General's report on drug overdose deaths showed a 16% decline last year. It is the first such drop since 2018. There were 607 overdose deaths in 2023, down from 723 in 2022. The major reasons cited for the improved number were more treatment programs for users, including telehealth, and more access to the life-saving drug naloxone. In the 10 years from 2013 to 2023, drug overdoses killed 4,648 Mainers, many from fentanyl, one of the deadliest drugs being imported from China and Mexico, among other locations. The use of naloxone, a nasal spray, increased from 1,500 annually in 2020 to nearly 2,500 a year now. Given in time, naloxone can reverse an overdose. The report also showed that nonfatal overdoses declined last year by 7.3%.

## BUXTON

The town's police department is the latest to achieve the prestigious status of state accreditation under the Maine State Police professional standards program. The achievement was reached by meeting the professional standards established by the Maine Chiefs of Police Association, in partnership with the Maine Law Enforcement Accreditation Program. Accreditation means the department has reached "the highest level of professionalism and integrity." The program covers training in proper evidence handling, how to respond to an active shooter incident, and use of force, among other goals. The department started the lengthy process in 2021.

## CARIBOU

When new Mayor Courtney Boma eliminated prayers that have opened the city council meetings since January 2020, councilors balked and reinstated the practice of an invocation or "inspirational thought" which are given by the mayor or a member of the public following the Pledge of Allegiance. While the council put prayer back on the agenda, they did not pursue a policy that would govern praying. Members of the public who participate in the opening prayers are usually clergy from Caribou churches. Boma said she canceled the prayers out of concern over legal issues dealing with the constitutional separation of church and state. At least one councilor called the opening prayer a mistake, especially because the mayor can decree the prayers or remove them from the agenda without council action.

## ELLSWORTH

The city has been named the second-best place in America to own an AirBnB or VRBO business, according to a report by AirDNA, a company that keeps track of vacation rental data nationwide. Last year, Ellsworth ranked eighth. Ellsworth's proximity to Acadia National Park was cited as a main reason business is so brisk in Ellsworth. Although there is a steady demand for vacation rentals in Bar Harbor, the town has regulated the rentals since 2021, pushing investors to Ellsworth as the closest city to Mount Desert Island. Ellsworth was the only Maine municipality to make the list. Presently, there are more than 700 rental properties in Ellsworth, where visitors can enjoy an entire house for as little as \$200 a night, compared to Bar Harbor, where you could rent a room for that price.

## HOPE

Voters have imposed a ban on industrial mining to block mining operations around Crawford Pond. The action followed a six-month moratorium on any mining business, to give residents a chance to develop an ordinance to prohibit mining altogether. The ban passed overwhelmingly at a special town meeting in January. A Canadian firm released plans last year to mine for copper, nickel, and cobalt near the pond, prompting the temporary ban. Small residential mines are not affected by the new ordinance.

## PORTLAND

The state transportation department is seeking bids for a pilot commuter bus service between Portland and the twin cities of Lewiston and Auburn (L/A). The first contract would be for a minimum of two years. Officials hope to attract some of the hundreds of workers who commute to Portland from the L/A region. Among the reasons people commute to Portland include lower housing expenses and the cost of living. The new service would help address the increasing demand for public transit between southern Maine's two largest urban centers, where the population has grown thanks to tourism, new citizens and employment opportunities. The cost of operating the service is estimated at \$2 million a year, with fares ranging from \$6 to \$12 – comparable to fees charged in other areas of Maine and New England. If successful, the state hopes to find a permanent source of income to operate the service. The state will pick up the cost for the trial period.

## SKOWHEGAN

Town leaders have decided to move forward with construction of a second bridge over the Kennebec River, making it a top priority for improving downtown traffic flows despite the likelihood construction is several years away. The downtown location of the bridge, as well as the cost and probable impacts of the project have not yet been studied. Residents must green light the project before the Maine Department of Transportation can commit to a full study of the proposed project. The vote will be held at the June annual town meeting. Construction would be covered by the federal and state transportation departments, without any local dollars being spent. The new bridge project has been considered for over three decades and deemed necessary to divert truck traffic from the downtown and mitigate congestion on the Margaret Chase Smith Bridge that routes traffic on and off the downtown island. The new bridge would also benefit economic activity and public safety issues, officials said.

## SOUTH PORTLAND

An online error overstating non-property tax revenue resulted in a \$4 million budget shortfall for the year ending June 30. A hiring freeze has been imposed for some jobs, and with other measures, has reduced the shortfall to \$1 million. The mistake caused staff to set the mil rate at \$14.14 rather than \$14.69, resulting in the shortfall in property tax collections. The impact on critical services will be minimal, officials said. The delay in filling critical positions is also expected to have a minimal effect on public services. 🏠



MMA: <https://www.memun.org/Media-Publications/MMA-Podcast>

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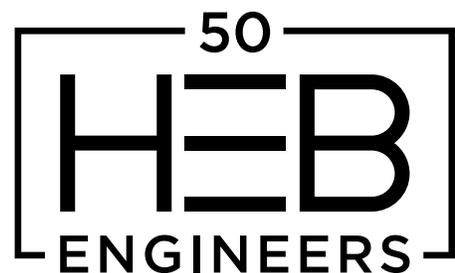
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## HELP FOR WRITE-IN CAMPAIGNS

**Question:** A local write-in candidate has asked for guidance on how to campaign, as she is known around town by a nickname. She asked if she could tell voters it's okay to write her nickname on the ballot. How should our clerk help?

**Answer:** For many reasons, the clerk should not advise a candidate whether write-in votes using a nickname, misspelled name, or without a "Jr.," or "Sr.," "II" or "III," will be counted. In fact, we strongly advise municipal clerks not to offer candidates any advice beyond suggesting that they are safest campaigning with the candidate's full legal name. Candidates should be directed to consult their own attorney for additional guidance.

Although it seems harmless to educate candidates on the "voter intent" rules that will likely guide the officials counting ballots, the candidate will surely perceive this information as assurance from the clerk that certain votes will or won't be valid (this is, of course, why the question is asked).

However, neither the municipal clerk nor other staff members have any control over the determination of individual votes, which will be the responsibility of the ballot clerks and the moderator, or will be determined by others in the event of a recount or court appeal. Write-in votes are generally reviewed on a ballot-by-ballot basis considering not only the words on the ballot but also circumstances such as whether the voter might have intended to vote for a person with a similar name. The candidate is likely to blame the clerk if the candidate is not elected because write-in votes predicted to count as votes for the candidate are determined to be invalid.

Moreover, due to the municipal clerk's election administration responsibilities, the clerk must take care to act impartially in all respects and avoid any appearance of bias. Providing guidance or assurance to a candidate could be misconstrued by the public and other candidates as support for the candidate and as an appearance of bias – even if that was not the clerk's intention.

For all these reasons, we advise clerks not to advise or assure a candidate whether a hypothetical vote will or won't be counted.

For more on write-ins, see MMA Legal Services *Town Meeting & Elections Manual*, available on our website ([www.memun.org/legal](http://www.memun.org/legal)) (By S.F.P.)

## LIABILITY WAIVERS

(Updating the November, 1999 Legal Notes)

Municipalities routinely require participants in municipal activities such as school and recreation programs to sign a waiver releasing the municipality and its staff from liability for personal injury or property damage resulting from the event. Generally, liability waivers are enforceable in Maine, but they must be carefully drafted and, even so, may not completely preclude liability.

On a few occasions, Maine courts have addressed liability waivers and related indemnification clauses (agreements to "hold harmless," or reimburse costs). For example, in *Lloyd v. Sugarloaf Mountain Corp.*, 2003 ME 117, a cyclist injured during a mandatory practice run for a mountain bike race sued both the sponsor and the property owner for negligence. Maine's Law Court held that a release the cyclist had given the sponsor before the race was broad enough to apply to the practice run and was sufficiently clear and specific to extinguish any liability of the sponsor and ski area for negligence. Moreover, the included indemnification clause was enforceable as it "could not have been clearer."

Yet, in *Doyle v. Bowdoin College*, 403 A.2d 1206 (Me. 1979), a parent signed a statement on behalf of her child "assuming all risk" of injury or damage arising out of his participation in a hockey clinic. The Court held that this was legally insufficient to release the college from liability for a resulting injury to the child because the agreement did not "expressly spell out with the greatest particularity the intention of the parties contractually to extinguish negligence liability." The indemnification provision was similarly deficient. Even if the agreement had been valid, the Court said it would not have been binding on the child because a parent or guardian cannot waive a child's or ward's claim. Important lessons can be drawn from these court decisions:

- First, a liability waiver must describe fully and precisely the claims being released. For example, in *Hardy v. St. Clair*, 1999 Me 142, the Court held that a raceway pit crew member's negligence claims were barred even though his injury did not arise directly from the racing event, because the release he had signed broadly waived liability for injuries "arising out of or related to" the event, extended to "all acts of negligence," and stated it was "a complete and unconditional release of all liability to the greatest extent allowed by law."

- Second, waivers of a party’s own negligence are disfavored and strictly construed against the party seeking to avoid liability. Therefore, they must be clear and unequivocal, “expressly” stating “with the greatest particularity” the intention to extinguish negligence liability. For the specific verbiage upheld in *Lloyd* see “More on Liability Waivers & Recreational Activities,” *Maine Townsman*, Legal Notes, December 2003.
- Third, a release is a contract that can only bar claims from a party to the agreement; the signatory to a release cannot waive the claims of others (unless heirs and assigns). Because a parent or guardian cannot waive the claim of a child or ward, both the minor and parent/guardian should be required to sign a release related to the minor’s participation in an event (even though minors are probably not legally competent to enter contracts). Also, a waiver won’t bar a “loss of consortium” claim by the person’s spouse. See *Steele v. Botticello*, 2011 Me 72.
- Fourth, consider adding a defense and indemnification clause under which the signatory agrees to defend and indemnify the sponsor of the event against claims by the signatory or third parties (although the promise is only meaningful if the signatory has assets). Like waivers, indemnification clauses must also expressly and unambiguously state the intentions of the parties.
- Fifth, a waiver protecting a party from liability for its own negligence may be susceptible to challenge on public policy grounds. To date, Maine’s Law Court has stated that such agreements do not violate public policy. However, in *Lloyd*, the Court discussed several factors that courts outside Maine have relied on to void waivers on public policy grounds, including whether the activity is a necessity or public service, or whether the releasee has expertise to control hazards or remove risks. Although the Court did not find those factors present in *Lloyd* (and didn’t say how it would rule if they were present), the issue should still be evaluated with legal counsel during development of a release.
- Lastly, there is no “one-size-fits-all” liability waiver. A waiver should be tailored to a particular situation and reviewed by a competent attorney before it is placed in service, as it will be strictly construed in favor of claimants. (By *S.F.P.*)

## MUNICIPAL CALENDAR

APRIL 1 – Status and value of property for property tax assessment purposes is fixed on this date (36 M.R.S. § 502).

**BY APRIL 15** – Monthly/quarterly/semi-annual expenditure statement/claim for General Assistance reimbursement to be filed via online portal, faxed to (207) 287-3455, emailed to GeneralAssistance.DHHS@maine.gov, or sent to DHHS, General Assistance Unit, #11 SHS, Augusta, ME 04333-0011 (22 M.R.S. § 4311).

**APRIL 15** – Patriot’s Day, the third Monday in April, is a legal holiday (4 M.R.S. § 1051).

**ON OR BEFORE APRIL 30** – Deadline for employers required to submit quarterly withholding taxes to file return and remit payment to the State Tax Assessor (36 M.R.S. § 5253).

**BY APRIL 30, 2024** – Project and Expenditure Reports for American Rescue Plan Act (ARPA) Funds are due to the U.S. Treasury .



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## REVENUE SHARING: NO LOCAL APPROPRIATION REQUIRED

**Question:** Some residents have asked why our municipal budget contains no warrant article addressing state-municipal revenue sharing funds. Should we have one?

**Answer:** No. In this case, no local appropriation is necessary or advisable.

State law requires that state-municipal revenue sharing funds (30-A M.R.S. § 5681) only be used to reduce the municipal tax commitment. The law also specifically directs the municipal property tax assessors to subtract the municipality's projected revenue sharing funds from the total amount to be assessed in the property tax commitment. See 36 M.R.S. § 714. No local appropriation is necessary because the obligation to deduct these funds from the tax commitment is statutory and independent of the local budget process.

State revenue sharing funds are one rare exception to the general rule that all revenue received by a municipality must be appropriated to a purpose by the municipal legislative body before it may be spent. This rule also applies to virtually all funds received from the state even if a state law limits how those funds may be used by the municipality (e.g., local road assistance funds from the Maine Department of Transportation).

Revenue sharing funds are distributed by the 20<sup>th</sup> of each month to each municipality pursuant to a formula based on the municipal population, state valuation and tax assessment. To assist municipalities, by April 15<sup>th</sup> of each year the State Treasurer posts projected revenue sharing distributions for the upcoming state fiscal year on the Treasurer's website ([www.maine.gov/treasurer/revenue-sharing](http://www.maine.gov/treasurer/revenue-sharing)).

County taxes are another special situation where no local appropriation is necessary. See "County Taxes: No Local Appropriation Required," *Maine Town & City Legal Notes*, June 2022. (By S.F.P.) 🏡

## MMA for A Day Town Hall

On Monday, April 22, at the Farmington Community Center, located at 127 Middle Street, in Farmington, the Maine Municipal Association will host the inaugural MMA For A Day Town Hall. The event is open to MMA members at no cost and will be held from 2:30 to 7:30 p.m.

During the session, participants will have an opportunity to mingle with fellow municipal officials from around the area, gain invaluable insights into MMA initiatives and programs, engage directly with our dedicated leaders and staff to address your needs and concerns, and participate in the Maine Freedom of Access and Right to Know training. A light dinner will also be available.

For more information about the event, including how to register, please visit the event website at <https://www.memun.org/Training/mma-for-a-day-town-hall>.

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# Join the Maine Municipal Association's Education & Training Advisory Council. Your Opportunity to Shape Municipal Training and Professional Development!

The Maine Municipal Association (MMA) is excited to announce the call for nominations for our Education and Training Advisory Council – a pivotal initiative tasked with supporting and advising MMA on ongoing municipal education and training needs across the state.

## Why Join the Advisory Council?

The Advisory Council plays a crucial role in shaping the educational and training landscape for Maine's municipal workforce. By joining, you'll have the opportunity to influence educational and training programs for municipal officials, ensure that MMA's education and training programs remain responsive to members' needs, and foster collaboration and partnerships that will strengthen training programs. In 2023-2024, the Advisory Council has focused on development of a municipal management and leadership training program and the creation of a strategy for MMA's support in municipal workforce development and recruitment.

Learn more about the Advisory Council, its composition, and functions here on our website.

<https://www.memun.org/News/join-the-maine-municipal-associations-education-training-advisory-council>

## Who We're Looking For:

We invite ALL municipal elected officials, appointed officials, and employees from MMA member municipalities to nominate themselves for a two-year term beginning on July 1, 2024. We are particularly interested in individuals who fall into the following categories:

- Elected municipal officials;
- Early career professionals with five years or less of municipal experience;
- Town or city managers and administrators;
- Front-line supervisors;
- Town or city clerks.

“It's been an honor to serve on this Council! To feel like I'm 'making a difference' in spreading the word on the rewards of being in municipal government is very enlightening!”

-Tammy Sobiecki, Program Coordinator, Maine Local Roads Center

## Nomination Details:

If you're ready to take on this exciting opportunity, submit your nomination by Friday, April 19, 2024, to Peter Osborne, MMA Director of Educational Services, via email at [posborne@memun.org](mailto:posborne@memun.org) or by U.S. mail to: Peter Osborne, c/o Maine Municipal Association, 60 Community Dr, Augusta, ME 04330.

## Please include:

- A brief letter of interest outlining your motivation for serving on the Council; your relevant skills and experiences; and which of the above categories apply to you (if any); and
- A letter of support from your direct supervisor, or selectboard chair, mayor, or council chair in the case of a manager. A letter of support is not required for elected officials.

**Appointment Process:** The nominating committee will review all nominations and recommend candidates for the Advisory Council to the MMA Executive Committee, who will decide on appointments at their June 2024 meeting.

**Connect with Us:** For any questions or additional information, feel free to contact Peter Osborne by email ([posborne@memun.org](mailto:posborne@memun.org)) or phone (207-623-8428 x2390).

Your commitment to municipal training and professional development can make a lasting impact. Join the MMA Education & Training Advisory Council and be a part of shaping Maine's municipal future!



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