

# Maine Town & City

The magazine of the Maine Municipal Association

December 2021

## Preview of the 2022 Legislative Session

Housing and law enforcement  
initiatives abound

### ALSO IN THIS ISSUE

Legislature Directs Studies of  
Municipal Issues

A Farewell Message from  
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# Maine Town & City

December 2021 | Volume 83 | Issue 11

The Magazine of the Maine Municipal Association

## FEATURED STORY | 7

### Legislature to Reconvene in January



*Although the second session is commonly known as the "short session," the Legislature's to do list is long. In just over four months state lawmakers will have to finally decide the fate of carryover legislation, newly submitted bills and the recommendations generated by study groups and commissions.*

#### MMA Senior Staff Attorney

*Richard Flewelling provides insight as to how the passage of the Right to Food constitutional amendment will impact municipalities. Spoiler alert... it is currently impossible to predict the impacts.* **Page 33**

**ABOUT THE COVER:** Ben Thomas, MMA's website and social media editor, captured the spirit of the holidays in downtown Westbrook.

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## Taking Time to Study Outcomes

*Legislative study was all the rage this fall. The question remains: will outcomes result in the formulation of needed state/municipal partnerships or the erosion of home rule authority?* **Page 13**

## Farewell to Our President

*In spite of the challenges associated with the ongoing pandemic, James Gardner, Jr., Easton Town Manager – and outgoing MMA President—praises municipal leaders for their commitment to community.* **Page 5**

## Dogs Need Services Too

*Read how local ingenuity, frugality, and elbow grease helped this northern Maine community build a highly rated dog park.* **Page 19**

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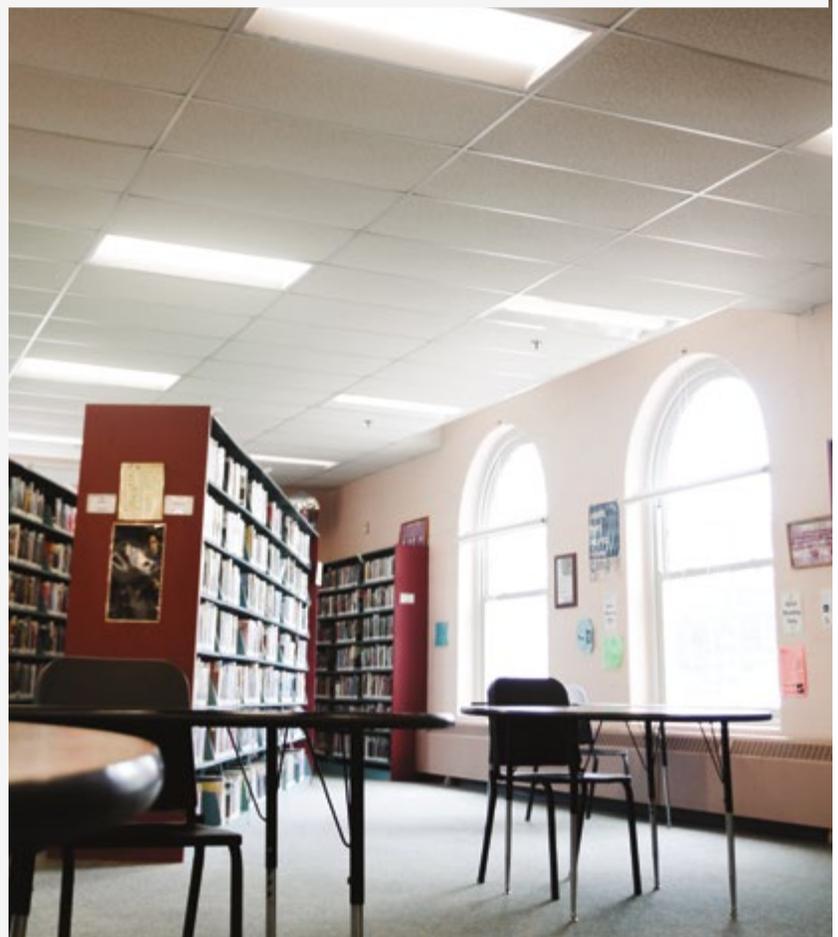
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## A MESSAGE FROM MMA

BY JAMES GARDNER, JR. / PRESIDENT

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### Thank you: a farewell message from MMA President

When on Jan. 1 of this year I officially took hold of the reigns as the President of MMA, it was hard to imagine that mask mandates, variants, vaccination pleas, boosters and pandemic-related hospitalizations would still be a thing. Undoubtedly, the pandemic that has plagued our communities, residents and visitors for 21 months has had adverse impacts. Many community celebrations, programs, and activities, including MMA's annual convention, were either scaled back or cancelled. The toll borne by our first responders has made it more difficult to fill growing vacancies in our municipalities. Concerns over the pandemic's impact on health has reduced the number of volunteers willing to give back to their communities.

Despite these challenges, our communities continue to thrive. Due to hard work, commitment, and ingenuity, local leaders have many accomplishments to celebrate.

Throughout the state, community leaders are working together to provide shared services, because "it's the right thing to do." Municipal officials in the smallest communities are discussing investment in public infrastructure to revitalize downtowns. Younger residents are serving on committees geared toward advancing important public policies, ranging from efforts to prepare towns and cities for the impacts of climate change to ensuring that services funded by property taxes address the needs of all residents. With the election of Mayor Deqa Dhalac, the residents of South Portland have illustrated the importance diversity plays in our continued successes and future growth and vitality.

Change was afoot at MMA as well. As a result of the retirement of its executive director in June, MMA's Executive Committee was tasked with filling the vacancy. After a five-month search, we were fortunate to hire Catherine Conlow as MMA's executive director. She has hit the ground running. In just four months, Cathy helped organize and lead a two-day executive

committee workshop, held in Presque Isle, and guided the executive committee through the development of a responsible budget that will ensure members receive the services necessary to support their work.

This year the relationship between MMA's executive committee and Governor Janet Mills and her administration has continued to grow stronger. As a result, over the next several years communities and state agencies will partner to address issues of statewide significance, including economic development, climate change and housing shortages.

MMA is fortunate to have staff that is committed to its members. As I've stated in the past, the "backbone of the Maine Municipal Association is its staff." Our collective accomplishments would not have been possible without the support and dedication of the staff, executive committee, our 483 member communities, and affiliate groups. I am in awe of your work and appreciative of all your contributions.

Serving as MMA president also provided the opportunity to meet and nominate Sarah Dubay, Bangor City Councilor, to the executive committee. Her passion and excitement for local government service was evident and welcomed. Sadly, Sarah passed away last month. She will be dearly missed by her family, friends, the residents of Bangor and the executive committee.

A heartfelt thank you is owed to Laurie Smith, Sophia Wilson, Perry Ellsworth, Dana Wrigley, Sr., and William Thompson for the nomination to serve as the Association's president. You were right! This year did provide me with the opportunity to set MMA's course for years to come. I greatly appreciate your trust and support.

Again, thank you for the opportunity to serve as the 2021 President of the Maine Municipal Association. It has been an absolute honor.

Happy holidays to you all. ■

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# Legislative Preview... Big Issues in the Wings

By Kate Dufour, Director, State & Federal Relations, MMA

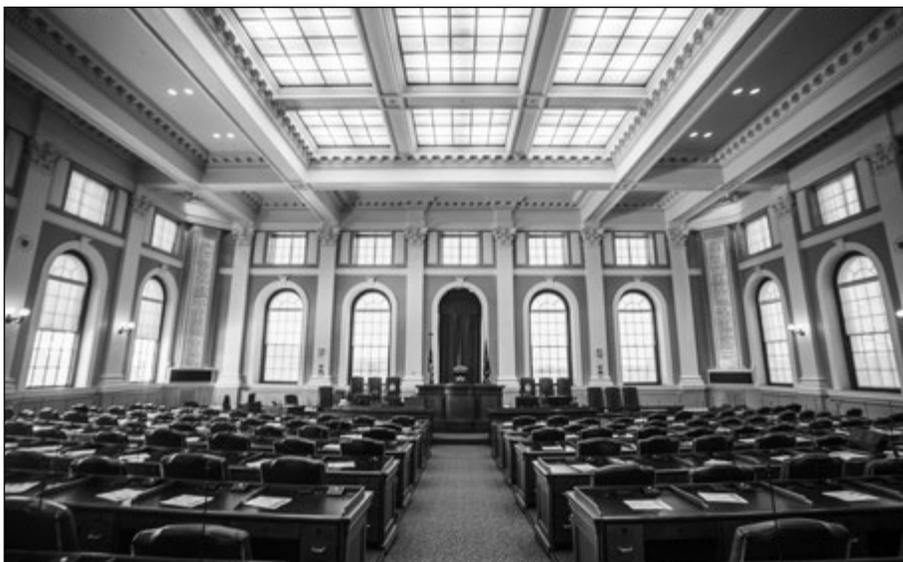
As municipal leaders faced the unprecedented challenges associated with protecting residents, addressing workforce shortages, and finding creative ways to deliver much needed services amid a relentless public health emergency, state policymakers delivered on the promise of honoring commitments to municipalities and property taxpayers.

Via the adoption of an amended version of Governor Janet Mills' FY 22 - FY 23 General Fund budget, in FY 22 the state is funding 55% of the cost of K-12 education as calculated by the Essential Programs and Services model. This level of investment reduces the minimum property taxpayer share by \$70 million over the previous year. The budget also increases the amount of state sales and income tax revenue distributed to municipalities under the revenue sharing program to 4.5% in FY 22 and 5% in FY 23. Finally, reimbursement under the homestead exemption program will increase by 3% annually until the state is fully funding the program.

## What To Expect in 2022.

When they reconvene in January, lawmakers will face three hefty "to do" lists. Over the course of the second session, the Legislature will have to finally decide the fate of several carryover bills and newly submitted emergency legislation, as well as determine what task force, working group and commission recommendations to implement.

What follows are brief descriptions of the issues MMA will monitor during the upcoming session. As you will read, there is much to be decided before the legislature is statutorily scheduled to adjourn on April 20, 2022.



## Carryover Bills.

As described in the August/September edition of this publication, during the first session it is common for committees to carry over bills needing more work and study into the second session. Upon its adjournment in July, the legislature carried nearly 50 initiatives of municipal interest into 2022 for more discussion, which includes bills to:

- Provide certain public employees with a right to strike (LD 555).
- Increase the veteran's exemption to \$10,000 and reimburse municipalities for 100% of the lost property tax revenue associated with the expanded exemption (LD 576).
- Increase state reimbursement for benefits provided under the General Assistance program to 90% (LD 910).
- Require the state to share 5% of adult marijuana sales and excise

tax revenue with host municipalities (LD 1195).

- Allow for an accessory dwelling unit to be located on the same lot as a single-family dwelling unit (LD 1312).
- Require law enforcement officers to obtain college degrees (LD 1447).
- Repeal the one-year ownership eligibility requirement under the homestead exemption program (LD 1482).
- Increase the property taxes used to fund county jail operations (LD 1654).
- Set affordable housing goals for communities to meet and streamline the local process for permitting construction of affordable housing (LD 1673).

Since these bills have already received public hearings, it is unlikely that members of the public will get a second opportunity to raise concerns

before committees of jurisdiction. For this reason, municipal officials are encouraged to keep an eye out for MMA's Legislative Bulletin which is published on Fridays during session, as well as electronic action alerts from the State and Federal Relations team for updates on these initiatives. With respect to these bills, connecting with members of the legislature in advance of chamber votes will be vital.

**New Legislation.**

Unlike a first session where legislators are allowed to submit an unlimited number of bills for debate, the second session is reserved for emergency legislation only. Since the definition of an emergency is in the eye of the beholder, proposed second session bills must receive approval from at least six legislators on the 10-member

Legislative Council, which includes the majority and minority leaders in the House and Senate.

This year legislators collectively submitted 330 bill requests thought necessary to remedy an emergency. Of the total, 150 were greenlighted by the council.

At the time of publication, only a few bills had been printed with the remaining proposals described merely by their titles and brief summaries. Based on a limited review, it appears that over a dozen bills may have an impact on municipal government.

One of the emergency bills in the mix is being advanced by Rep. Thom Harnett of Gardiner at the request of municipal officials. The bill, LD 1772, seeks to amend the recently enacted remote meeting law to provide councils and boards greater flexibility in

determining when it is in the best interest of the community to conduct its business via electronic means.

Other bills of potential municipal interest are listed in a sidebar to this article (pg. 9) and a full list of the bill titles can be found on the Revisor of Statute's website ([legislature.maine.gov/ros](http://legislature.maine.gov/ros)).

As is the case with all legislation, once the bills are finally printed, the Legislative Policy Committee (LPC) will convene to establish MMA's positions on proposals of municipal interest. Local officials are urged to reach out to LPC members to provide feedback to ensure our positions accurately represent the collective municipal perspective. A list of LPC members and contact information can be found on the Legislative & Advocacy section of MMA's website, [www.memun.org](http://www.memun.org).

**Study Recommendations.**

While we don't know precisely how new emergency legislation will impact communities, study bill recommendations are beginning to emerge. Of significant interest to municipalities are efforts to study: (1) how land use and zoning ordinances impact the development of affordable housing; (2) the municipal maintenance of discontinued roads; (3) the process and costs associated with complying with the state's newly enacted traffic stop information collection mandate; (4) the process used to issue concealed weapons permits in communities without law enforcement services; and (5) municipal regulation of timber harvesting activities. A separate article published in this edition of the magazine describes these study efforts.

For more information on carry-over bills, please review MMA's LD List which is also posted on the Advocacy section of MMA's website. As new legislation is printed, descriptions of the new bills will also be added to the LD list. More in-depth descriptions of the task force and working group recommendations will be included in the Legislative Bulletin, which the Association will resume printing in mid-January.

In the meantime, if you have any questions about the upcoming session, please do not hesitate to contact MMA's State and Federal Relations Department at 1-800-452-8786. ■

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# Second Session (2022) Bills of Municipal Interest

As described below, it appears that over a dozen of the new bills authorized to be presented to the Legislature in 2022 could impact municipal operations. Complete descriptions of these initiatives will be included in MMA's LD List once the bills are printed and available for public review.

## Criminal Justice & Public Safety

*An Act To Make Interfering with an Election Official a Class C Crime.* This bill would make it a Class C crime to intentionally interfere by force, violence or intimidation with any public official conducting a federal, state or municipal election.

*An Act To Establish the Provision of EMS as an Essential Service.* This bill would establish the provision of emergency medical service as an essential service.

*An Act To Require Law Enforcement Agencies to Retain Serial Numbers of Stolen Firearms.* This bill, LD 1799, would require law enforcement agencies to retain a permanent record of the serial number from a stolen firearm if the number is provided to the agency.

## Energy, Utilities & Technology

*An Act To Prohibit a Regulated Utility from Disconnecting Service to a Designated Public Safety Facility without 60 Days' Advance Notice.* This bill would prohibit a regulated utility from disconnecting a designated public safety facility without 60 days' advance notice in writing, as well as the written permission of both the Department of Public Safety and the Public Utilities Commission.

*An Act To Support Municipal Broadband Infrastructure through Incentives and Competition.* This bill would incen-

tivize municipal broadband to lower costs and provide competition in the market.

## Environment & Natural Resources

*An Act To Allow Exemptions to the Height Limitations under the Shoreland Zoning Law.* This bill would allow exceptions to the height limitation under the shoreland zoning laws for developments located in the floodplain to help residents access federal insurance.

## Innovation, Development, Economic Advancement & Business

*An Act To Address Staffing Shortages in Critical Public Safety Jobs.* In part, this bill, LD 178, would allocate \$5 million to fund a student loan forgiveness program for local law enforcement officers, firefighters, paramedics, dispatchers and public health workers.

## Judiciary

*An Act To Facilitate Data Collection in Order To Eliminate Profiling in Maine.* This bill would bring diverse stakeholders together, including all levels of law enforcement, to address barriers, including funding the local costs of infrastructure, training, software and hardware, associated with the racial profiling data collection mandate placed on law enforcement via adoption of Public Law 2021, Chapter 460 (LD 132).

*An Act To Amend the Remote Meeting Law in Maine's Freedom of Access Act.* This bill, LD 1772, would amend the recently enacted remote meeting authority law to provide municipal

councils and boards greater flexibility in determining when it is in the best interest of the community to conduct its business via electronic means.

## Labor & Housing

*An Act To Help Alleviate Maine's Housing Shortage through Changes in Zoning Laws.* This bill would prevent municipalities from adopting land use ordinances that discriminate based on sources of income or rely on unreasonable permit and impact fees, as well as legalize accessory dwelling units, limit parking requirements, require training for planning board members and create a study commission.

## Transportation

*An Act To Exempt Specialty License Plates Already in the Process of Being Created from the Moratorium on the Approval of Any New Motor Vehicle Registration Plates.* This bill would exempt specialty plates that were already in the process of being created from the two-year moratorium on special plates that took effect on July 14, 2021.

## Veterans & Legal Affairs

*An Act To Modernize Maine's Adult Use Marijuana Laws.* This bill would allow certain marijuana store and cultivation facility licensees to deliver adult use marijuana throughout the state, including to municipalities that have not adopted an ordinance authorizing the operation of an establishment.

*An Act To Update and Clarify the Maine Medical Use of Marijuana Act and Provide for Greater Transparency.* This bill would make changes to the Maine Medical Use of Marijuana Act to make the law clearer and more specific and reduce the need for interpretations in rulemaking. The bill would also require public access to sales data related to Maine's medical program transactions. ■

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## A MESSAGE FROM MMA

BY CATHERINE M. CONLOW / EXECUTIVE DIRECTOR

Last month, Sarah Dubay, a member of the Bangor City Council and the MMA Executive Committee passed away after a courageous battle with cancer. Although I had known and worked with Sarah for several years, it was only recently that I had the opportunity to engage more closely with her through the Bangor City Council and the MMA Executive Committee.

Early in her tenure as a city councilor, Sarah described herself as “non-confrontational.” It is not surprising that a new councilor would bring this up as the concept of “confrontation” has developed into more of a concern to newly elected council members, staff, and volunteers. I quickly learned that Sarah, like so many other public officials, was not afraid to take on the difficult issues, but she emphatically believed in the need for collaboration and compromise.

Once less common in local government, hostility, incivility, and confrontation have made their way into municipal meetings, committees, and discussions. The most challenging aspect of confrontational discourse is the chilling effect it has on people’s desire to serve in elected, volunteer or paid positions within local government.

Chris Gates, former Director of the National Civic League, spoke to the MMA membership at our annual convention held in September about the need to restore civility in government. Specifically, he discussed that community members have “shared values,” and that our leadership should look to “bridge divides.” He went on to add that bridging divides encompasses the concept of shared values combined with action. The message he impressed upon attendees is that to

simply stand for an ideal isn’t enough but that you must commit to the difficult process of working together to make it a reality.

A strong councilor and board member is not one who seeks confrontation, but rather one who understands shared values, has an authentic desire to collaborate and a willingness to roll up their sleeves and put in the work. That was Sarah Dubay. For her, the best

interest of the community or organization she served was paramount and that enabled her to intently listen to all sides before a decision was made. It was Sarah’s commitment to the authentic belief in shared values that made her an excellent city councilor, member of the MMA Executive Committee, and highly pursued by many other boards and committees.

Over the past decade, I have heard several col-

leagues echo Sarah’s concern—that community-based problem solving, and collaboration have been replaced with confrontation. As we end yet another strange and polarized year in local government, it is more important than ever to remember that regardless of political party, religious beliefs, race, color, or gender identification, we all share similar basic values. Among these are a desire for a safe community, good schools, and a population of healthy residents. It is up to us all to renew our commitment to local government with a focus on shared values and civility. If local government is to attract and retain quality public officials, both elected and appointed, it is imperative.

As we enter the holiday season, the MMA staff want to wish you, your families and your communities peace, health, and happiness for the coming year.



Sarah Dubay

# Fiscal Survey Portal Closes on December 31...Act Now!

By Neal Goldberg, Legislative Analyst, State & Federal Relations, MMA

MMA's advocacy depends on the contributions of municipal officials in many ways, one of which is participation in the annual Fiscal Survey. The data collected from this survey strengthens MMA's work in countless manners.

In a broad sense, fiscal data is an invaluable description of just how much municipal revenue is directed towards state priorities and mandates. Often when a new state program or policy is proposed, MMA uses the Fiscal Survey to emphasize exactly where and how the additional outlay will affect funding for other needed services. The survey data also highlights that a large portion of municipal revenue is statutorily committed to funding the local share of K-12 education and county government. Without statewide evidence to advocate for the contrary, policymakers will look towards the property taxpayers to fund new priori-

ties and mandates.

In a topical, and still crucial sense, the fiscal survey data helps MMA advocate on specific policy issues. In just the last year, fiscal data has been used to promote solid waste and recycling programs by demonstrating the unmanageable problem collection and disposal places on communities, explain the fiscal burdens associated with maintaining local roads with minimal state aid and in excess of locally collected excise tax revenue, and illustrate the cost of funding public safety services as compared to other municipal activities. These examples are but a smattering of topics on which MMA advocacy staff use fiscal survey data to help promote policies that benefit its members.

Therefore, it is vital that municipal officials take the time to participate in the FY 2021 Fiscal Survey before the portal closes on Dec. 31, 2021.

To that end, this will also be the final year MMA utilizes the current portal for collecting fiscal data. After three years of declining participation, MMA is reevaluating options with the U.S. Census Bureau to devise an approach that is convenient for our members, meets the requirements of the bureau, and still provides MMA with the information necessary to advocate for municipal government interests. Stay tuned for the next chapter.

Thank you to the dozens of municipalities that have already participated in this year's survey. For those that have not done so, it would be greatly appreciated if you could make time to participate and support the ongoing effort here at MMA. Finally, if you have questions about how your fiscal data is used or need assistance completing the survey, please contact Neal Goldberg at [ngoldberg@memun.org](mailto:ngoldberg@memun.org). ■



## Meet Our Attorneys

### Jonathan A. Pottle

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

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# Vacancies on MMA's Legislative Policy Committee

By Laura Ellis, Advocacy Associate

MMA is looking for municipal officials interested in filling seven vacant seats on the 70-member Legislative Policy Committee (LPC). The primary role of the policy committee is to review and establish the Association's positions on legislation of municipal interest debated by the Maine State Legislature. The current term will end on June 30, 2022, at which point a new election will be conducted for the 2022-2024 term.

The following LPC seats, which are based on the state's 35 Senate Districts, are currently vacant:

**Senate District 1** representing Alagash, Ashland, Caribou, Castle Hill, Caswell, Cyr Plt., Eagle Lake, Fort Kent, Frenchville, Garfield Plt., Grand Isle, Hamlin, Limestone, Madawaska, Mapleton, Masardis, Nashville Plt., New Canada, New Sweden, Perham, Portage Lake, Saint Agatha, Saint Francis, Saint John Plt., Stockholm, Van Buren, Wade, Wallagrass, Washburn, Westman-

land, Winterville Plt., Woodland.

**Senate District 4** representing Abbot, Alton, Athens, Atkinson, Beaver Cove, Bowerbank, Bradford, Brighton Plt., Brownville, Cambridge, Charleston, Detroit, Dexter, Dover-Foxcroft, Garland, Greenville, Guilford, Harmony, Hartland, Kingsbury Plt., LaGrange, Lake View Plt., Medford, Milo, Monson, Palmyra, Parkman, Ripley, Saint Albans, Sangerville, Sebec, Shirley, Wellington, Willimantic.

**Senate District 8** representing Bradley, Brewer, Bucksport, Burlington, Castine, Clifton, Dedham, Eddington, Great Pond, Holden, Lincoln, Lowell, Orland, Orrington, Penobscot, Verona Island.

**Senate District 15** representing Augusta, China, Oakland, Sidney and Vassalboro.

**Senate District 24** representing Brunswick, Freeport, Harpswell, North Yarmouth and Pownal.

**Senate District 33** representing Cor-

nish, Limerick, Newfield, Parsonsfield, Sanford, Shapleigh and Waterboro.

**Senate District 35** representing Eliot, Kittery, Ogunquit, South Berwick, York and part of Berwick.

**Eligibility.** Any elected or appointed municipal official (e.g., selectperson, councilor, planning board or board of appeals member, assessor, manager, clerk, treasurer, road commissioner, etc.) is eligible to serve on the LPC.

**Meetings.** The LPC meets once each month during the legislative session, with meetings typically held on Thursday afternoons. The LPC is chaired by the MMA Vice President and operates as a legislative body – somewhat similar to the manner in which a town meeting operates.

**For More Information.** If you have any questions or are interested in filling one of the vacancies in your LPC/Senate District, please contact Laura Ellis at [lellis@memun.org](mailto:lellis@memun.org) or by calling 1-800-452-8786. ■

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Kathleen Bort	Josh Cohen	Shawn Desrosiers	Alex Heddingor	
Christopher Britton	Alice Collins	Buck Donovan	Peter Hoffman	
Richard Brittain	Debra Conwell	Matthew Filio	Robert Jones	
William Brunel	David Conwell	Vacancy Five	Corinne Katcher	

# Legislature Directs Studies of Municipal Issues

*Housing and law enforcement top the list.*

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

During the first session, legislative committees often direct interested parties to convene over the summer and fall to study proposals in greater detail and provide recommendations for consideration when committees reconvene the following January. The 2021 session saw nearly two dozen issues of municipal interest slated for more study.

Topping the list were directives to examine the impacts local zoning has on the development of affordable housing, the process for issuing concealed weapons permits and the perennial discussion as to whether discontinued roads should be maintained at public expense.

**Housing & Zoning.** The foundation of all housing study bills, Speaker Ryan Fecteau's Commission to Increase Housing Opportunities in Maine by Studying Zoning and Land Use Restrictions (LD 609), directed the commission's 15-members to develop solutions to increase access to affordable housing in all Maine communities by addressing hurdles associated with local zoning. A sidebar to this article (p. 18) provides a list of the recommendations the Labor and Housing Committee will consider in 2022.

Throughout the course of seven meetings, the commission discussed proposals to eliminate parking space mandates, reduce density requirements and allow for the construction of accessory dwelling units on all lots zoned for single family use. Although the commission's recommendations provide suggestions for change, the details necessary to accurately assess impacts on municipal regulatory authority are not available.

However, based on the conversations to date, it is likely that mu-

nicipalities will be called upon by the Legislature, even mandated, to amend related ordinances to provide for more inclusive zoning. Some of the recommendations being advanced by the commission are supported by several municipal officials, including those requiring communities to amend or adopt ordinances to eliminate exclusionary housing practices. For example, municipalities could be prohibited from adopting ordinances that restrict development to single-family residences only. From the municipal perspective, ensuring that a diverse group of individuals can reside in any Maine community is necessary for ongoing economic development and vitality.

To the extent that commission members disagree, it is with respect to the limits placed on local regulatory control. Some members of the commission believe the state should regulate the development of housing, while others believe implementation of state policies should be left to municipal officials and local ingenuity.

Furthermore, to the degree the state requires municipal implementation of related solutions, local leaders request that those mandated activities be funded with state resources. Municipal officials strongly believe it is unacceptable to rely solely on the property taxpayers to resolve an issue of statewide significance.

**Municipal Maintenance of Discontinued Roads.** In the process of carrying over LD 1513, a subcommittee of the State and Local Government Committee has been tasked with determining if municipalities should be mandated to provide some level of maintenance on discontinued roads where a public easement is retained and used to provide access to at least

one residence.

The proponents of the maintenance mandate believe that if the public is authorized to use the road, then the public should pay for any damage via forced municipal maintenance.

Opponents of the mandate argue that in many cases state law requires the retention of an easement to protect the interests of property owners that have no other means to access their property, or provide access to public trust lands or other natural resources. Many public easements are not known to municipal officials either because they were terminated or retained automatically depending on when the road was discontinued.

While damage to a public easement is both a civil and criminal offense providing avenues for remedy to those living along such roads, proponents argue that no one enforces the statutes. The use of public easements by ATV operators raised the greatest amount of consternation among abutters to discontinued roads, though timber operations and normal vehicle use were also seen as problematic.

Neighborhood disputes around how adjoining owners use such roads is a consistent factor heard by courts and ownership and responsibility is as nebulous and varied as Maine's geography. Although difficult, this fact-based determination is key to settling disputes while providing due process for all parties. Current statute requires all individuals who live on a discontinued road to establish a road association and maintenance agreement before a municipality can release a public easement. Neighbor cooperation determines how often these agreements are established, leaving only the retention of a public easement by the municipality to

protect access to abutting parcels. Forced municipal maintenance on these roads would further remove the incentive for neighbors to cooperate.

The stakeholder group floated proposals clarifying that municipalities can post limits on the types of traffic that use these roads, such as restricting ATV use, and establishing in statute a provision allowing municipalities to occasionally help with road maintenance, provided the town meeting or council approves the expenditure and without an expecta-

tion of continued maintenance. An additional suggestion would establish a process for extinguishing a public easement on a road that does not serve a public interest by providing mediation support for neighbors to develop a road association.

**Law Enforcement Data Collection.** Enacted last session as PL2021, LD 132, *An Act To Implement the Attorney General's Recommendations on Data Collection in Order To Eliminate Profiling in Maine*, directs all law enforcement officers to collect personally observed

data about the subject of a traffic stop to include race, color, ethnicity and gender. Regardless of whether a citation is issued, law enforcement is required to record these traits as observed on all motor vehicle stops and submit the data to the Attorney General annually beginning in July 2023.

Recognizing the need for a system that can capture data on all traffic stops, the Department of Public Safety proposed adding an additional module to their e-citation system which automatically transfers motor vehicle violations to the state. The system would be available to all agencies and make compliance with the data collection mandate easier. However, during the process of enactment the amount of state revenue needed to create the system was reduced to cover only a portion of the cost of the program. As a result, the fiscal note excluded funding for ongoing maintenance expenses and ignored the costs to municipal and county agencies that will have to fund the new activity with property taxes.

To address the original fiscal note and local level barriers, MMA worked with the sponsor, Rep. Rachel Talbot Ross of Portland, as well as with county, municipal and state law enforcement representatives and civil rights and university stakeholders to introduce corrective legislation in 2022. Because the collection of race and associated data does not have a di-



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rect public safety nexus, much of the funding currently earmarked for law enforcement activities is not available to support the price of participating in the collection program. The program's cost is merited though. The maintenance of a centralized database accessible to all agencies will result in the consistent collection of data, elimination of the annual reporting mandate by making real time data available to the Attorney General, and in the case of future changes to the type of data collected, help avoid additional expenses associated with adding data fields to local databases.

While the language still awaits

stakeholder feedback and buy-in, a placeholder bill has been submitted to: (1) correct the fiscal note; (2) clarify how the materials necessary to issue a summons under the new program will be paid for and distributed; (3) provide a presumption of compliance with the new reporting requirements through participation in an e-citation program; and (4) develop a grant program to equip police cruisers with printers and provide officers with the technical support necessary to transition to the new system.

**Concealed Weapons Permit Processes.** This past session, the Committee on Criminal Justice and Public

Safety held a public hearing on LD 1446, *An Act To Aid Municipalities in the Issuance of Concealed Handgun Permits*. The intent of the bill was to ensure that municipalities who had not contracted with the Maine State Police (MSP) prior to the enactment of the "permit-less carry" statute, conducted the necessary background, character, health history, and verification of handgun safety training checks

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required for the issuance of a permit to carry a concealed weapon under Maine law.

Believing that enactment of permit-less carry would result in fewer requests for permits, in 2015 the legislature eliminated funding for two positions from MSP that had previously supported the permitting process at the state level and made it voluntary for the agency to assist additional communities going forward. Against expectations, the number of permits requested annually never decreased, and many municipal law enforcement agencies report that the numbers of permits and complexity of interstate requested background checks continued to increase with the influx of new residents. Additionally, it may be the case that municipal officials are unaware that the State Bureau of Identification check only provides officials with a subset of information necessary to meet statutory requirements and does not get reviewed by MSP.

Maine's concealed handgun permit is an important credential that allows reciprocity with several other states enabling vetted individuals to

carry concealed handguns, including on some federal and state lands where others are restricted. Key to such allowances for this documentation is a statutory requirement that issuing entities conduct thorough background checks on all new applications and perform a five year look back on renewals. Not all the required checks are readily accessible to municipal officials and many important verification resources are only easily available to law enforcement professionals. Instructions on the obligations of the permitting process are available on the MSP website (<https://www.maine.gov/dps/msp/licenses-permits/con>

cealed-carry-maine).

What remains to be seen is which of the two choices the legislature will elect to implement: (1) reverse the mistaken assumption that Maine's concealed handgun permit would decrease applications and return those positions to MSP to assume the growing workload; or (2) maintain the current process that makes it impossible for municipal officers in communities without law enforcement to conduct a proper assessment, thereby impacting the validity of the permit.

**Municipal Regulation of Timber Harvesting Activities.** Last session, the Agriculture, Conservation and

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Forestry Department's Maine Forest Service along with several forestry operators introduced a bill (LD 1407) to establish the "right to forestry," which would limit municipal regulation of forestry operations.

The complaint among foresters is that ordinances often do not correspond with good forestry practices and operators are increasingly harassed by residents when trying to conduct a harvest. The department is concerned that too many municipalities have adopted forestry ordinances without either their involvement or consulting a forester as required in Maine statute. As a result, the Committee on Agriculture, Conservation and Forestry created a stakeholder group to explore the issue further.

To date the stakeholders have met four times to discuss the problem and mutually acceptable recommendations. While the number of ordinances statewide is small, the key takeaways have focused attention on the fact that many of these ordinances were adopted to meet Department

of Environmental Protection water quality mandates or put in place to address a local desire to maintain scenic areas. With continued collaboration between foresters and municipalities to amend ordinances in mutually beneficial ways, and with more financial support allowing the department to be a hub of information for both municipal officials and forestry professionals, the bill's original proposal to erode home rule authority may not be necessary.

Regardless, the bill is still on the table. The recommendations being discussed by the stakeholders would: (1) require municipalities to submit

their forestry ordinances to the Maine Forest Service (MFS) for review and approval, with unsubmitted ordinances being voided after an established deadline; (2) increase MFS education and outreach efforts to make members of the public and municipal officials aware of the department's ability to enforce model forestry practices in communities; and (3) require municipalities to work with the department when developing ordinances that include standards that exceed state recommendations.

With a Dec. 15 reporting deadline on the horizon, final recommendations should be established soon. ■

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# Summary of the Housing Commission's (LD 609) Recommendations

Since August, Speaker Ryan Fecteau's 15-member Commission to Increase Housing Opportunities in Maine by Studying Zoning and Land Use Restrictions has met seven times to determine how land use and zoning related ordinances impact the ability to develop affordable housing.

As provided for in LD 609, the charge to the commission was to review and consider: (1) data on hous-

ing shortages for low and middle-income households; (2) state laws that affect the local regulation of housing; (3) efforts in other states and municipalities to address housing shortages through changes to zoning and land use restrictions; (4) measures to encourage increased housing options in Maine, including municipal incentives and state mandates; and (5) the historic role of race and racism in

zoning policies.

Once finalized the commission's recommendations will be submitted to the Labor and Housing Committee for discussion and further development before being considered by the entire Legislature.

Of greatest municipal interest are proposals to:

- Permit accessory dwelling units in all zones that allow for the development of single-family homes.
- Permit development of multi-unit buildings in single family residential zones.
- Support municipal efforts by providing state funding and technical assistance to implement zoning improvements.
- Implement incentive programs to support local level investments in affordable housing.
- Relax parking space requirements to encourage development of multi-family units.
- Provide state oversight of housing goals by creating a state board to hear appeals of local decisions regarding affordable housing projects.
- Provide access to affordable and safe housing as a protected right under Maine's Human Rights Act.
- Limit the ability of municipalities to assess impact and permit fees on housing projects.

Updates on the legislative response to the recommendations, including information on public hearings and work sessions, if any, will be reported in the Legislative Bulletin.

Furthermore, if you are interested in being added to MMA's affordable housing interested parties list, please contact Kate Dufour at [kdufour@memun.org](mailto:kdufour@memun.org). ■

# Dog parks: thought and planning necessary for success

By *Stephanie Bouchard*

For years, Gary Marquis, the superintendent of Caribou's parks and recreation department, harbored a dream: to create a dog park in the city. In September 2019 that long-held dream came true. And better yet, the department managed to avoid the often-emotional debates that sometimes plague such projects.

Dogs in public spaces, such as public parks and beaches, can become a topic of heated debate: when to allow, or even if to allow, dogs to be in these places; what times they can be in those places; on-leash or off; ecological and wildlife considerations; parking issues; and, of course, feces. Trying to meet the needs of its residents – with tails and without – within the means of what the municipality can support, can feel like walking a tightrope for municipal leaders.

Caribou, to Marquis' relief, did not experience such a nail-biting scenario.

Unlike most municipalities' route to getting a dog park, which often involves a partnership with a group that raises funds for the creation of one, Caribou achieved its new dog park in a roundabout way.

The city gained ownership of a property on Main Street with an abandoned building on it. Use of the property was governed by the National Park Service, which required that the city use the property only for public space. "We had to turn it into something available for the public," Marquis said. "We couldn't sell it off. It had to be a park of some sort. We were kind of handcuffed on what we could do with it. So, we had wanted the dog park for years. And I said, 'Well, here's our dog park right here.'"

---

**Stephanie Bouchard** is a freelance writer from Nobleboro and regular contributor to *Maine Town & City*, [stephanie@stephaniebouchard.net](mailto:stephanie@stephaniebouchard.net).



A local contractor leveled the vacant building and the area was covered over with grass. Instead of contracting out the building of the new dog park, the city's parks and recreation department did all the construction.

Marquis priced out what it would have cost the city if they'd had to purchase new fencing – \$18,000 – but he had squirreled away fencing materials over the years. "I don't throw much away," he explained. "Some people call me a scavenger, but I'm not. When it comes to chain link fence and fence products – that stuff's expensive." His materials hoarding paid off big time. It cost only \$3,000 in new fencing because they had almost enough to fence in the entire park, including separate entrances to small dog and big dog areas.

Marquis created the design for the park himself after researching dog parks online. He and the city's mainte-

nance director rolled their sleeves up and pounded fence for a week and a half. The parks and recreation department also built all of the dog park's toys, such as teeter-totters, wickets for agility-course play, and plastic culverts from the public works department that the dogs run through. The water department donated some old hydrants, which the parks and recreation department playfully painted and one has been turned into a fountain.

"You've got to think outside the box, especially in limited funded areas like us," he said. "For me to ask my city council to put \$5,000 to \$8,000 away a year into a reserve account to build it – it would be four years before I could even drive a pipe in the ground."

Marquis contacted all the abutting property owners before construction started, and "they all welcomed it with open arms," he said. Since the dog park opened in September 2019, it's

been a huge success, he said, getting more use than the city expected, in part because dog owners from nearby communities without dog parks drive to Caribou to use it.

People visiting the park have been responsible users and no one has complained about feces or noise issues, said Marquis, not even the city employees who mow the grass there and would be the ones who would

have to most frequently deal with any poop that wasn't picked up. "People are really, really responsible," he said. "It's been one of the best new infrastructures that we've put in."

Caribou's dog park experience is the exception, not the rule. It is not uncommon for municipalities to go through a long process of trying to manage competing needs and desires of residents over dogs in public

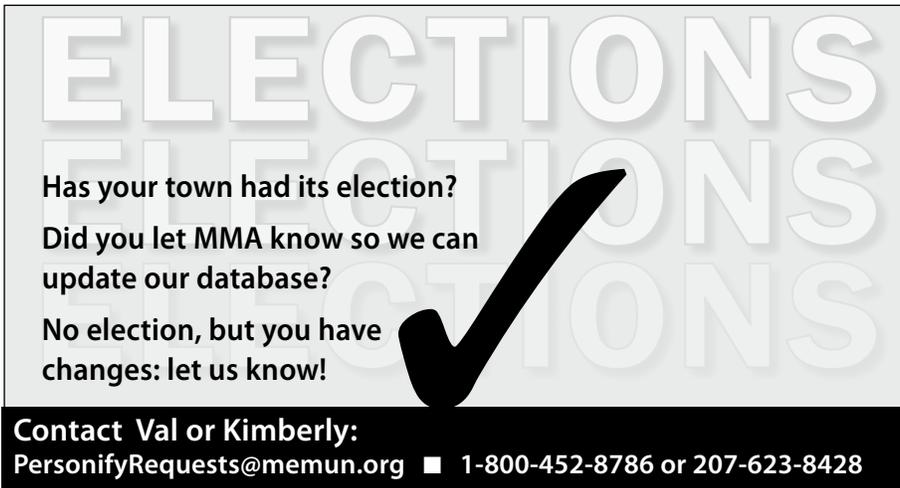
spaces, such as parks and beaches, before turning to the idea of creating a specific space for dogs, but even the creation of a dog park can cause headaches for municipal leaders.

The town of Yarmouth allows dogs to be off-leash at several of its parks, but those spaces are not necessarily ideal for dogs to run around and may pose challenges for older adults and those with disabilities, so the town explored adding a dog park.

They established a dog park committee and surveyed residents about the possibility of a dog park. Non-dog owners and dog owners each expressed strong opinions but the biggest roadblock turned out to be location, said Karyn MacNeill, Yarmouth's community services director.

The committee looked at 13 locations around town, some owned by the town, some private, examining which of the properties was best suited in terms of location, size, access to water and parking, and impacts on the ecosystems and wildlife of the surrounding areas.

After narrowing down the sites to



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two, the committee discovered that both locations had major restrictions from the Army Corps of Engineers and Department of Environmental Protection. “It was like brick wall after brick wall,” she said. Then COVID-19 hit and everything stopped. The committee has not resumed.

Saco’s dog park was built as a way to counter the restrictions the city has increasingly put on dogs using public spaces, said Ryan Sommer, the city’s director of parks and recreation. “If the city is looking to become more restrictive on the use laws, you almost have to create a dog park,” he said. “You can’t restrict on one side and not have an avenue for these dogs to go run if you do put a leash law on.”

The city was running into problems with loose dogs approaching people who didn’t want to be approached and disturbing protected wildlife, for example, piping plovers on the beach, and dog feces not being picked up at the city’s parks, beaches, and even on playing fields. “People get frustrated with that and so does my staff,” he said. But everyone also

understands that many people living in the city have small yards and dogs need to have a place to get out, stretch their legs and run, he said. “You do feel the tug and pull of that aspect of it,” he said, “but, at least from the municipal side, we look at it for the safety of, not just loose dogs on the run, but also from dog owners who aren’t picking up after their dogs.”

Opening the city’s dog park has worked out well for the most part for Saco, he said, but Katie Lisnik, executive director of Greater Androscoggin Humane Society in Lewiston, cautions municipal leaders that dog parks won’t be the cure for all a municipality’s issues around balancing the needs and desires of dog owners and non-dog owners.

“We believe that (dog parks) are important and they play a role, but they also aren’t a perfect problem solver either,” she said. People will still take their dogs to the beach or to public parks or walk neighborhood streets with their dogs.

And, she noted, dog parks can create their own problems. You’ll have to

consider who can use the park; how to maintain it and who will maintain it; how to fund it; what the rules will be and who will enforce those rules; how to manage disease spread and injuries, and conflicting personalities – more on the people end of things for the latter than the dog side.

There are a lot of things to think about if a municipality is considering creating a dog park, and because of that, many towns, understandably, don’t want to take one on, she said. However, she added, when spaces with competing priorities are under contention, providing a dog park can be a very reasonable alternative to try to keep everyone happy – as long as the dog park is of a caliber that the dogs are actually served by it.

“A tiny little park where the dog can’t even get up enough speed to be in a full run – that’s not going to cut it,” she said. “But if you have an area where there are competing priorities, I think offering a park like that can go a long way towards making everyone feel supported and appreciated – that there are options for everyone.” ■

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### TIPS

Keep these things in mind if you’re considering a dog park for your community:

- Get advice from your lawyer about any potential legal issues and check with your insurer to make sure such a venture will be covered.
- Look closely at costs. If you partner with a nonprofit group, set boundaries and clear expectations at the start.
- Do your research. There’s no need to reinvent the wheel. Check out online resources and reach out to other municipalities for ideas. Gary Marquis said to give him a call. He’s happy to share what they did in Caribou, including the design he used for the city’s park: 493-4224, [gmarquis@caribou-maine.org](mailto:gmarquis@caribou-maine.org).
- Communicate with your residents and listen to them. It’s important that everyone feels heard, even if things don’t necessarily go the way they want them to.



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# Officials: 'Right to food' amendment needs clarity

*Even the Maine Farm Bureau opposed the bill and now worries about the future safety of Maine food.*

By Liz Mockler

Maine voters made U.S. history last month by amending the state's constitution to provide a "right to food."

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

The initiative garnered 61% of the vote.

## Field to table

The "right to food" has been a growing movement in Maine for years. The constitutional amendment was championed by libertarians, small farmers and so-called "back to landers" who are known for their fierce independence and desire to live off the grid – including growing their own food.

Supporters argued the amendment would help ensure food security, reduce overall hunger in Maine, and allow farmers to gain some control over the local food supply at a time when corporations have taken over much of the supply chain.

"This is truly a critical moment for all those working to end hunger once and for all," the New York-based nonprofit WhyHunger said in a state-



Julie Ann Smith

ment. Supporters hope other states will adopt similar laws.

Opponents, meanwhile, argue the amendment is vague, opening municipalities and the state to likely legal action. Opponents also worry about the amendment's unintended consequences, such as allowing cows to be raised in backyards in downtown Portland.

James Bennett, Biddeford city manager and incoming Maine Municipal Association president, said he hopes the state takes the lead and tries to discern what the new amendment means, how it can be followed and provide "guardrails," so municipalities know how to proceed.

He thinks it would be unfair if a small town happens to be the first to run into an issue that must be settled in court. The state should take up any legal battle over the amendment, he said, and relieve towns and cities of that worry and expense.

"It's too early to say what the impact will be. The only certainty is that clarity is going to occur through the

legal system," Bennett said. "... Local municipal officials are good at knowing what their communities need – if they understand the rules of the game. It's tough when you have no rules."

## Unintended consequences

Julie Ann Smith, executive director of the Maine Farm Bureau, is critical of the right to food amendment and concerned about the future safety of food grown in Maine, since the amendment could have an impact on regulations that ensure safety.

"There is nothing (in the amendment) that will help farmers ... or benefit the people of Maine," she said.

Smith and others expect that unintended consequences will need to be settled in court. "I absolutely expect a lot of lawsuits," she said. "It's going to cost the taxpayers of Maine a lot of money."

Some environmental advocates also opposed the question, worried about wildlife and its habitat, while others are concerned about unexpected environmental problems and lack of soil and water testing by the state to identify where agriculture problems are found.

"This is a big deal," Smith said. "It did not receive the attention that it needed."

The question that received nearly all the attention was Question 1 regarding the CMP project, Bennett agreed. "Clearly there wasn't any airtime for anything but the (CMP) corridor."

## In control?

Proponents believe the food amendment also will potentially give growers more control over how their goods are sold, stocked and distributed.

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

According to Smith, the amendment could render the state ineffective at even trying to trace a food-borne illness.

“We will have no way to trace food if there is an outbreak,” she said.

State farm officials also are concerned about animal welfare, invasive species of plants and diseased crops. Not a single major agricultural or livestock organization in Maine endorsed the amendment.

For municipalities, the constitutional amendment will supersede all local food ordinances in what could become a metaphorical food fight for Maine cities and towns.

Bennett, who has managed several municipalities over a long career, said he questions the impact of the food amendment on the tradition of local control, a major tenet in the separation of state and local governance.

“In the interest of everyone, let’s get some clarity,” Bennett said.

### On hold

Maine voters rejected the \$1 billion electrical transmission line project by 60%. The project, which took

years to gain approval by local, state and federal regulators, is intended to run from Canada to Lewiston where the electricity will be added to the New England grid.

The partnership effort among the New England Clean Energy Connect (NECEC), Avangrid Networks and Central Maine Power, has been underway since January. To date NECEC has prepared 124 miles of right-of-way, built 120 structures, and spent more than \$450 million in implementation costs.

The outcome of the election triggered action from the Maine Department of Environmental Protection, which has suspended the construction license for the project.

The owners said they plan to appeal the voters’ decision.

Until then, parties were due in the Maine Business and Consumer Court, a branch of Maine’s Superior Court, on Dec. 15 to argue why the law should not take effect on Dec. 19. The transmission line owners also have sought a preliminary injunction to stop the law from taking effect, pending further legal action.

According to Avangrid court filings, the firm plans to argue their “vested rights” are being eliminated. Vested rights indicate the developers had valid permission and permits to start construction in good faith.

Opponents plan to argue that the firms involved in the project knew the validity of the state environmental license was in dispute and of the fact that objections filed against the project were pending.

### Infrastructure

The second question on the November 2021 referendum ballot asked voters to endorse a \$100 million bond for transportation projects. Of the total, \$85 million would be invested in roads and bridges, with the remaining \$15 million used to fund other modes of transportation including airports, rails and ferries.

More than 70% of the voters supported the borrowing measure.

As a result of voter approval, the state funds will leverage an additional \$253 million in federal revenue. According to representatives of the Maine Department of Transportation,



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in total the state bond revenue and matching federal funds account for 40% of all state transportation funding for the year.

### Local questions

Meanwhile, in Caribou, voters endorsed all five proposed changes to the city charter by wide margins, two of which impact council members. Under the new rules, council candidates must pay all owed property taxes before taking office, as well as attend regular, committee and budget workshop meetings, unless an absence is permitted by the council.

Lewiston voters handily supported staggered terms for the election of municipal officials by a margin of 5,082 to 2,178. Under the new system, the mayor and three candidates will be elected in one year, and the remaining councilors elected the following year.

80% of Rockport voters supported contracting with an engineering and design firm to prepare proposals for a new fire station. The voters also authorized municipal leaders to use up to \$35,000 to figure out what to do with the town's vacant elementary school.

In Richmond, voters allotted \$25,000 to begin the process of withdrawing from Regional School Unit 2. The effort was aborted last year when not enough voters showed up to make the vote official. This year, they voted

713 to 373 to proceed.

Portland voters rejected limiting homeless shelters to 50 beds, clearing the way for the city to build a 208-bed facility on the outskirts of Maine's largest city. Homelessness is a growing problem in Maine, but Portland's elected and appointed officials have worked for years towards a resolution.

Addressing an issue that has vexed many Maine communities, Bar Harbor voters decided there would be two levels of vacation rental housing in one of Maine's premier tourism destinations. By a vote of 1,260 to 840, voters agreed that rentals at an owner's primary residence may not last longer than two nights, while non-owner-occupied rentals will be limited to four-night stays. Like other municipalities, Bar Harbor is concerned high local housing and real estate costs are pushing natives and employees off Mount Desert Island.

Hampden residents bucked the broadband expansion trend last month, but they had a \$4.5 million reason for doing so. Once the town announced it would create its own broadband network to reach people without access in town, the two providers in the area agreed to completely buildout the network. No need for public money. "That was the 1000% reason" they rejected the project, said Town Clerk Gayle Decker."

Westbrook will now elect its mayor, council and school board members using the ranked choice voting (RCV) method, second only to Portland. RCV already is used for federal and some state races, but residents wanted a choice in all races. Despite adding a layer of complication to the traditional "check the box" approach, voters supported a method allowing residents to rank the candidates in order of their preference.

Scarborough voters approved two bonds. One will raise \$1.9 million to resurface the community's track and field facility, and a \$725,000 bond will be used to purchase a new fire truck, replacing one that is 26 years old.

South Portland will be seeing green after voting to approve a \$4.5 million bond to acquire property to create open spaces for public access, recreation, and conservation. ■



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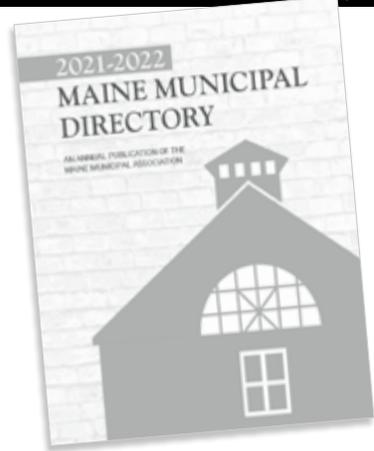
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The Directory provides you with the names, addresses and telephone numbers of Maine's municipal officials as well as useful information about each municipality, including its:

- population
- state legislative districts
- county and school district
- election date and fiscal year
- Congressional district
- form of government

**More details to come!!!**



# HOMETOWN CAREERS

FIND YOUR FUTURE IN MAINE'S TOWNS AND CITIES

## ABOUT OUR CAMPAIGN



Maine Municipal Association's Hometown Careers campaign was born out of necessity. Maine is one of the "oldest" states in the nation, many municipal employees are nearing retirement and the unemployment rate is low. Plus, municipal jobs are so important. The need for municipal services will never go away.

In January 2018, MMA launched a statewide social media and web advertising campaign designed to make people - especially young people - more aware of the exciting career options available within municipal government.

That effort drives people to our interactive website, [www.mainehometowncareers.org](http://www.mainehometowncareers.org). Upon arrival, readers learn what local government does, they see and hear real Mainers talk about the rewards of municipal employment. And, they have searchable access to MMA's municipal Job Bank, the most extensive listing of local government job openings in Maine.

For MMA members, even more tools are available. The Members Area of the MMA website provides handouts that municipal employers can use, logos and instructions about how to promote Hometown Careers on municipal websites and Facebook pages.

The sky is the limit! Municipal careers in Maine offer unparalleled quality of life and they provide deep satisfaction, knowing that you serve a community in meaningful ways.

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**Contact towns and cities near you about available jobs, today!**

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# November 2021 municipal election results

By Liz Mockler

The following are among the municipal election results from the Nov. 2 general election. For space considerations, unopposed incumbents are not included in the listings, with rare exceptions. The names of challengers also are not included, unless they are former select board members, councilors or other former municipal officials.

However, former selectpersons and councilors are named when possible, even if they lost.

The results are based on news reports and interviews with town clerks, other elected officials, the Secretary of State and independent research. The results are listed in alphabetical order by municipality.

**Augusta:** Former City Councilor Mark O'Brien received 2,845 votes to defeat Marci Alexander to replace outgoing Mayor David Rollins. Alexander, an at-large incumbent, garnered 2,401 votes. O'Brien is a former school board chairman. Rollins, elected in 2014, did not seek re-election. Abigail St. Valle received 1,892 votes to hold off challengers to take Alexander's seat. The opponents received 1,559 votes and 1,202 votes.

**Auburn:** Jason Levesque was unopposed for a third straight term as mayor. Rick Whiting received 542 votes to replace Councilor Holly Lasagna, who did not seek re-election. Meanwhile, Dana Staples defeated incumbent Belinda Gerry by a vote of 3,243 to 2,918. A third candidate collected 2,136 votes.

**Bangor:** Incumbents Susan Hawes and Gretchen Schaefer were returned to office, while newcomer Dina Yacoubagha won the third open seat. Hawes received 3,264 votes and Schaefer collected 2,567. Yacoubagha received 3,009 votes to replace Sarah Nichols, who did not seek re-election.

**Bath:** Two newcomers will join the

city council after a pair of incumbents did not seek re-election. Louis "Roo" Dunn held off a challenger by a vote of 187 to 162 to replace Raye Leonard. In another ward, Mary Ellen Bell garnered 301 votes in her unopposed bid to take longtime Councilor Sean Paulhus' seat.

**Belgrade:** Newcomer Carol Johnson defeated a challenger by a vote of 650 to 521 to take a vacant select board seat.

**Biddeford:** Alan Casavant defeated Victoria Foley to win a sixth term as mayor. Both Casavant and Foley are former state representatives. The vote was 3,237 to 1,849. In ward races, former Councilor Bobby Mills bested incumbent Ashanti Williams by 57 votes, 326 to 269. Williams had been appointed in June to fill the remainder of Robert Quattrone's term after he moved out of the ward. Incumbent Amy Clearwater edged out an opponent by 29 votes, 233 to 204. All five other incumbents were unopposed.

**Bowdoinham:** Newcomer Debra Smith unseated Selectman Thomas Walling by a vote of 667 to 432. Walling had served six years on the board.

**Bucksport:** Incumbents James Morrison, Daniel Ormsby and Paul Bissonnette defeated challengers with votes of 731, 701 and 700, respectively. The three challengers picked up 647, 623 and 231 votes.

**Cape Elizabeth:** Incumbent Jeremy Gabrielson garnered 2,281 votes to win another term in a tight four-way race for three council seats. Susan Gillis and Timothy Reiniger, with 2,251 votes and 2,216 votes, respectively, will replace Jamie Garvin and Valerie Deveraux, who did not seek re-election. The fourth candidate won 2,209 votes.

**Caribou:** Incumbents Mayor Jody Smith received 561 votes and newcomer John Morrill collected 576 votes, while incumbent Deputy Mayor Tom

Ayer received 370 votes. Incumbents David Martin and Hugh Kirkpatrick defended their seats with votes of 534 votes and 508 votes, respectively. Their opponents garnered 442 votes and 373 votes.

**Casco:** Eugene Connolly defeated a challenger by a vote of 525 to 489 to replace former Selectman Tom Peaslee, who resigned in July. Connolly resigned from the town's planning board after winning the select board seat. He served on the town's planning board for more than two years. Connolly also served as a volunteer firefighter from 1988 to 1996.

**China:** Incumbent Wayne Chadwick won another term in a four-way race for two seats on the select board. He received 789 votes, followed by newcomer Jeanne-Marie Marquis with 579 votes. The challengers garnered 417 votes and 396 votes. Marquis will replace Irene Belanger, who did not seek re-election.

**Dexter:** Newcomers Levi Ladd and Adam Briggs held off three challengers to win two open town council seats, one vacated by Stephen Gudroe, who did not seek re-election, and Marcia Delaware, who was termed out. Ladd collected 610 votes, while Briggs received 472 vote. Challengers received 295, 234 and 192 votes.

**Ellsworth:** Casey Hanson and Steve O'Halloran collected the most votes in a four-way race for two council seats. Hanson received 1,504 votes, while O'Halloran garnered 1,374. They replace Heather Grindle and John Phillips, who did not seek re-election.

**Fairfield:** Newcomer Matthew Townsend and incumbent town council Chairman John Picchiotti picked up the most votes in a four-way race for two seats. Townsend received 842 votes, while Picchiotti collected 693 votes. Incumbent Councilor Peter Lawrence received 673 votes and the

fourth candidate received 423 votes.

*Freeport:* Newcomer **Matthew Pillsbury** won the only contested town council race, defeating a challenger by a vote of 613 to 305. He will replace former Councilor **Doug Reighley**, who resigned and moved out of Freeport in September. **Darrell Fournier** was elected with 2,696 votes to take the at-large seat vacated by **Tawni Whitney**, who did not seek re-election.

*Gorham:* Incumbent councilors **Lee Pratt** and **Virginia Wilder Cross** held off challengers to win re-election. Pratt and Cross received 2,321 votes and 2,173 votes, respectively, to their

opponents' 1,709 votes and 1,325 votes.

*Hampden:* Incumbent councilors **Eric Jarvi** and **Ivan McPike** received the most votes, with 1,185 and 1,132, respectively, to win re-election in a six-way race for three seats. **David Ryder** defeated the three other candidates with 1,256 votes. None of the remaining three candidates reached 1,000 votes.

*Kittery:* Two incumbents and a newcomer were elected to the town council. **Judy Spiller** received the most votes with 2,408, followed by **Cyrus Clark** with 2,104 votes in the four-way

race for three seats. Newcomer **Colin McGuire** received 2,248 votes to win the third seat. McGuire will replace **Jeffrey Thomson**, who did not seek re-election. Thomson served the town for 24 years over six decades. Former Councilor **Charles Denault Jr.** placed fourth with 1,052 votes.

*Lewiston:* Newcomer **Carl Sheline** defeated another novice to local government, **Donna Gillespie**, by a vote of 4,418 to 2,957, to become the city's new mayor. Sheline replaces **Mark Cayer**, who did not seek re-election.

Meanwhile, voters returned two incumbent councilors while five newcomers will fill the seats vacated by councilors who did not seek re-election or lost.

Former school board Chairwoman **Linda Scott** defeated a challenger by a vote of 649 to 223 to replace **Safiya Khalid**. **Robert McCarthy** beat incumbent **Caleb Roebuck** by a vote of 889 to 728. Roebuck had been appointed in September to fill the seat of **Zack Pettengil**, who resigned.

Incumbents **K. Lee Clement** and **Stephanie Gelin** were unopposed in

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their re-election bids. Two newcomers, **Scott Harriman** and **Ricky LaChappelle** were also unopposed. Harriman replaces **Alicia Rea** and LaChappelle takes council President **Michel LaJoie's** seat. Meanwhile, **Larry Pease** defeated two challengers with 179 votes to replace **Jama Mohamed**, who served three months after Councilor **Luke Jensen** resigned.

*Lincoln:* Incumbent **George Edwards** was re-elected over a challenger by a vote of 637 to 579.

*Lisbon:* Three new councilors were elected to replace outgoing councilors **Normand Albert**, **Kasie Kolbe** and **Allen Ward**, all of whom did not seek re-election. They will be replaced by **Harry Moore**, who received 1,115 votes; **Raymond Robishaw**, who garnered 930 votes; and **Clifford Miller**, who collected 831 votes. All three were challenged, with the opponents receiving 760, 744 and 519 votes. Meanwhile, **Jeff Ganong** won re-election to a one-year term.

*Millinocket:* Incumbent **Michael Madore** received the most votes with 511 to take one of three open council seats. Incumbent **Steve Golieb** received 508 votes and newcomer **Daniel Reed** received 378 votes.

*Oakland:* Two town councilors were returned to office in a four-way race for the two seats. **Dana Wrigley** fielded the most votes with 1,104, followed by **Don Borman** with 863 votes. The challengers received 720 votes and 494 votes.

*Old Orchard Beach:* Incumbent **Jay Kelley** was defeated by two newcomers, who won the two available council seats. Former assistant town manager **V. Louise Reid** received 1,817 votes and former town manager **Larry Mead** collected 1,699. Kelley received 1,461 votes.

*Old Town:* Newcomers **Michael May** and **Chris Pushor** received 336 votes and 186 votes, respectively, to fill the seats vacated by Town Council President **Kyle Smart** and **Shirley Brissette**, neither of whom sought re-election. Votes for all six candidates for the two seats were write-ins because no one returned nomination papers by the early September deadline.

*Portland:* Voters elected three new councilors to replace former councilors who stepped down. Four candidates competed to take veteran Councilor and former Mayor **Nicholas Mavodones'** seat in a ranked-choice election that ended in a tie. Believed to be the first-in-the-nation tied ranked-choice voting result, **Brandon Mazer** and **Roberto Rodriguez** both received 8,529 votes after all votes for the two other candidates were allotted to either Mazer or Rodriguez on election night. A hand recount gave Rodriguez 35 more votes from election night to ultimately claim the victory. In other contests, newcomers **Anna Trevorrow** and **Victoria Pelletier** received 1,985 votes and 2,168 votes, respectively, to defeat their challengers. They will replace outgoing councilors **Belinda Ray** and **Spencer Thibodeau**.

*Rockland:* **Nicole Kalloch** defeated incumbent Councilor **Ben Dorr** by a vote of 1,056 to 979.

*Sanford:* In a five-way race for two seats, incumbent **Ayn Hanselmann** won re-election with 1,692 votes. Newcomer **Becky Brink** received 2,271 votes to replace **Lucas Lanigan**. Challengers received 1,476, 1,097 and 726 votes. There were 1,586 write-in votes or blank ballots.

*South Portland:* **Misha Pride** was re-elected to a second term as city councilor, defeating veteran school board Chairman **Richard Matthews** by a vote of 4,048 to 3,573. **Linda Cohen**, town manager of Monmouth, defeated a challenger to win by a vote of 4,128 to 3,299. Cohen, a former mayor and councilor, served decades as city clerk for Portland and South Portland, as well as president of the Maine Municipal Association.

*Waterville:* City Council Chairman **Erik Thomas** was defeated by newcomer **Thomas McCormick Sr.** by an eight-point margin, 159 to 151.

*West Bath:* **Madelyn Hennessey** defeated a challenger by a vote of 439 to 339 to win another three-year term. She has already served six years.

*Westbrook:* Incumbent Councilor **Gary Rairdon** defeated a challenger by a vote of 479 to 312 to win another term. Incumbent **Elizabeth Schultz** also held off a challenger by a vote of 563 to 458. ■

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## HIRING RESOURCES

Perhaps the best website for help with recruiting and other personnel-related questions is the one run by the Society for Human Resource Management (SHRM): [www.shrm.org](http://www.shrm.org)

That website offers resource materials on hundreds of topics, including "external recruitment" and "talent acquisition."

The Maine Local Government Human Resources Association is another resource. You can see who leads that group – and get contact information – through its website: [www.mlghra.org](http://www.mlghra.org)

Maine Municipal Association runs a campaign called Hometown Careers, aimed at increasing awareness about municipal employment. Video and handout tools are available for members to use when talking to high school and college students, and other job candidates.

([www.memun.org](http://www.memun.org) or [www.mainehometowncareers.org](http://www.mainehometowncareers.org))



Maine Municipal Association  
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Augusta, ME 04330  
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# PEOPLE



*Sarah Dubay*

A special election will be held to fill the seat left vacant after first-term Bangor Councilor **Sarah Dubay** died on Nov. 12 of cancer. She was universally praised by her peers, who talked about her

quick learning, probing questions and ability to get along with anyone. Dubay, who married in 2020, told a friend she regretted only that she could not do more with her life. She was a Portland native and graduate of the University of Maine with bachelor's and master's degrees who volunteered "for anything that would help people," her friend said. Dubay also earned a master's degree in medical education leadership from the University of New England. According to her obituary, Dubay was known as a "creative-minded professional with decades of experience in communications, marketing, fundraising and government and community relations."



*Heidi Grindle*

**Heidi Grindle** is worn out and isn't afraid to say so. Burned out enough to resign her long-time job as Ellsworth city clerk to take a private sector job. She is especially keen on not having

to conduct elections again. Grindle, who has worked for the city since 1996 and as clerk since 2005, said she started thinking about changing careers after the 2020 presidential election. As though the election was not challenging enough, several members of her election team had tested positive for Covid-19 and could not serve. That only reinforced her thoughts about leaving. Grindle said she is unhappy with unfounded allegations that the election was conducted improperly, when in fact there was no evidence that anything was done incorrectly. Grindle, who lives in Surry, was going to serve the community through Nov. 18 before joining an area bank.



*Jon Jennings*

Portland's fifth city manager in four years will leave his job before his contract expires in June.

**Jon Jennings** has been hired as the new manager of Clearwater, Fla. Jennings made the announcement after the June election, when voters elected a charter commission that will make recommendations for changes to the Portland's council/mayor/manager form of government. Jennings said that a racial slur against him, posted on social media and read by his daughter, was all he needed to move on. Before the slur, Jennings had a few run-ins with a former mayor, but has been praised for his accomplishments and his work with different councils over the years. Prior to joining Portland in June 2015, Jennings' only municipal experience was two years as South Portland assistant city manager. Jennings has dedicated most of his life to sports, including as president of the Maine Red Claws and an assistant coach for the Boston Celtics.

**Keith Mercier** has been hired as the new Machias police chief, charged with stabilizing and improving the department. Mercier has worked in law enforcement for 35 years and was expected to start his new job on Nov. 1. At the top of Mercier's to do list is the recruitment of three full-time officers. As of late, the town has relied on part-time Machias law enforcement officers and the Washington County Sheriff's Office to protect the community. Mercier helped rebuild police departments as a State Department contractor in Iraq and Afghanistan from 2007 to 2010. He was a detective sergeant for the University of Maine Police Department at the time he was hired by Machias. He was not looking for another job but was intrigued when he saw the chief's opening. He replaces **Todd Hand**, who resigned 18 months after taking the chief's job.

Monmouth Police Chief **Kevin Mulherin** has resigned, effective Nov. 15, after serving the town for 10 years. Mulherin left public service to join the private sector. He worked as a lieutenant for the Auburn Police Department for 24 years before accepting the job in Monmouth. His law enforcement career also included patrolman, criminal investigator, and brief stint with the Maine Drug Enforcement Agency. **Peter Struck**, Winthrop deputy chief, will serve as interim chief until a permanent replacement is hired.



*Kevin Sutherland*

**Kevin Sutherland** has been hired as Bar Harbor's new town manager, replacing **Cornell Knight**, who will retire on Jan. 3. Sutherland served as Saco city administrator from 2015 to 2019 and then accepted the job of chief of staff for Ithaca, New York. He was among 15 candidates for the job and will begin with a three-year contract. Sutherland will be Bar Harbor's third manager since 1986. Sutherland earned



*Cornell Knight*

a master's in public administration from Syracuse University. Knight ends his Bar Harbor career after working as the manager in numerous Maine communities over 40 years, including Hallowell, Jay, Winthrop and Topsham. He was hired in 2014 by unanimous decision of the Bar Harbor town council. ■

If your municipality submits a news item for the *Maine Town & City*, consider sending a corresponding photo to Sue Bourdon: [sbourdon@memun.org](mailto:sbourdon@memun.org)

## STATEWIDE

Maine is getting greener faster than expected. Cities and towns have started rethinking construction of solar panel arrays as growth in the industry is booming. According to a recent report, 3,185 installations are already up and running and one power company alone has a windfall of new requests to connect their solar power to the New England electric power grid. Municipalities are starting to enact moratoriums out of concern over the eventual costs of decommissioning the panels and a lack of public policies to govern the decommissioning, or officially stopping their use.

## CARIBOU

The city will buy bulletproof vests for ambulance workers due to the ongoing opioid epidemic, officials said last month. Overdose calls have climbed from occasional to nearly daily, according to the fire chief, who oversees Caribou Fire and Ambulance. When someone is revived after overdosing, their behavior can be erratic and unpredictable. Several communities in southern Maine already have purchased vests for medical personnel.

## BRUNSWICK

A luxury housing development, with 218 proposed units, has received preliminary approval by the town council. The plans call for construction of four buildings on the site of the former driving range off Bath Road. Rates for one-bedroom apartments are estimated at \$1,200 to \$1,400 a month; two-bedroom units would rent for \$1,500 to \$1,800. The proposal still has a few hurdles to climb. It is intended to reach the housing market of young couples who don't want to buy a house, and people who want to downsize from a house. The Pennsylvania-based A.R. Building Co. hopes to achieve all permits by the first quarter of the new year.

## ELLSWORTH

First responders will receive a bonus as hazard pay for working during the COVID-19 pandemic. The city council vote in November was 5-2 to give \$1,000 each to 10 firefighters and 18 dispatchers and police officers. The first responders also are expected to receive hazard pay from the Hancock County Commissioners. The board has agreed to match the Ellsworth hazard pay by a two-to-one

ratio. The money is being taken from the American Rescue Plan Act. The city is set to receive \$890,000 and the county \$10.6 million.

## FALMOUTH

Town leaders plan to fight a lawsuit intended to block construction of a new sewer line through the private "Woodlands" neighborhood and pledged to take the land by eminent domain if the town loses. The Woodlands Homeowners Association has asked the Cumberland County Superior Court to temporarily halt the project pending the outcome of the lawsuit. The dispute centers on the town's easement through the property. The homeowners argue the easement only allows the town to repair and maintain sewer lines, not replace or add them. The town considers replacement of the sewer line urgent. Officials argue the project has been delayed for two years and cost the town "considerable" money while trying to accommodate the homeowners with design changes to reduce disruption.

## FREEPORT

Freeport is among the fastest-growing destinations for winter tourism this year, along with cities such as London, Paris and Rome. The study by TripAdvisor, released in mid-November, listed Freeport seventh in its list of Top 10 winter holiday getaways. No other city or town in America made the list. Data for the study was gathered via an online survey of more than 2,400 consumers across eight countries. The town of 8,500 residents enjoyed a busy summer season, retailers said. Officials have been drafting a "revisioning effort" to boost the resiliency of local shops and stores as the shopping and tourism industries change. Freeport leaders want the town to maintain its premier spot as a Maine shopping Mecca, but also want to offer people of all ages something fun to attract more people and families to town. As of press time, it was unclear whether another fast-spreading lethal COVID-19 variant would impact winter travel in the long run.

## HOULTON

Snowmobilers will be able to access Maine's Interconnected Trail System (ITS) easier and quicker after the Aroostook County Commissioners in November

authorized sledders to legally drive along the edge of the Oxbow Road. Enthusiasts hope the change will attract more snowmobiling to Oxbow, which is a prime destination for snowmobilers statewide because ITS 85 connects northern regions to central Maine. The change also will hopefully lure North Woods riders to the area this winter and help the overall local economy.

## ORONO

A three-town effort to provide space for firefighter training has taken shape, with the towns of Orono, Veazie and Glenburn, all Bangor suburbs, combining forces to develop a new facility. Training for Glenburn and Veazie firefighters has already been held. The facility cost \$15,000 to date. Officials expect future costs as they add to the building. Orono police will be invited to use the facility, too. A program will get new, younger firefighters trained to replace the aging population of firefighters, and thus a statewide shortage of firefighters and other first responders. The facility was approved last year by the Orono Town Council after hearing fewer residents are offering dilapidated structures to be burned for training. An official grand opening is planned for the spring. Initially, \$50,000 was raised for the building, but the ultimate cost was far less because everyone from the Orono department, and others, provided labor and other help for the project.

## SEBAGO

There will be no quarries, mines or gravel pits any time soon in the town of 1,800 after voters overwhelmingly enacted a moratorium on all such development for at least 180 days. The ban took effect immediately and successfully delays Gorham Sand & Gravel from operating a quarry in the town's downtown district. The moratorium may be renewed after six months. The pause allows the town time to draft and pass regulations and rules for the quarry. An estimated 200 residents showed up for a special town meeting last month and, by a show of hands, easily voted to stall the project. Some residents expressed concerns about the proximity of the potential quarry to private homes and an elementary school. ■

# MUNICIPAL BULLETIN BOARD

## INTERACTIVE ZOOM EVENT

JAN. 6

### MTCCA's Virtual Brown Bag Lunch: Legislative Process for Clerks 101

The Maine Town & City Clerks' Association will host a virtual Brown Bag Lunch. Kate Dufour, Director State & Federal Relations, Maine Municipal Association, will provide an overview of the State's legislative process and explain the importance of a Clerk's input when dealing with bills of municipal significance. There will also be an opportunity for questions and answers. This workshop begins at 1:00pm and ends at 2:30pm. and is offered to MTCCA members only at no cost.

All of the upcoming workshops can be found on the MMA website. Use the following link:  
<http://www.memun.org/TrainingResources/WorkshopsTraining.aspx>

## INTERACTIVE ZOOM EVENT

JAN. 19 -20

### Athenian Dialogue: It Worked for Me in Life and Leadership

The Maine Town & City Clerks' Association will host an Athenian Dialogue virtual event. Athenian Dialogues explore leadership principles and practice, drawing on the insights contained in a book that all participants have read. Dialogues are conversations in which clerks share their experience and understanding as it relates to the ideas of the author and the relevance of those ideas to their public leadership.

Facilitated by Dawn Michanowicz, MMC, CMMC, Dawn is a Master Municipal Clerk and retired from Sterling, Massachusetts in 2018. Today she is a Certified Practitioner of Energy Medicine™ and Reiki. She teaches stress management techniques to individuals and large groups and is a popular Facilitator who brings creativity, joy and humor.

The workshop begins at 9:00am and goes to 12:30pm on Wednesday, January 19th & Thursday, January 20th. The cost is \$60 for MTCCA Members and \$80 for Non-Member: (Does not include the price of the book which must be purchased independently.)

## NEW ON THE WEB [www.memun.org](http://www.memun.org)

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

### New: Municipal Cooperation Manual

Legal Services has published a new, updated edition of its Interlocal Cooperation Manual – renamed as the Municipal Cooperation Manual.

### New: Authorized Medical Marijuana Activity Flow Chart

The flow chart is available as part of MMA's Medical Marijuana Information Packet.

### "American Rescue Plan: Considerations for Municipalities" guidance updated

<https://memun.org/Training-Resources/Legal-Services/Recent-Updates>.

### Affordable Workforce Housing in Southern Maine

Southern Maine Planning and Development Commission (SMPDC), the New England District Council of the Urban Land Institute (ULI), and the Town of Kittery, ME are announcing the release of its Technical Assistance Panel (TAP) report.

### Information for Municipalities on FEMA COVID-19 Resources

Maine's Emergency Management Agency (MEMA) is reaching out to municipalities to help get federal reimbursement through FEMA for eligible COVID-19 expenses.

### Mills Administration Launches Climate Change Initiatives

MMA President Jim Gardner and Orono Council member Cheryl Robertson joined Governor Janet Mills at the University of Maine in Orono to announce the creation of the Maine Infrastructure Adaptation Fund.

### Large Employer Vaccination Mandate on Hold

MMA's Legal Services Department has issued an update on the status of OSHA's recently issued COVID-19 Vaccination and Testing Emergency Temporary Standard, and its application to Maine's public sector employers.

# LEGAL NOTES

## MAINE'S NEW 'RIGHT TO FOOD'

On Nov. 2, 2021 Maine voters overwhelmingly (61% to 39%) approved a "Right to Food" amendment to the Maine Constitution – the first of its kind anywhere in the nation. The amendment broadly declares that "all individuals have a natural, inherent and unalienable right to grow, raise, harvest, produce and consume the food of their own choosing." It takes effect on Dec. 19, 2021.

The Maine Municipal Association (MMA), along with a variety of other organizations, opposed this ballot question, warning that its vague wording would require extensive litigation to interpret and that it could well have numerous unintended consequences – for state food safety and animal welfare laws as well as local land use ordinances, for example. Critics also called the measure a solution in search of a problem. Nevertheless, Maine's voters have spoken, although it's not exactly clear what they meant.

The Right to Food amendment does not promise "a chicken in every pot" (a New Deal pledge during the Great Depression of the 1930s) or promote any plan to feed the hungry or fight food insecurity. Instead, it appears to be a kind of declaration of independence, apparently from large agribusinesses and multi-national grocery chains and, perhaps, from government overreach. But given the amorphous language of the amendment, it is impossible to predict whether or to what extent it may also affect state and local authority to regulate food production, sales, and consumption. The most that can be said for certain at this point is that the amendment does not expressly preempt either state or local authority in this field. Whether it does so by implication, however, is altogether unclear and something only the courts can reliably determine.

Frankly, we anticipate that the Right to Food amendment will, over time, prompt a fair amount of litigation, probably mostly as a legal defense to prosecutions for violation of various state laws and local ordinances. But in our opinion it is neither possible nor productive to try to predict the course or outcome of this litigation – it is simply too speculative.

In the meantime, until there is some definitive guidance from the courts on the meaning and effect of the Right to

## MUNICIPAL CALENDAR

**BY JANUARY 1** — Each owner or keeper of a dog or wolf hybrid at the age of 6 months or more shall obtain a license for that animal from the municipal clerk (7 M.R.S. § 3922).

**JANUARY 1** – New Year's Day 2022 is a legal holiday (4 M.R.S. §1051).

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

**JANUARY 17** – Martin Luther King, Jr. Day, the third Monday in January, is a legal holiday (4 M.R.S. § 1051).

**BY JANUARY 20** – State Treasurer posts notice of maximum interest rate that municipalities can vote to charge on delinquent property taxes (36 M.R.S. § 505).

**JANUARY 31** – Deadline to submit quarterly withholding taxes to State Tax Assessor (36 M.R.S. § 5253).

Food amendment on municipal regulatory authority, our advice to local officials is to stay the course and not overreact either legislatively or administratively to the new amendment. Time will tell whether the amendment requires adjustments to local ordinances or code enforcement practices.

The Right to Food amendment should not be conflated with Maine's "Food Sovereignty" law, although they share the same political roots. Enacted in 2017, the Maine Food Sovereignty Act authorizes municipalities, by ordinance, to exempt the sale of local foods and food products (not including meat and poultry products) from state food safety laws provided the sale is a direct producer-to-consumer transaction at the site of production (see 7 M.R.S. §§ 281-286). For more on this law, see "Local Food Sovereignty," *Maine Townsman*, Legal Notes, December 2017.

The Right to Food amendment is also entirely separate from Maine's longtime "Right to Farm" law. Originally enacted in 1981 and substantially revised (and retitled) in the early 1990s, the Maine Agriculture Protection Act prohibits, among other things, enforcement of municipal ordinances against farm operations provided they are located in an area where those operations are permitted and they comply with the Maine Department of Agriculture, Conservation and Forestry's "best management practices" (see 7

M.R.S. §§ 151-164). For more on this law, see "Right to Farm' Revisited," *Maine Townsman*, Legal Notes, August 2008.

All previous issues of MMA's monthly magazine (formerly the *Maine Townsman*, now and since 2018, *Maine Town & City*) are archived on MMA's website at [www.memun.org](http://www.memun.org). (By R.P.F.)

## 'ADA GUIDE FOR SMALL TOWNS'

As our readers well know, Maine is made up mostly of small, rural towns. And for many of them, comprehending and complying with complicated and far-reaching laws like the federal Americans with Disabilities Act (ADA) can be a big challenge.

Fortunately, the U.S. Department of Justice publishes a very readable handbook on the ADA written especially for local governments in smaller communities. It's titled "ADA Guide for Small Towns," and it's available online here: <https://www.ada.gov/smtown.htm>. The guide covers, among other things, accessibility requirements for existing, new, and altered facilities such as town offices, meeting rooms, and restrooms. It also summarizes ADA requirements for municipal programs, services, and activities of all kinds. For small town officials who may not be familiar with the ADA or its requirements, this guide is a great place to start.

# LEGAL NOTES

For larger municipalities, the Department of Justice also publishes “The ADA and City Governments: Common Problems,” which is also available online here: <https://www.ada.gov/comprob.htm>.

MMA Legal Services also has a detailed “Information Packet” on the ADA, complete with links to numerous Department of Justice and other resources. Like all of our publications, this one is available free to members at [www.memun.org](http://www.memun.org).

Finally, for specific questions about whether or how the ADA applies to your building, project, or activity, we recommend that you contact the New England ADA Center. The New England ADA Center is a Boston-based nonprofit that provides information, guidance, and training to businesses, state and local governments, schools, and individuals on how to comply with the ADA. The Center is not a regulatory or enforcement agency, so it does not make or enforce the law. But it is an excellent technical and advisory resource, and most of its services are free. Contact the New England ADA Center by phone (1-800-949-4232), by fax (1-617-482-8099), or by email ([ADAinfo@New-EnglandADA.org](mailto:ADAinfo@New-EnglandADA.org)). Or send your question directly to the Center by using the “Ask a Question about the ADA” form at [www.newenglandada.org/contact](http://www.newenglandada.org/contact). (By R.P.F.)

## NEW ‘FAIR CHANCE’ HIRING LAW & CRIMINAL HISTORY

A new law dubbed the “Fair Chance in Employment” law prohibits Maine employers, including municipalities, from asking about a job applicant’s criminal history on the employer’s initial application form (see PL 2021, c. 404, eff. Oct. 18, 2021, enacting 26 M.R.S. § 600-A).

The new law also prohibits employers from stating on the initial application form or in any advertisement for the position that a person with a criminal history may not apply or will not be considered.

There are two exceptions to these new restrictions. An employer may ask about criminal history on an initial application form and may state on an initial application form and in an ad for the position that a person with a criminal history may not apply or will not be considered if (1) state or federal law disqualifies a person from holding the position if they have been convicted of certain criminal offenses, and (2) if state or federal law

prohibits an employer from employing a person in the position if they have been convicted of certain criminal offenses. In either case, the questions on the initial application form must be limited to the types of criminal offenses that create the disqualification or prohibition.

Nevertheless, in any and all cases, employers may inquire about an applicant’s criminal history during an interview or after determining that the applicant is otherwise qualified for the position, provided the applicant is given an opportunity to explain the information and the circumstances regarding any criminal conviction, including post-conviction rehabilitation.

Moreover, the new law does not prohibit an employer from rejecting a job applicant based on relevant criminal conduct. The law is simply designed to ensure that no job applicant is unfairly screened out before they have a fair opportunity to demonstrate their qualifications and suitability for the position.

A violation of the new law is punishable by a forfeiture (fine) of \$100-\$500 (see 26 M.R.S. § 626-A).

For detailed information on the use of criminal history and background checks in the hiring process, see MMA’s “Information Packet” on the hiring process, available free to members at [www.memun.org](http://www.memun.org). (By R.P.F.)

## SELLING SURPLUS PROPERTY

(Reprinted from the October 2012 *Maine Townsman* Legal Notes)

**Question:** Do we need authorization from our municipal legislative body to sell surplus personal property such as motor vehicles, office furniture, computers, etc.?

**Answer:** Yes, you do. Since town-owned personal property – even outmoded or surplus property – is considered a municipal asset just like real estate, we’ve always advised that before it may be sold or transferred, the municipal legislative body (town meeting or town or city council) must authorize the sale or disposition.

This is not to suggest that the legislative body must specifically authorize each and every transaction, though. In fact, many towns include a standard article in their annual town meeting warrant authorizing the municipal officers

to sell or dispose of surplus personal property on such terms and conditions as they deem in the best interests of the town. A blanket article such as this would prospectively authorize all such sales for the ensuing year.

Sometimes these articles include a cap on value, authorizing the municipal officers to sell surplus personal property only if it has an estimated value of less than a specified sum of money. This effectively limits the municipal officers’ authority to less valuable property, thus giving town meeting direct authority to decide in the case of more valuable property. Also, these articles sometimes require competitive bidding for property exceeding a certain estimated value. Whether a warrant article authorizing the sale of surplus personal property includes a cap on value, a bidding requirement, or other limitations are local policy matters as there is no governing State law.

Finally, instead of a warrant article, the authority to sell or dispose of surplus personal property can be conferred by ordinance, thus avoiding the need for an annual vote. For basic ordinance enactment procedures, see 30-A M.R.S. § 3002. (By R.P.F.)

A postscript: Note that for personal property such as vehicles and equipment abandoned on or in tax-acquired real estate, notice to the former owner is required before these items may be sold or disposed of. For details and a sample notice, see MMA Legal Services’ “Information Packet” on tax-acquired property, available free to members at [www.memun.org](http://www.memun.org). ■

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# Maine Municipal Bond Bank

## 2021 FALL BOND ISSUE SCHEDULE

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

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

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

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

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

### Monday, August 2nd

Application Deadline

### Wednesday, August 25th

Application Approval (Board Meeting)

### Thursday, September 9th

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

### Friday, September 10th

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

### Week of October 4th

Maine Municipal Bond Bank Pricing

### Monday, October 25th

Final documents due from bond counsel

### Wednesday, November 3rd

Pre-closing

### Thursday, November 4th

Closing - Bond proceeds available (1:00pm)

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



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



N. Joel Moser



Lee Bragg



Philip Saucier



Kevin Decker



Eben Albert



Shana Cook Mueller



Zack Brandwein



Patrick Marass

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

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

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



[bernsteinshur.com/municipal-governmental-services](https://bernsteinshur.com/municipal-governmental-services)