

# Maine Townsgman

The Magazine  
of the Maine Municipal Association

JANUARY 2018

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deal with random  
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**MAINE TOWNSMAN (ISSN 0025-0791)** is published monthly, except in September, by the Maine Municipal Association, 60 Community Drive, Augusta, Maine 04330. (207) 623-8428. Periodicals postage paid at Augusta, Maine, and at additional mailing offices. All rights reserved. Postmaster send address changes to: Maine Townsman, 60 Community Drive, Augusta, Maine 04330. Information, policies and opinions do not necessarily reflect the views or policies of the Maine Municipal Association. Subscription price: \$15 per year.



# Maine Townsman

January 2018 | Volume 80 | Issue 1

The Magazine of the Maine Municipal Association

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### Taking Care of Business



*No one can say implementing Maine's recreational marijuana law has been easy on the local front. Here's how two managers, and two communities, approach the issue.*

**Talk about municipal roots.** Maine Municipal Association has a new president: South Portland Mayor Linda Cohen. Please read her introductory column. [Page 5](#)

**Partnership case studies.** The National League of Cities provides an interesting look at public-private partnerships in communities across the U.S. [Page 27](#)

## Grappling with Graffiti

*Some communities paint over it or take it down, first chance they get. Others set up safe spaces for graffiti artists. Here's how some cities and towns address graffiti art.* [Page 7](#)

## Another BIG Training Year

*Maine Municipal Association will hold or staff 90 training events around the state this year, with new topics such as short-term vacation rentals and updates on marijuana.* [Page 31](#)

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## A MESSAGE FROM MMA

BY LINDA COHEN / MMA PRESIDENT

### MMA president leans on municipal experience

I am so honored to be president of the Maine Municipal Association. There are many people still serving, years after I first started out in public service, people who have mentored me, changed me and made me a better public servant.

What is it about municipal government or public service that grabs hold of you and hangs on for 20, 30, 40 years or more? My first foray into the world of government was as an intern while getting a degree in Law Enforcement at what is now Southern Maine Community College. My work study job was at the South Portland Police Department, and I loved it. I remember one night when officers were frustrated because they were facing an issue they weren't sure how to enforce. I looked through the city's voluminous code of ordinances and found the section they needed. That was one of the first times I felt I was able to help solve a public problem.

It would be years later that I would join the South Portland Code Enforcement Department as a secretary, a job that taught me how to take electrical, plumbing and building permit applications and introduced me to a variety of builders and other development professionals in our area. I decided to read that huge code of ordinances from cover to cover, as time allowed. It was fascinating. I never imagined that municipalities had to deal with so many issues. Serving as Board of Appeals secretary exposed me to the world of variances and neighbors who sometimes supported, but often opposed, the request.

One night I took minutes for the Planning Board and vowed to never do that again! Rip rap, culverts and medians were foreign terms to me, and more than I thought I needed to know. I started taking minutes at city council workshops, and was exposed to the local political environment and how those ordinances came to be. From Code Enforcement, I moved on to the Assessor's Office, where

I learned about valuation and got to know appraisers and real estate agents. Numbers and tons of data entry are not my favorite things to do, so I jumped at the opportunity to become city clerk, and there I finally felt like I had found a place to stay. And stay I did, between South Portland and Portland, for over 21 years.

I've always believed that our job as municipal officials is to help our citizens navigate the myriad of rules and ordinances that govern the community. The average person has no idea what is in that big code book and while ignorance of the law is no excuse, I felt my job was to assist the citizens, not punish them. I've always looked at the people who walk through our doors as customers, captive customers, because much of what they are required to do, they have to do in one municipality. So, they deserve to be treated *better* than if they had a choice of where to do business.

Whenever I have the opportunity to speak with students, I encourage them to think locally. Long before "buy local" was a catch phrase, I was urging young people to consider careers in municipal government, either as an employee or an elected official. It is the level of government closest to the people, where one can have the biggest impact.

All of this is my way of leading up to the workforce initiative that MMA soon will launch to attract people to fill the vacancies we are seeing as the 20, 30, 40 year and longer term employees retire. Most people do not know that they can use their engineering, human services, or business degree to serve their community. Whatever your reasons for staying in this family for the long haul, I hope you will share that passion with people you meet, especially young people looking for their first career and anyone looking to make a career change. It truly is one of the most rewarding things I have done with my life, so much so that I decided to run for city council to be a voice, not only for our citizens, but for our dedicated employees. ■

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# Elected Officials Training Opportunities

## Elected Officials Workshops

### Who Should Attend:

This workshop is a “must” for newly elected and veteran officials-councilors & selectpersons-as well as a wonderful opportunity to learn key points of your new position while networking with officials from around the state. (Qualifies as Maine FOAA Training.)

- What are our rights and duties as officials?
- Can we hold multiple offices?
- Which of our meetings are open to the public?
- Must we have an agenda and take minutes?
- What ordinances can we enact?
- What authority do we have over the schools?
- What are our liabilities and immunities?
- What is a disqualifying conflict of interest?

As part of our ongoing efforts to bring training to our members, MMA is pleased to announce that this course will be offered in two formats: In classroom and remotely at the Northern Maine Development Commission in Caribou.

A perfect opportunity for elected officials to take advantage of the expertise that the Maine Municipal Association has to offer, attain a better understanding of their role as public officials, and stay abreast of local government responsibilities and issues. **Course meet state FOAA training requirements (Right to Know).**

## How to Lead Effective Meetings

### Who Should Attend:

Anyone who leads or participates in meetings that could be improved. This hands-on workshop will offer practical tips to increase collaboration and results in team, staff, and board meetings.

Democracy is a beautiful thing, but sometimes even the best-planned meetings get derailed. Join expert facilitator Nancy Ansheles as she tells you how to prepare for, run and conclude effective meetings. She will advise attendees on dealing with complicated subjects, troublesome interrupters – and more.

## Parliamentary Procedures

### Who Should Attend:

Elected and appointed officials, managers and department heads who run meetings – or aspire to do so.

Running effective meetings is crucial, but what are the rules? How can meeting chairs conduct meetings that are effective, time-efficient and yet allow people with both majority and minority points of view to offer observations and participate? This session will offer expert techniques; attendees will gain skills that can serve them for life.

## Managing Freedom of Access Requests

### Who Should Attend:

This timely workshop is aimed at helping municipal staffs, newly designated “Public Access Officers” and elected and appointed officials understand Maine’s Freedom of Access Act, why FOAA requests are filed and how to handle them properly. **(Qualifies as Maine-required FOAA Training).**

Online registration is easy!

<http://www.memun.org/TrainingResources/WorkshopsTraining.aspx>

## Elected Officials:

### Dates & Locations:

**Augusta – 2/13/18**  
Maine Municipal Association

**Portland – 4/11/18**  
Fireside Inn & Suites

**Ellsworth – 6/19/18**  
General Moore Community Center

**East Millinocket – 7/19/18**  
East Millinocket Town Office

**South Berwick – 8/29/18**  
Spring Hill

**Orono – 10/30/18**  
Black Bear Inn & Conference Center

**Bethel – 12/6/18**  
Bethel Inn

**Augusta – 12/18/18**  
Maine Municipal Association

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Northern Maine Development Commission

## How to Lead Effective Meetings

### Date & Location:

**Belfast – 5/30/18**  
Hutchinson Center

## Parliamentary Procedures

### Date & Location:

**Augusta – 4/12/18**  
Maine Municipal Association

## Managing Freedom of Access Requests

### Dates & Locations:

**Skowhegan – 5/16/18**  
Margaret Chase Smith Library

**Portland – 12/11/18**  
Embassy Suites by Hilton



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# Eradicate or leave it alone? The dilemma over unwanted graffiti

*The City of Augusta takes an aggressive, zero-tolerance approach. Some other communities – and even Acadia National Park – wonder if the problem can be solved.*

By Lee Burnett

When Kathleen Sikora, a runner, moved to Augusta in 2007, she enjoyed exercising on the Kennebec River Rail Trail. Except for the graffiti blighting a retaining wall stretching for several thousand feet at the northern entrance to the trail, that is.

“This has to go,” Sikora said to herself. She made some inquiries and eventually invested her own time to paint over it. “Most



**Kathleen Sikora**

people thought I was crazy. They'd go out of their way to tell me I'm wasting my time,” said Sikora, a downtown property owner and manager.

Sikora has gone from oddity to local hero. It took her an entire summer to paint over the graffiti and her continuing efforts have kept the rail trail virtually graffiti free ever since. What's more, Augusta city officials claim to have all-but banished graffiti from the city.

“We have very little graffiti. Basically, we ain't gonna allow it,” said Leif Dahlin, the city's community services director. “Once we discover it, I want it dealt with in 24 hours. Gone. Covered up.”

Not many towns exude such confidence. (More on Augusta's special circumstances below.) Most communities are discouraged about their efforts at dealing with this chronic, low-level nuisance.

Earlier this year, then-Woolwich

Town Manager Suzette Cloutier asked her colleagues how to deal with the issue.

“How do you manage to get graffiti under control with a limited budget?” asked Cloutier. “Do you hire someone to paint over it or have you used volunteers? We have requested inmate help from our local county jail, and have tried graffiti resistant paint in the past... Otherwise, we are at a loss.”

Woolwich's chief graffiti magnet is a tunnel under Route 1, a former railroad passage now used as a recreational trail. The trail gets intermittent use, said David King Sr., chair of the Woolwich Board of Selectmen.

## 'Perfect place'

“It's kind of the perfect place for a graffiti artist. They can be down there for hours. They don't have to rush in, rush out,” King said.

Woolwich has employed many strategies. In addition to inmate labor and paint, Woolwich has tried installing a security camera, putting cages on the lights in the tunnel to protect them, and once even sand blasted the walls.

“It's discouraging. You get it cleaned up and then six months later you get another call,” said King. “I wish we had come up with an end-all, be-all solution, but we haven't.”

The town's plea earlier this year netted no new ideas, although on its own, Woolwich is trying something new. An art mural project executed by students is being planned to beautify

walls that were, once again, painted over this fall by inmates from Two Bridges Regional Jail during the fall of 2017. King said the town select board discussed the mural in the past, “but never acted upon it. This year, we're going to try it.”

King said he's frustrated that law enforcement does not prioritize graffiti vandalism.

“They want nothing to do with it,” said King, who disputes claims of the difficulty of prosecuting graffiti vandalism. He said one local graffiti artist even signs his name. “I would like to make an example of one person. Find out who's doing it and run them through the court system. That would discourage their buddies.”

Law enforcement does seem to have an appetite to investigate and prosecute graffiti vandalism, although it's not necessarily a cure. Thanks to Facebook and the small-town grapevine, news stories of graffiti arrests are common in Maine newspapers.

A multi-town graffiti spree in York County in 2014 led to an arrest by Kennebunk police, but that was not the end of it. The following year, a spate of black silhouetted “Bigfoot” graffiti appeared around Kennebunk, and another arrest was made. Likewise, Ellsworth made multiple graffiti arrests in 2010, but was hit again two years later with “blood diamond” graffiti and eventually another arrest.

“If you get five or six places tagged in one night, it's easier to solve than some random acts over time,” said Ellsworth Police Detective Dotty Small.

Small thinks painting over graffiti “in a matter of weeks” is a more effective deterrent than making arrests. Community pride and the community

---

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grapevine function of Facebook also help discourage graffiti, she said. She considers Ellsworth fortunate. "We really don't have much of a problem," Small said.

### Frustration in Lisbon

Lisbon Recreation Director Mark Stevens is more than frustrated with all the time and effort consumed dealing with graffiti in his town, which started appearing during the fall of 2016 near the Papermill Trail.

Road signs, mailboxes, bridge abutments and retaining walls were all hit with a "KANO" tag. In January 2017, a youth was caught in the act and arrested. In acknowledging his role, an 18-year-old told police that KANO stood for "Kreate a New Ordinary" and was his attempt to "beautify or add color to otherwise drab surfaces that lacked life and personality." The cost of vandalism to eight properties was estimated at \$975. The young man was ordered to pay \$1,000 restitution.

Now a year later, graffiti still mars

### STACKING ROCKS

Once considered to be a rustic way-finding aide in fog-prone hiking areas, the stacking of rocks has become such a rampant form of free expression that it's now seen as a rural version of graffiti.

"It's been a problem for many, many years," said Charlie Jacobi, a natural resource and visitor use specialist at Acadia National Park. "It started in 1984 and it was pretty rampant back then. We're still working to educate people to leave rocks where nature left them."

Dismantling rock stacks – as many as 20 on some trails – is a daily chore for Jacobi's crew of eight summit stewards. The problem with rock stacking is three-fold: the soil erosion from excavating rocks; the visual blight; the potential misdirection of hikers "It's a continuing battle," said Jacobi.

Jacobi has tried discouraging vandals through signage and by penning a newspaper op-ed column. He got "responses on both sides," including an admonition from one reader to "find better things to do with your time." He's considered giving rock stackers a designated place at the park, but added: "I'm not sure it would help."

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**An historic marker defaced in Kennebunk.** (Submitted photo)

some of the properties, said Stevens. “It still isn’t cleaned up,” he said. “Quite a bit” of graffiti was painted over by a local businesswoman. “But there’s still quite a bit.”

Stevens said he wishes the offender was made to clean it up. “I’m not a judge or an attorney, but I feel ordering restitution of \$1,000 to a kid who’s still in school doesn’t have a job, something’s wrong. Why not make him clean it up?”

The young offender has since volunteered to work on developing a skate park in town but Stevens said he declined, and told him to first clean up the graffiti.

Augusta’s graffiti eradication success is a testament to Sikora’s vigilance and a few other factors. Sikora said she is motivated by plain old dogooderism. “I get a nice place to live,” she explained. Soon after moving to Augusta, she teamed up with Dahlin, another graffiti opponent, and researched successful programs in New York City and Reno, Nevada. Taking a systematic approach, she identified a geographic scope and began surveying the city. She recorded descriptions of the graffiti, the address, and underlying substrate.

**‘Kind of everywhere’**

“Once you start looking for it, it’s amazing how much you find – swastika on the back of a sign. It’s kind of everywhere – in a stairwell of a parking garage. A lot of people just walk by and ignore it,” she said.

She then had to obtain landowner permission – which was not automatic

**GRAFFITI REMOVAL**

Here are the steps that Kathleen Sikora of Augusta recommends in tackling a graffiti problem in your city or town.

1. Define a geographic scope.
2. Take a walking survey, clipboard in hand.
3. Verify property ownership through the town or city assessor’s office.
4. Obtain written permission from landowner.
5. Record everything in a spread sheet: nature of graffiti, size, shape, address, and substrate.

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– to clean it up. The Maine Department of Transportation was not cooperative, she said, and was the source of frustration until City Manager Bill Bridgeo got involved. She said DOT’s tolerance of graffiti on bridge abutments and elsewhere encourages more graffiti because the word gets out that “that’s where it stays.”

Agency spokesman Ted Talbot said Maine DOT has no policy on cleaning up graffiti, but handles it on a case by case basis. “If it’s offensive, we make an effort to take it down immediately,” Talbot said. When asked about Sikora’s complaint, Talbot offered to look into it, but he did not call back.

The systematic approach combined with a zero tolerance for new graffiti has worked in Augusta. “Trying to get it off as soon as possible really has worked for us” said Sikora. “It took a while, doesn’t work right away. You have to stick with it.” Dahlin said it usually takes three paint-over efforts to discourage the perpetrators.

“Cover it up once, they come back do it again. Cover it up, come back do it again. Cover it up three times and they generally don’t come back. They generally know we aren’t going to let

them get away with it,” said Dahlin.

There’s also a secret financial patron behind Augusta’s program who was inspired to come forward after the Kennebec Journal wrote a story about Sikora’s efforts.

“A guy from Whitefield came in with a wad of \$100 bills and said ‘I want to help out,’ ” said Dahlin. He handed over \$5,000 cash to Bridgeo and an endowment was created to fund the cost of materials. Dahlin said you don’t need an endowment to have a successful program.

“You need to appropriate a few dollars. It’s not like you need massive amounts of money... A hundred dollars buys a lot of paint and a few paint brushes.”

Sikora, who won a community service award from the Kennebec Valley Chamber of Commerce, takes pride in helping kindle redevelopment efforts in downtown Augusta.

“When I first started, it was bad. (The year) 2008 is not anything like it is today. I take some credit for getting the ball rolling,” she said. ■

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# U.S. Supreme Court to provide key moment for public unions

*The debate about whether public-sector employees who benefit from union representation must belong to the union has been going on for quite some time.*

By Matt Tarasevich, Attorney and Shareholder, Bernstein Shur

In September 2017, the United States Supreme Court announced that it would once again consider the issue of whether non-member employees covered by public sector collective bargaining agreements can be required to pay union fees. The answer to that question, likely to be handed down in early 2018, could have far reaching consequences for Maine public employers, employees and public sector unions.

Under Maine law, public employers must bargain in good faith with unions that have been elected to represent employees (or employee units). Individual employees who are part of the recognized unit have the right to join, or not to join, the union. (26 M.R.S.A. Section 963.) However, if an employee chooses not to join or participate in the union, the employee “may be required to pay to the organization that is the bargaining agent for the employee a service fee that represents the employee’s pro rata share of those expenditures that are germane to the organization’s representational activities.” *Id.*

Because Maine is not a “right to work” state – that is, where compulsory union membership is prohibited – the practical effect of Section 963 is that collective bargaining agreements can be negotiated to include provisions that require all employees to pay dues (or fees) to the union which represents their interests at the bargaining table. While such provisions are not mandatory, they have become common in Maine public sec-

tor collective bargaining agreements, including provisions that non-joining employees who enjoy the benefits of the collective bargaining agreement be required to pay their “fair share” to the union. Typically, the amount of the “fair share” fee is some percentage of the full union dues.

## ‘Fair share’

The concept called “fair share” arose from a 1977 U.S. Supreme Court case, *Abood v. Detroit Board of Education*. At issue was a philosophical battle between public-sector unions and non-member employees covered by the union contract. The union’s contention was that all those who benefit from the union contract (and the union’s efforts in bargaining and administering the contract) should contribute to the cost of the union’s efforts – in effect, no one should be allowed to be “free rider.” On the other hand, non-members contended that taking money from their paychecks to support a union that they did not join, did not support and which supported causes they did not believe in was an unfair and illegal confiscation of their wages.

Ultimately, the Supreme Court in *Abood* held that unions could charge fees to non-union members covered by the union contract to help offset that costs of “collective bargaining, contract administration, and grievance adjustment,” as long as the union did not use the fees collected from non-union members for political or ideological activities.

Rather than settling the issue, the *Abood* decision has been the source of contention for decades. Recently, the challenge to the “fair share doctrine” has centered on whether re-

quiring the payment of union dues (or service fees) constitutes a violation of a non-member employee’s First Amendment rights under the United States Constitution. The argument is essentially that because all public sector union activities are inherently political, requiring non-members to pay union “fair share” fees forces the employee to subsidize political causes that he or she may not support.

In early 2016, the U.S. Supreme Court heard arguments in *Friedrichs v. California Teachers Association*, in which the issue of required payment of “fair share” fees versus First Amendment rights – and the continued application of *Abood* – was argued. Court observers predicted that, given the composition of the Supreme Court and the tenor of the arguments, *Abood* would be overturned, thus bringing about the demise of “fair share.” However, before a decision was rendered, Justice Anthony Scalia – likely certain to vote to overturn *Abood* – passed away. The court remained deadlocked on the issue, which essentially meant that *Abood* remained as the existing law of the land.

2016 was also an election year. In one of his earliest acts after being sworn in, President Trump nominated Neil Gorsuch to fill Justice Scalia’s vacated seat. Justice Gorsuch was confirmed in April 2017. At about the same time, a case that presented the same dispute as in *Friedrichs*, *Janus v. American Federation of State, County, and Municipal Employees, Council 31 (AFSCME)* was ripe for Supreme Court review. The issue in *Janus* is virtually the same as in *Abood*: Whether the compelled payment of union dues violates a non-union employee’s First

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**Matt Tarasevich** is the co-chair of Bernstein Shur’s Labor & Employment Group, which assists public- and private-sector clients with labor and personnel matters. He can be reached at: [mtarasevich@bernsteinshur.com](mailto:mtarasevich@bernsteinshur.com) or 207-228-7158.

Amendment rights. In September 2017, the court agreed to hear Janus in the 2017-2018 term.

### Next for public employers

Many Supreme Court observers predict that Gorsuch, an acolyte of Justice Scalia, will likely vote in Janus to overturn Abood, resulting in a 5-4 decision, and thus ending “fair share” as we know it. Of course, predicting Supreme Court decisions, and the scope and ramifications of such decisions, is a tricky business, as the court has in the recent past issued decisions that have surprised even the most seasoned observers. That, however, will not stop us from trying.

If the Janus decision overturns Abood, ending compulsory “fair share,” the coffers of public-sector unions could be severely harmed. Some estimates put the potential loss of dues and fees revenue in the millions of dollars. While membership in private sector unions has steadily declined nationwide over the past few

decades, public-sector unions have remained steady, thus becoming the financial backbone of unions. Maine has seen a proliferation of smaller units in towns that have never dealt with public-sector unions before.

In addition, unions which have traditionally represented private-sector workers (such as electricians, auto workers and machinists) have moved into the public-sector union market as an area of growth. The inability to collect “fair share” may convince some unions in Maine to rethink unionization efforts in far flung and “unprofitable” small unit, public-sector mar-

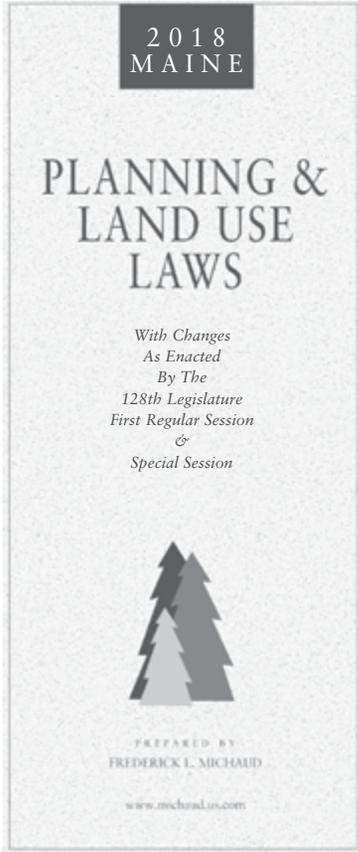
kets, and holding onto some smaller, unprofitable units.

There is a contrarian viewpoint: If compulsory “fair share” is found to be unconstitutional, then public-sector unions will need to market themselves more aggressively and “win back” the membership. In doing so, unions will need to convince members and non-members alike of the value of the services they provide. In essence, unions will need to show their core consumers (public employees in the unit) that paying dues and fees to the union represents a fair bargain for the value they receive.



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As Enacted  
By The  
128th Legislature  
First Regular Session  
&  
Special Session*

PREPARED BY  
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## Duty of representation

The biggest concern for unions, however, is the current requirement that they represent all unit members, regardless of their union membership or payment status. This duty of representation includes bargaining at the table and the adjustment of grievances. Under the current state of affairs, “fair share” paying members typically receive those benefits of the collective bargaining agreement. If Abood (and fair share) is overturned, non-fee paying unit employees will continue to receive those benefits but will not be required to pay for them.

Some legal commentary has suggested that if this happens, then unions may themselves have a credible First Amendment issue: That they should not have to continue to bear the costly “duty of representation” for non-paying unit employees who refuse to associate with the union or pay the costs of union representation. Whether such a legal challenge would be made remains to be seen.

Other commentators believe that even making such an argument – that the duty of representation should be

curtailed – non-paying members cut loose and excluded from union benefits would send public-sector unions into a death spiral. Such employees would be able to individually negotiate their own benefits and pay with public employers, and some public employers might be willing to do so in order to undercut the unions and encourage other union members to defect. As one commentator put it, the public-sector unions would then be between a rock and hard place.

Other options may include seeking legislative changes to the scope of the duty of representation. Such changes

in Maine, however, are unlikely while Gov. Paul LePage is in office, and given the composition of the Maine Legislature. In any event, if “fair share” is overturned, it is likely that bills will be introduced to reduce the effect on unions.

More likely will be that unions would try to obtain some relief at the bargaining table. For example, some older contracts in Maine contained grievance provisions in which non-paying unit employees could get representation from the union’s attorney, but only if they paid the attorney’s fee. On the other hand, fee-paying mem-

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bers received this benefit by virtue of paying their dues. Unions may try to bring back this concept, and perhaps expand it to other areas, thus differentiating between paying and non-paying unit employees in a way that maintains their duty of representation, while also convincing non-paying employees that full union membership has value worth paying for.

At this time, all remains speculation, pending the Supreme Court decision in *Janus*. Stay tuned for an update after arguments are made. ■

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He previously worked as an audit manager for Macdonald, Page & Co., one of the state's largest public accounting firms. Come hear this valuable address as Mr. Grover updates 2018 attendees on the many threats that exist and what cities and towns can do about them.

# Maine police agencies can now seek state accreditation

*Modeled after a national program, the statewide effort is viewed as a way to both improve the quality of police service and reduce liability insurance and other costs.*

By Liz Mockler

**M**aine police leaders can now obtain state accreditation for their departments by meeting standards developed by the Maine Chiefs of Police Association that will both help improve policing and reward municipalities that achieve the certification.

The three-year effort to develop the Maine Law Enforcement Accreditation Program (MLEAP) was launched in 2013 when Auburn Police Chief Phillip Crowell was named president of the association (MCO-PA).

Crowell's department had been accredited in 2007 by the national police accreditation organization, the Virginia-based Commission on Accreditation of Law Enforcement Agencies (CALEA). The website for the commission is <http://www.calea.org>.

Crowell also is a certified CALEA "assessor," who has traveled around the country evaluating police agencies for accreditation.

He saw a lot and learned even more, he said. Many times when police officials were told about different and better ways to run their departments and improve public service, they would say: "I didn't know that."

"We don't know what we don't know, as the saying goes," Crowell said.

Crowell wanted Maine police to develop a more manageable and affordable version of the national program, so even the smallest departments could achieve accreditation.

The new MLEAP establishes 160 standards compared to the national

## WEBSITE RESOURCE

The manual that the Maine Chiefs of Police Association developed as part of implementing the accreditation project can be read online at: <http://www.mainechiefs.com/downloads/misc-documents/75-mleap-standards-manual-ed-1>.

requirement of 484 standards. The standards are intended to be uniform policies for police work ranging from use of force, training and ethics to how to evacuate a jail and control the chain-of-evidence so crucial to successful prosecutions.

"We narrowed it down so every agency, from Wilton to the State Police, should be able to comply" and earn accreditation, said Crowell, who said his police force was skeptical when first gaining CALEA accreditation.

### 'How we do business'

"It was a change in culture for my staff, no question" said Crowell, Auburn chief since 2006. "Interestingly, it's now just how we do business."

In addition to the CALEA program, Crowell and others who served on the Maine Police Accreditation Coalition (ME-PAC) studied state accreditation manuals from numerous other states.

In an estimated 25 states, police agencies work under uniform state standards, developed by police leaders in the individual states.

"We've had great support from the Maine Municipal Association and the (Maine Town, City and County Management Association)," Crowell said. "We also had help from other states

and took the best of what we saw" to develop the Maine manual.

All law enforcement agencies are welcome to seek state accreditation – and should, if possible, attempt national certification, Crowell said.

"We think we've developed a program that is both attainable and credible," said Crowell, who has worked his entire 24-year police career in Auburn.

Crowell said the Lewiston Police Department was the first to gain CALEA accreditation and that Auburn was the first to achieve "Gold Standard" designation. The Cumberland County Sheriff's Office is CALEA certified, while the Biddeford department has completed the on-site evaluation and is awaiting CALEA approval. The City of South Portland has started the CALEA process, Crowell said.

### Better service, less liability

According to Falmouth Police Chief Edward Tolan, MMA's Risk Management Services Department offers up to a 15 percent discount on liability insurance contributions for police departments that achieve the new state accreditation.

The discount recognizes that police departments will be able to reduce liability exposure by following the new standards, Tolan said. Each department must keep documents to prove they have followed each standard or lose their accreditation.

Tolan was president of the Maine chiefs association when the 98-page MLEAP manual was finalized and approved last September. In addition to documenting proof that the standards have been developed into policies and practices, state accreditation also requires a review of police

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facilities and on-site inspections by state certified assessors.

Tolan has evaluated Maine police departments when asked by town or city councils or select boards. In all cases, improvements were warranted and recommended, he said.

The new MLEAP program will improve policing in Maine and help boost public trust and support for police services, said Tolan, who will retire next year after 45 years as a Maine cop and chief.

“If you have a city or town council (or select board) that doesn’t support this program, then you need a new council,” Tolan said.

Tolan said completing the MLEAP manual before retirement is a “very gratifying” way to end his career – most of it spent in Falmouth. Tolan gave “all the credit in the world” to Crowell, who spearheaded the entire effort.

Municipalities will be charged a modest annual fee for use of computer software called Power DMS that will allow police to record and track their MLEAP policies and practices –

and the proof that will be mandatory to sustain their accreditation.

On-site evaluations and inspections will be conducted at no charge; trained MLEAP assessors perform the work as volunteers. The annual fee will finance the program and the work of a new governing committee that will be led by James Willis, police chief for Bar Harbor and Mount Desert and past president of MCOPA.

Tolan said the manual will need to be updated and new polices continually studied and improved. The governing committee will do that work, he said. The annual fee for the software will finance the committee’s efforts.

### Just in time

Robert Schwartz, executive director of the Maine Chiefs of Police Association, said departments that achieve MLEAP certification will be more professional and effective. Schwartz said he hopes one day the Maine Legislature will mandate that all police departments be accredited.

Schwartz said the first day of the

upcoming three-day winter meeting of MCOPA, Feb. 7, will be dedicated to reviewing and explaining the new MLEAP manual, and also allow six hours of training time for police who want to be certified as assessors. The second day will be set aside for a vendor’s show.

On the third day, Gordon Graham will make a presentation on risk management for police departments and other law enforcement agencies, such as sheriff’s offices. Graham, who earned a degree in business and a doctorate in law, worked for 33 years in California law enforcement. He now travels around the world as a risk management consultant.

As of late December, 20 police agencies had registered to learn about the new MLEAP program or seek training to be certified as assessors who will evaluate departments for accreditation, Schwartz said.

Schwartz said departments that are not MCOPA members may send staff to the MLEAP training for a fee of \$25 for each person. ■

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# The Municipal RISK MANAGER

WINTER 2018

A Publication of the Maine Municipal Association

## Happy 40th Anniversary MMA Workers Compensation Fund



Join us as we celebrate the 40<sup>th</sup> anniversary of the Maine Municipal Association Workers Compensation Fund (The Fund) set to begin January 2018. Since the creation of the Fund in 1978, the program has been an example of a successful governmental partnership and has continued to grow in membership and service. Today we are proud to say that the Workers Compensation Fund continues to be a leader for coverage and services to member municipalities and quasi-governmental entities throughout the State of Maine.

The Workers Compensation Fund launched in 1978 with eleven participating members. Today the Fund's membership stands at 583. The Fund was created as a group self-insurer under a Certificate of Authority issued by the Bureau of Insurance with the goal of stabilizing rates to help level the peaks and valleys of the insurance market and thereby enable members to budget with increased reliability and accuracy.

Membership in the Fund equates to ownership and ownership pays dividends. Since 1996, the Trustees have authorized the annual payment

of dividends to eligible members. The Workers Compensation Fund is pleased to announce we have returned in excess of **\$4 MILLION** to our members in the form of dividend checks.

In addition to helping our members meet their statutory obligations required under the Workers Compensation Act, the Fund furnishes significant benefits to members through our in-house Underwriting, Loss

Control and Claims Management Departments. These experienced professionals work on behalf of the members to provide unparalleled service and guidance in an effort to protect you and your employees.

Maine Municipal Association would like to take this opportunity to thank the loyal members of the Workers Compensation Fund for giving us the honor of working for you for the last 40 years. ■

## Reaching Out to Employees – A Workers Compensation Success Story

My name is Sherry Gaudet and I am the nurse case manager at Maine Municipal Association. In 2016, our member in Waterville had a serious workplace injury and I became involved in the claim almost immediately. I have continued to work with the family since that time. That was one year ago in November. The injury was so severe that the injured worker has been unable to return to work as yet. But, the employee still has the goal to return to work as soon as his recovery allows. What keeps an injured worker so goal oriented? How can we help all of our injured workers keep their eye on the concept of someday returning to work? Through conversations with the family, I discovered what a wonderful job the City of Waterville has done communicating with them throughout the recovery process. And how this has made a positive impact on the injured employee's recovery and his family. I felt it was important to recognize Waterville and to congratulate them on a job well done.

First, I believe we need to understand that there is an emotional toll on the injured worker. The injury not only affects the employee's physical wellbeing but the intangible cost of the injury to the family and life outside of work responsibilities. After the initial shock of the injury and the immediate medical treatment required, the above injured Employee's first thoughts were, "will I have a job?" There are many stressors such as, bills that still need to be paid, will I get paid, will I get better and return to work, what if I can't work again, how will I support my family, who pays the medical bills? Their work life has changed and possibly home and social life disrupted as well. They may not be able to function as they are used to and are unable to enjoy simple things such as playing with the kids, going out with friends, hunting, skiing, camping, etc. and may even be unable to drive or get around without assistance. They may feel disconnected from coworkers and the workplace.

Story Continued on Page 20

## Reaching out to employees

(cont'd)

Who will answer all of these questions? Who will help take away some of the worry, the stress? How do you keep an employee from feeling disconnected from the workplace? Who should be addressing these concerns? Is that the responsibility of the employer, the claims adjuster, family members, coworkers, or friends?

“The initial responses of an employer, insurance company and health care provider to an injured worker are critical factors in determining medical and disability outcomes...” 1.

I previously worked in a manufacturing facility where management at all levels were advised not to contact or inquire about an injured Employee. I frequently heard the Employees complain that no one cared and frequently avoided reporting injuries due to fear of coworkers and supervisors negative comments and even losing their jobs. I have worked with Employees who are angry and upset that there has been no contact from anyone from the workplace including administration, supervisors, or coworkers. When I called the Employer, I was told, “Why would we do that?” Another response, “We don’t do anything like that.”

What did Waterville do? The city administrator sent two hand written letters over the course of this injury inquiring how the Employee was doing and assured him that his job was safe and he had nothing to worry about. He also speaks with the director and asks how the Employee is progress-

ing on a regular basis and has done so since the beginning of injury. The director of the employee came to see the employee while he was in the hospital. He has called every week since the hospital discharge to see how he was doing. He has come to the house to visit and called before the visit asking if they need anything before going out. He regularly asked and offered assistance in anything the family may have needed. He kept him informed of what was happening in the workplace, allowed him to stop by the workplace to visit and to see coworkers. When the employee came into work, the director always left his office to speak with him and always invited him to go see his coworkers. The director let him know from the get go that a job would be waiting for him and this injury was not going to change that. In addition, his immediate supervisor has also kept in touch by calling regularly and visiting at the home. All of his workplace interactions have been very positive. To quote the Employee, “It does make a difference knowing that the employer cares.” Coworkers came to the hospital to visit and a couple of coworkers who are now retired, visit each and every Wednesday and the family makes sure there are no appointments on that day. Is this exemplary behavior from a caring workplace? I would say emphatically, yes. But, I would also suggest that this is also good workplace practice.

“Early outreach and assistance allow the injured employee to maintain a positive connection to the workplace. ...can alleviate many of the concerns, fears, and frustrations experienced by the employee following a workplace injury. Supervisors that are trained in the return to work process, taught to be positive and empathetic in early contacts with the injured employees and active in the return to work process have positive return to work program outcomes. The employer contacts the injured or ill employee early. Early contact is a core component of most disability management programs and helps the injured employee feel connected to his or her workplace. Contact within the first week or two is a guideline, but the actual timeframe

may vary depending on the employee’s specific situation.” 2.

Is it possible for all employers to be as supportive as Waterville is? Maybe not. But any attempt to be in contact with the injured worker to let them know that there is concern regarding their wellbeing is a positive step. “Employers should actively become involved in every workers compensation case. Communicate on a regular basis with your employees who are disabled with work related injuries. The communication, whether it is by telephone or in person, should be positive and upbeat. Studies have shown that prior communication and post-injury demonstrations of concern by the employer can result in higher levels of worker satisfaction and reduced time lost from work — factors that contribute to lower program costs.” 3.

Throughout this very difficult ordeal of trauma, pain, and loss, the injured employee and his family have maintained the commitment for him to return to work and the support of the member has kept this hope alive.

We felt it was appropriate to recognize Waterville, to congratulate them on a job well done and to also inspire other Employers to consider taking an active role in your Employee’s recovery. ■

### Footnotes:

1. Standard, New England’s Insurance Weekly, March 10, 2017, Vol. 280 No. 10

2. <http://www.labor.state.ny.us/workplacesafety.shtm>

3. [http://lwd.dol.state.nj.us/labor/forms\\_pdfs/wc/pdf/WC-373.pdf](http://lwd.dol.state.nj.us/labor/forms_pdfs/wc/pdf/WC-373.pdf)

4. Other resources:

<http://www.businessinsurance.com/article/20170403/NEWS08/912312696/First-impressions-positive-communication-trust-matter-in-workers-compensation-cl-Joyce-Famakinwa-4/3/17>

<http://blog.reduceyourworkerscomp.com/2017/11/15-activities-every-employer-can-post-workers-comp-injury/>

Workers’ Comp for Employers: How to Cut Claims, Reduce Premiums, and Stay Out of Trouble. BY James Walsh Silver Lake Publishing 1994

<https://www.insurancejournal.com/news/national/2017/10/26/469462.htm>



### The Municipal Risk Manager

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

**Publisher:** Risk Management Services

**Editor:** Marcus Ballou

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# Unemployment Compensation Fund Proudly Serving Members For 40 Years

MMA's Unemployment Compensation Fund (UC Fund) was created in 1978 at the request of MMA members to assist them in meeting their obligations under the Employment Security Act in an efficient and cost effective manner.

The UC Fund membership is composed of municipalities and other public and related non-profit entities that are individually self-insured but administered as a group. Within the Fund, each member has a separate account. Members make quarterly payments into their account, based on rates developed by MMA's consulting actuary. Claims are paid out of the member's own account. The UC Fund pays the State monthly for unemployment claims paid to former employees and reports these payments to each member. Even if the member's account is overdrawn because of high claims activity, the UC Fund continues to pay their monthly claims reimbursement to the state. This service provides our members with cost stability throughout a calendar year.

The Maine Department of Labor classifies MMA's UC Fund members as Direct Reimbursement Employers. In other words, the Fund reimburses the



Maine DOL on a member's behalf only when a member has unemployment claims from present or former employees.

## The primary benefits for program participants include:

- **TECHNICAL GUIDANCE:** Technical guidance is available from MMA staff in preparing for fact findings and appeal hearings, preparing wage reports, requests for separation information, wage audits and other unemployment issues that may arise. Many of you have most likely worked directly with our Unemployment Coordinator Denise Kolreg who has helped guide our members with the handling of unemployment issues.
- **MODERATION OF CASH FLOW:** Each December members of the UC Fund are notified of their contribution obligation for the next calendar year. The amount of the contribution is fixed for the year and additional payments are not required in the event a large sum is paid out in claims.



- **SIMPLIFICATION:** Communications and reporting to the Department of Labor are simplified. All mail for UC Fund members from the Maine DOL is directed to MMA. In most cases the Fund Coordinator can resolve any issues raised. Members' UC wage reports also come to MMA for uniform reporting each quarter. The UC Fund Coordinator is available to answer unemployment compensation questions.

- **DIVIDENDS, INTEREST AND EXCESS BALANCES:** Dividends, interest, and excess balances are returned to members, based on the determination of MMA's consulting actuary, when there is a sufficient balance in each member's account to pay claims for the next year. Dividends are not guaranteed from year to year and their award depends not only on claims experience, but must also be approved by the MMA Executive Committee. The MMA Executive Committee oversees the operations of the UC Fund.

The benefits of belonging to the UC Fund are most evident during difficult fiscal times. A recent example is the 2008 recession which generated a 65% rise in claims by year's end. Claims remained incredibly high for four years and we are just now witnessing claims returning to the "average" level of the previous 10 years. Throughout these difficult years, the UC Fund maintained a conservative funding strategy, and thus was able to support our members through this period of high claims and extended benefits without sacrificing the financial stability of the Fund.

The MMA UC Fund would like to thank our loyal Membership. Of our 243 members, almost 75% have been in the Fund since its inception in 1978. Please join us as we salute our members for their many years of sound employment practices and extraordinary efforts to help control claims. ■■

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ments. Policies can be assigned just like the training modules and will be linked to the training reports.

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- Custom courses developed by a specific member can be added to a mem-

ber's profile through the Online Training Contact.

- External training can be tracked using this system.
- Online courses can be set up to be taken in a group setting.
- Quickly add a large number of new employees through the Online Training Contact.

If you would like to set up or explore these new features, please contact by phone, 1-800-590-5583, or e-mail: [Jennette Holt \(Jennette.holt@memun.org\)](mailto:Jennette.holt@memun.org) ext. 2240. 📧

## FREQUENTLY ASKED QUESTIONS:

### **Question: How and when do I file a claim?**

**Answer:** We strongly encourage our members of the Property & Casualty Pool and Workers Compensation Fund to report claims immediately upon notice.

MMA Risk Management Services offers two simple methods for reporting claims. The recommended method for reporting a claim is to file an Online Report at:

<http://www.memun.org/insuranceServices/RiskManagementServices.aspx>

The second method of claims reporting is to call MMA Risk Management Services at 1-800-590-5583 during normal business hours and for **After Hours Emergency Reporting (After 4:30 p.m. or on Weekends)** (207) 624-0182 or (207) 624-0183

**REMINDER:** If you fail to report a "lost time" injury to the Workers Compensation Board within 7 days, you will incur a \$100.00 Fine

### **And**

Maine Department of Labor Reporting Guidelines states: All Fatalities must be reported to the Maine Department of Labor at (207) 592-4501 within 8 hours. Also, all serious physical injuries that require hospitalization, including amputation, loss or fracture of any body part, must be reported within 24 hours.

Please look for this new Frequently Asked Questions section of the Municipal Risk Manager each quarter. If you have a question you would like to ask please email Marcus Ballou at [mballou@memun.org](mailto:mballou@memun.org)

# Marijuana: Two managers, two communities, two approaches

*Municipal managers Mark Robinson of Fayette and Nate Rudy of Hallowell steer communities heading in different directions on the issue of legal marijuana use.*

*By Eric Conrad, Editor*

**T**wo small municipalities in Kennebec County are taking different approaches to the commercial aspect of regulating the legal use of recreational marijuana.

Those two communities – the City of Hallowell and the Town of Fayette – are led by managers Nate Rudy and Mark Robinson, respectively.

Before getting into the details about their positions on marijuana, here are some facts about each community.

## Hallowell

This is a city of 2,319 people located along the banks of the Kennebec River, just south of and contiguous to the City of Augusta.

Hallowell is known for its upscale, bustling and eclectic downtown thoroughfare, Water Street, which faces a major reconstruction project this spring. Doing business along that main artery are popular and long-established eateries – Slates and the Liberal Cup, among others – antique stores and a medical marijuana establishment with a prominent storefront.

Founded in 1771, Hallowell thrived in the 19<sup>th</sup> Century as a shipping and sawmill community, which also was home to a large granite quarry.

Hallowell voters supported the 2016 marijuana legalization referendum by a margin of 873-755. It operates a City Council-Mayor-Manager form of government.

## Fayette

This is a town of 1,135 people located northwest of Readfield and Winthrop. Like many communities in



**Busy Water Street in Hallowell on an early winter day.** (Photo by Ben Thomas)

this part of the state, Fayette has substantial water and recreational assets – nine lakes and ponds, for example.

Fayette has its own elementary school – the Fayette Central School – and parents have school choice, sending their children to one of the following: Maranacook Community High School in Readfield; Winthrop High School; Spruce Mountain High School in Jay; or, the private Kents Hill School, also in Readfield.

Founded in 1795, its shortened name recognizes the Marquis de Lafayette, the famous French hero who supported American patriots during the Revolutionary War.

It is geographically more rural, and politically more “conservative,” than Hallowell. Fayette residents opposed the marijuana legalization measure by a vote of 426-352. It operates a (five-member) Select Board-Manager-Town Meeting form of government.

## Two managers

Mark Robinson in Fayette and Nate Rudy in Hallowell have become close

municipal manager colleagues due to their towns’ locations as well as because both men are active – in different ways – on the marijuana issue.

During a recent meeting with both men in Hallowell, they easily talked about issues in both their communities, often laughing and kidding each other. Municipal managers have difficult jobs; it’s well-known that close bonds form within the Maine Town, City and County Management Association (MTCMA), which is the professional affiliate group to which many managers belong.

Robinson and Rudy have been high-profile leaders on the marijuana issue, both at the local and state levels. They have been outspoken at times at home, have been widely quoted in media reports and submitted written and in-person testimony to legislative committees on this topic.

However, on the future of legal marijuana, Robinson and Rudy hold different views, as their communities have taken the managers in different directions.

*Eric Conrad is the Director of Communication & Educational Services at Maine Municipal, and he edits the Maine Townsman: [ec Conrad@memun.org](mailto:ec Conrad@memun.org).*

Robinson is firm in his concern that voters who approved the marijuana referendum did not understand the science behind cannabis production that exists today. Rather, he believes, many people voted in favor of it because they had personal experience with marijuana use in the 1960s, '70s and '80s – when marijuana was reportedly a milder, less potent substance.

Robinson said THC, the main mind-altering substance found in marijuana, can be present in much greater strengths than it used to be.

### Mr. Jimi

“When Jimi Hendrix played ‘Purple Haze’ at Woodstock, N.Y. in 1969, I was four years old (and) the purple haze back then contained about 1-2 percent THC,” Robinson said.

Fast forward to earlier this year. Robinson said a retired city manager from Colorado, which legalized recreational marijuana for private use in 2012, told MTCMA members to be prepared for cannabis products that “exceed 75 percent in THC content.”

New methods of consumption – “vaping,” “dabbing” and smoking the flower of a marijuana plant rather than its less potent leaves – mean people today can consume marijuana more effectively, if you will, than the joint rollers and bong users of yesteryear.

“This is an issue that very few people knew about or understood when they voted in favor of Question 1 last year,” said Robinson. “As a matter of public health and safety, I encourage a greater dialogue to continue. I know that changes can and will be introduced in the (recently started) session of the state Legislature and my hope would be to have more concerted and visible support from other municipalities, particularly on the concentrate issue.”

Robinson would like the state, or some entity, to develop public service announcements warning people about health and safety issues related to marijuana use.

“The need for public education and awareness is really the primary reason why I have gotten involved and pushed this issue at the manager/administrator level,” he said.

In testimony given to the Legislature last May, Robinson suggested scaling back – pretty far back – the commercial aspects of legal marijuana

in the state.

“Simply allow limited recreational use to what it is today,” Robinson said, at that time. “Grow and consume your own and carry 2.5 ounces free of prosecution. In my humble opinion, that is what most voters who voted in favor of Question 1 really wanted.”

Having said that, Robinson recognizes that, for now at least, recreational marijuana use is legal. At its annual Town Meeting last June, citizens in Fayette enacted a prohibition on retail or commercial operations within town limits. That vote came after unanimous action, by both the town Planning Board and Select Board, to put forward a prohibition ordinance at town meeting.

In fact, all five members of the Town of Fayette Select Board issued a written Public Health Advisory last year warning citizens about the dangers of “high-potency cannabis products.” The advisory took specific aim at school-age children, “drugged driving” and expectant and nursing mothers.

“This notice has been prepared by the Town of Fayette out of concern for the public health and safety issues that raise as the result of” the production, sale and consumption of high-potency marijuana products, the advisory read in part.

### A different take

Rudy has been Hallowell’s city manager for nearly 18 months. Prior to that, Rudy served as the economic and community development director for the nearby City of Gardiner, and as executive director of Waterville Creates!, an arts and cultural organization in that city.

The city that Rudy manages now is moving gradually but steadily toward permitting, but limiting, businesses that will produce and sell marijuana within Hallowell’s boundaries.

During a meeting last month (December 2017), council members heard the first reading of an ordinance that would establish a \$250 license fee for people who want to open marijuana social clubs (where people can use marijuana publicly) in Hallowell.

Another ordinance would limit to three the number of establishments in the city’s downtown district. The number could be higher if businesses invest in other areas of the city.

Rudy said Hallowell wants to see

new business investment in the city, within reason. He told the Kennebec Journal newspaper: “We want to encourage new investment in the northern and southern gateways on Water Street and minimize any precipitous fluctuations in rental rates or real estate market value in the downtown district that might crowd out other uses.”

Much of Rudy’s testimony to the Legislature has centered on the municipal share of tax and other revenue that marijuana businesses – commercial growers, retailers and social clubs – might have to pay, depending on the progress of the Legislature’s Committee on Marijuana Legalization Implementation (MLI). That committee came up with a series of recommendations that passed the Legislature last summer. However, Gov. Paul LePage vetoed the implementation legislation and his veto was not overridden.

### Enforcement costs

Rudy formally expressed concern to the Legislature that, among other things, law enforcement costs will rise once marijuana readily becomes available in Maine through visible and convenient retailers. Rudy also has cited the cost of regulating marijuana establishments as a concern.

What will happen on the local-revenue front remains anyone’s guess at this point, but previously the MLI committee discussed sharing only 0.5 percent of the sales and excise taxes that will be generated via marijuana production and transactions. In other words, the state will keep 99.5 percent of the new tax revenue, city and towns will collect 0.5 percent, while many of issues surrounding local use, sale and production of marijuana and law enforcement will be handled at the local level.

“I had come to understand, or at least hope, that the state would share revenue fairly with municipalities in a way that promoted responsible growth and regulation for this new industry sector,” Rudy said, in legislative testimony given last September. “I am concerned that if the Legislature votes to underfund local enforcement, more communities will choose to impose a moratorium rather than fund the state’s new tax revenue program.”

Rudy wants to see the state share at least 5 percent of the tax revenue associated with what could be a bur-

# Public Health Advisory

Regarding the Recreational Adult Use Consumption of Highly Potent Cannabis Products  
Prepared for the Citizens of the Town of Fayette

***The following advisory is purposed to inform and educate citizens about the cognitive health concerns and impacts from the recreational consumption of high potency cannabis products***

• **Recreational Marijuana Retail Sales** will commence in Maine in 2018. The product lines will include a wide array of Cannabis (Marijuana) products that utilize all components: dried leaves, flowers, stems, seeds and resins from the Cannabis sativa or Cannabis indica plant which contain many cannabinoids including  $\Delta 9$ -tetrahydrocannabinol, the mind-altering psychoactive chemical known as THC. The recreational consumption and use of cannabis by smoking, eating, drinking, or inhaling/vaping the THC-potent extracts simply to get high can cause long term cognitive impacts on all persons under the age of 30. Potency is a relative issue. 1960's marijuana averaged 1-2 % THC compared to today's products many of which approach 100%. This is a significant mind and chromosomal altering difference. Additionally, as THC increases so do the addictive qualities of cannabis. In other words, you become addicted faster when using potent cannabis.

• **Expectant, Mothers, Fathers and Nursing Mothers:** If you are planning to have children and/or are with child and presently consume potent cannabis you are putting your child's cognitive health at significant risk. If you are a nursing mom, please know that the amount THC in your blood stream is concentrated 7 - 8 times greater in the breast milk you are feeding to your child. It has been clinically proven that THC at certain levels retards the brain growth of children. This may lead to developmental delays and cognitive function disabilities for children. Disabilities that will challenge them for the rest of their lives.

For both expectant mothers and fathers that are recreationally consuming potent cannabis products, please know that the new science known as the science of epigenetics has clinically confirmed that genetic changes take place in human DNA as a resulting effect of the consumption of potent THC products. DNA receptor sites altered by the potent THC consumed by the parents impact their children. The effect that these DNA receptor changes have on children is unknown at the time of this writing.

• **Public Health Impact of Drugged Driving:** Given the rapid pace of cannabis legalization across the United States and potency at historic highs, driving under the influence of potent cannabis is an increasingly important public health issue. Impairment due to intoxication at least doubles risk for cannabis motor vehicle accidents (CVAs) and is a factor in approximately 25% of CVAs in the United States. After alcohol, driving while high on THC is the most frequently detected drug in drivers in motor vehicle accidents. In a national study, there were detectable  $\Delta 9$ -tetrahydrocannabinol (THC) metabolites in body fluids of 27% of those detained for DUI in 2014, which was nearly a 50% increase from 2007. This may be an underestimate of the percent of drivers impaired by Cannabis because of the high false negative rate of one current approach of measuring THC concentration to detect impairment.

In double-blind, placebo-controlled laboratory studies, THC causes acute, dose-dependent impairment in performance on memory, divided and sustained attention, reaction time, visual tracking and motor function tasks. These are cognitive and motor skills that serve critical aspects of driving performance. THC acutely impairs driving in simulator and on-road driving tests. In real-world settings, those who test positive for THC or its metabolites in body fluids have double the risk of car crashes compared with those without.

• **Parents of school age children** especially those in high school and college please know that your students are likely exposed to the consumption of potent THC cannabis products with regularity.

These products over activate certain brain cell receptors, resulting in effects such as: diminished capacity and motivation, difficulty with thinking and problem-solving, impaired memory and learning, altered senses, changes in mood, impaired body movement, hallucinations, breathing problems and some very uncomfortable side effects, such as anxiety and paranoia and in rare cases, extreme psychotic reactions. Talk to your children. Ask them if they are familiar with any of the following: shatter, honey, butter, wax, waxing, mook, mooking, poppers, chops, dabs, dabbing, spirit, doja (dough ha). These are commonly used to describe potent cannabis and ingestion methods.

**This notice has been prepared by the Town of Fayette out of concern for the public health and safety issues that may arise as the result of the recreational cannabis industries production, sale and public consumption of high potency cannabis products available for legal purchase in the State of Maine during the year of 2018.**

## Signed Fayette Board of Selectmen

Jon Beekman, Chairman

Nancy Cronin

Joseph Young

September 25, 2017

Berndt Graf, Vice Chairman

Lacy Badeau

geoning marijuana industry, with municipalities.

“Legalized retail sale of adult use marijuana is the only coordinated effort to increase tax revenues and to promote a growth sector in Maine’s economy in nearly 10 years,” Rudy testified. “Please fund local enforcement at the level it requires, no less than 5 percent of total retail tax revenue, including excise.”

Finally, Rudy has told the Legisla-

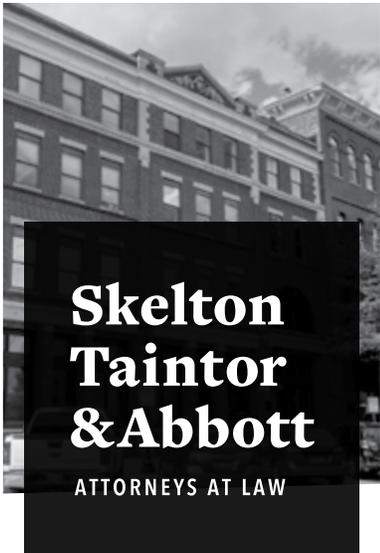
ture that he is concerned about the state’s lack of consistent technical assistance on issues such as the regulation of large-scale versus small marijuana growers. While Rudy notes that the state Department of Agriculture, Conservation & Forestry among other state offices, are taking on regulatory roles, the dissolution of the former Maine State Planning Office has contributed, in part, to a lack of coordination among various state entities, he said.

In written testimony submitted to leaders of the MLI, and in summaries Rudy has made available to the residents of Hallowell, he has likened small growers to craft beer brewers who, taken together, make a

significant contribution to the state economy.

But the fledgling industry needs guidance and oversight, he said, and cities and towns should be compensated for roles they are playing.

“Lacking unifying guidance from the state in the form of a State Planning Office or clear guidance from other relevant state agencies,” Rudy wrote, “which we hope is forthcoming, local governments will surely do our best to help foster constructive environments for this new business sector to flourish around the state. But we may do so at the expense of taxpayers for a short while, and there will be frustrating growing pains in communities of all sizes.” ■



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# Municipal partnership case studies from across the U.S.

*From California to North Carolina, cities and towns are coming up with creative partnerships to better serve their residents and to operate more efficiently.*

## **Dublin, California** **Affordable Housing Development**

The Arroyo Vista public housing development, the City of Dublin, California's (pop. 59,583) only such venue, was falling into disrepair. The costs to improve or rebuild the 150-unit development could not be borne by the city alone.

To meet the goal of transforming this low-density, deteriorating property into a mixed-use and mixed-income complex offering several housing types in a geographically hot housing market, the city engaged with partners from both the private and nonprofit sectors and secured support from the Department of Housing and Urban Development (HUD) to allow for privately owned housing on the part of the redeveloped site.

### **Who were the partners?**

In addition to the City of Dublin and the Dublin Housing Authority, the main partners included Eden Housing, one of California's oldest and most successful nonprofit developers, and KB Home, a market-rate home builder.

### **What outcomes were achieved?**

The redevelopment of what is now called Emerald Vista was completed in December 2012. The community contains 180 affordable rental units: 50 for seniors and 130 for families, including units with four bedrooms. Rents for the apartments are targeted to households earning 30 to 55 percent of area median income (AMI). A services coordinator assists residents with wellness, and financial partner Wells Fargo provides money management and fraud prevention counseling. The for-sale homes include 128 townhouses and 70 detached homes on small lots consistent with the surrounding

## **ABOUT THIS ARTICLE**

The National League of Cities provides research articles and examples to help educate member cities and towns and organizations such as the Maine Municipal Association. This NLC article is reprinted with permission.

neighborhood. In accordance with the city's inclusionary zoning requirements, 14 of these homes are reserved for moderate-income buyers earning between 60 and 120 percent of AMI under a deed restriction that is effective for 55 years.

### **How was the project financed?**

The city owned the land on which Arroyo Vista was built. Working with HUD and KB Homes, it sold a portion of that land to the private developer to increase the number of assisted rental units. Infrastructure development costs were shared by Eden Housing and KB Homes. The total project budget was \$135 million. The city invested \$7.6 million from its housing fund; Eden Housing secured \$24 million in Low-Income Housing Tax Credits; and KB Homes paid \$12 million for the land belonging to the city, \$11 million of which was invested into replacing the original affordable rental units. Tax-exempt bonds and loans from Wells Fargo and the California Community Reinvestment Corporation helped round out the financing. The partners involved Arroyo Vista residents in the planning process.

### **Resident partners**

During construction (July 2011 to December 2012), residents were relocated, given vouchers to secure housing and given first priority for apart-

ments in the new development upon completion. The complex includes a community room that hosts after-school programs as well as a child-care center. The dwellings are accessible to Bay Area Rapid Transit as well as to pedestrian and bicycle trails. Sustainability aspects include solar water heaters and solar photovoltaic for energy production, along with green building materials. In 2014, this project was given the Jack Kemp Award for Excellence in Affordable Housing by the Urban Land Institute.

## **Clifton Forge, Virginia** **Arts and Preservation Project**

The Town of Clifton Forge, Virginia (pop. 3,884), is in the western part of the state, near West Virginia. The rural Alleghany Highlands features some of the most beautiful forestlands interspersed with lakes and state parks. Thanks to a collaboration among a number of partners, two magnificent performance venues have been added as a community and economic development catalyst for the downtown and the region.

### **Masonic theater renovation**

From its construction in 1905 until a temporary closing in 1987, the Mason Hall and Opera House was the oldest continuously operated theater in the Commonwealth of Virginia. Eventually, in 2003, it came into the possession of the town. The task of restoring the facility was given to the Masonic Theatre Preservation Fund in 2009. The grand reopening was July 2016.

The three-story beaux-arts brick building, with its plastered façade, is an architectural treasure. In its heyday, the performance hall hosted such legends as political orator William Jennings Bryan and entertainers Roy

Rogers, Gene Autry, Tex Ritter, Burl Ives, the Drifters and the Count Basie Orchestra. The renovation has rehabilitated all four floors of the theater, including: the third-floor ballroom; the warming kitchen and studios; the balcony level with offices and conference room; the auditorium with its stage and lobby; and, the lower-level dressing rooms, concessions and an underground lounge that looks out onto Smith Creek.

### Project specific: Amphitheater

The earlier project, completed in June 2012, is the Masonic Amphitheatre and Park. It is the result of contributions from 16 architecture students who were part of a design/build LAB team from Virginia Tech University under the direction of award-winning architects Keith and Marie Zawistowski. The work to transform a lot occupied by a tire warehouse was completed in six weeks with support from an army of volunteers, local contractors and community foundations

A significant part of the project's success was the series of agreements to relocate the Wholesale Tire Company (WTC), thus freeing up the existing space for the amphitheater. The Alleghany Highlands Economic Development Corp. organized the transactions to relocate WTC, purchase a new building for WTC's use and transfer the original warehouse to the theater foundation. The amphitheater offers programming for all ages, including independent films, movie marathons, concerts, variety shows, dance, musicals and local performing groups. It also provides space for arts groups, civic organizations, churches and clubs.

### How it was financed

As a community asset, the performance programming runs the gamut from children-focused library programs to music and stage plays to weekend flea markets. An important component of the programming is affordability. Some events are free, and those that aren't cost \$5 or \$10. The most expensive ticket to date has been for folk duo Robin and Linda Williams, which ran \$15. To rehabilitate this historic theater, a total of \$6.5 million was raised from a combination of historic and new markets tax credits, grants and private donations. For the new amphitheater, the Allegh-

any Foundation contributed \$150,000, which became the entire budget for the project.

### Papillion-La Vista, Nebraska Consolidated Fire Service

La Vista, Nebraska, a growing suburb of Omaha, had just reached 18,000 in population and decided it needed to replace its volunteer fire and emergency medical services with a professional department to accommodate increasing needs. The larger neighboring community of Papillion (pop. 19,000) had maintained a professional fire department since the 1990s, but in recent years it also acknowledged the need for expansion. Rather than maintaining two separate departments, the cities proposed merging as a means to cut costs. Both the La Vista and Papillion city councils agreed to form one stronger department that would cover both cities, cut costs and accommodate the needs of these growing Omaha suburbs.

### How was the project executed?

Officials from La Vista, Papillion, and the Rural Papillion Fire Protection District approved the formal merger in the fall of 2013. On April 1, 2014, the La Vista Volunteer Fire Department terminated its services and the newly enlarged Papillion Fire Department began protecting La Vista. With the

help of a \$2 million federal grant, Papillion hired 12 new firefighters, four of whom served as volunteers in La Vista. Months before the transition, Papillion firefighters began conducting test missions throughout La Vista to acquaint themselves with the new territory.

The 2014-15 budget breakdown for the new merged district involved the Rural Papillion Fire District financing the biggest portion at \$2.7 million, while La Vista paid about \$1.6 million and Papillion, \$1.7 million. The cities planned to sell equipment made redundant by the merger and use the revenue to further cut costs and purchase updated equipment. Papillion estimated that the average \$100,000 home would pay \$6 less a year in taxes slated for fire prevention.

### Early results

The new unified fire service has a professional staff of 51 career firefighters working to provide emergency services to the cities of Papillion and La Vista. Papillion's city council is in charge of the new four-station department. In total, 57 paid employees work across three shifts to protect 60,000 people living within the newly created 68-square-mile special district. The department is also able to guarantee advanced life support at all times. Local residents have grown accustomed to



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seeing trucks marked “Papillion” and “La Vista” freely cross between the two communities. City officials confirm the new inter-municipal department offers a quality of professional service that neither city could provide alone.

### **Mooreville, North Carolina** **Technology infrastructure**

The City of Mooreville, North Carolina (pop. 32,711), decided to establish high-speed internet as a basic utility to which all citizens have access. Through a robust technology infrastructure, the city can now better equip its students, citizens and businesses with the tools necessary compete in a global market.

Schools have access to the fastest Internet speeds available, and each student in the district receives a school-issued laptop or tablet. Additionally, the strong data network provides low-cost internet to citizens and businesses, fostering economic development, supporting municipal planning and even enhancing disaster relief.

### **How was the project executed?**

In 2007, the city and its neighboring communities filed to jointly buy a local cable company after it went up for sale. The cost of the company was \$64 million. After a lengthy process, the coalition of cities gained control of the company and its fiber-optic network. That same year, the Mooreville School District began its “21st Century Digital Conversion.”

Having secured access to a high-speed telecommunications network, Mooreville sought advice and help from such industry experts as Apple and Discovery Education. In keeping with the educational goals outlined above, it annually leases MacBook computers and iPads from Apple on three- or four-year contracts. The funding for this equipment and software updates comes through city and school district budgets and is partially offset by reductions in costs for textbooks. Additionally, the district has received grants from such sources as Lowe’s Home Improvement to support equipment costs or make various upgrades.

The Mooreville School District, which has grown in population size served while withstanding state education funding cuts, has been able to maintain over 5,000 laptops and tablets and support a large information

technology staff. The use of one-to-one technology has been an essential factor in managing increasing class sizes, which in some cases have grown up to 50 percent. The city also partnered with local internet service provider, My Connection, to offer broadband service at home for as little as \$9.99 a month and to offer the service free to families with children eligible for free or reduced-cost meals.

### **Results from this initiative**

Since beginning this venture, the city has received acclaim for its actions, including from President Barack Obama, who visited the local middle school in 2013. Students from kindergarten to grade 12 each have their own computers, and every classroom has wireless Internet access. Graduation rates have risen, and the city has seen a dramatic reduction in the performance gap both between black and

white students and between wealthy and poor students. In other areas, Mooreville used its enhanced geographic information service technology to help Niagara Bottling Company find a new home in existing facilities just outside of Mooreville. All city parks and municipal buildings offer public access Wi-Fi to 100mbps while sports venues webhost live footage of youth sports so that out-of-town parents can watch their children play.

### **South Salt Lake, Utah** **Supports for Youth and Families**

Promise South Salt Lake is an initiative within the increasingly diverse community of South Salt Lake, Utah (pop. 24,000), dedicated to building a citywide system of supports for youth and families. Promise South Salt Lake was incorporated as a city department in 2012 with strong support from elected leaders and directors of the recre-



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ation, police, community development and urban livability departments.

Working with United Way of Salt Lake and a broad variety of community resources, the program offers specialized community and after-school programming with an academic and prevention focus at five school-based and four neighborhood-based locations throughout the city. Promise partnership programs currently serve 2,458 youth and adults. While 96 percent of Promise's funding comes from private grants, five of the community centers are operated in city buildings.

### Partnerships focused on results

South Salt Lake has been effective in establishing strong partnerships, resulting in over \$1.3 million in partner-delivered community services. In an effort to pull in partners and stakeholders that might not naturally support after-school efforts, Promise South Salt Lake developed eight committees to oversee the work of the nine neighborhood centers. The eight committees focus on the areas of jobs and economy, safety, education, arts and community, health, neighborhoods, and housing.

Each committee strategically identified key stakeholders who specialize in that committee's topic area. Each committee established a set of overall goals, such as the health committee's goal to decrease the number and percentage of children and adults who are obese. These goals are actualized by a set of objectives. For example, add-

ing fitness and nutritional activities to South Salt Lake events. From this set of objectives, the committee develops an action plan and timeline complete with benchmark goals and data-driven indicators of success. Committee plans and outcomes are highlighted monthly in the city's newsletter.

Focused on these clear goals and objectives, Promise South Salt Lake must manage a large amount of data to help drive its decision making. Its partnership with United Way of Salt Lake served an integral role in developing Promise's data collection system.

Currently, Promise uses Social Solutions' Efforts to Outcomes software, which helps it track youth and family interventions. School district and city attorneys developed a Family Educational Rights and Privacy Act waiver that allows access to student data for even more targeted decision making. Such data allow members of Promise's committees to effectively address their issue areas by providing after-school supports to parents and families.

For example, between 2006 and 2007, data showed that out of 180 students enrolled in a particular neighborhood's after-school programs, only 18 children were repeat participants. This finding was indicative of a greater issue of transiency in the neighborhood, an issue that affects real estate agents, developers, residents, renters and homeowners. This larger concern brought to the table such organizations as the Community Development Corporation of Utah and multiple banks. Promise proposed to these partners that an ideal approach to the wider issue of community stability would be to establish community centers that provided targeted youth and family supports, such as English classes, citizenship classes, and a family liaison program.

By 2013 the data showed a new story: families were remaining involved with the program. Between 2012 and 2013, of the 180 after-school program participants, more than 160 participated the prior year. ■

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# 2018 MMA & Affiliate Training Calendar

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MACA	Maine Animal Control Association	MLGHRA	Maine Local Government Human Resources Association
MAAO	Maine Association of Assessing Officers	MMTCTA	Maine Municipal Tax Collectors' and Treasurers' Association
MBOIA	Maine Building Officials & Inspectors Association	MSFFF	Maine State Federation of Firefighters, Inc.
MCAPWA	Maine Chapter of American Public Works Association	MTCCA	Maine Town & City Clerks' Association
MCDA	Maine Community Development Association	MTCMA	Maine Town, City and County Management Association
MeWEA	Maine Water Environment Association	MWDA	Maine Welfare Directors Association

\*Please note that the listings in "red" with a 🔍 symbol are new courses!

**Date: Day: Course Name: Location: Sponsored By:**

### JANUARY

1/23	Tues.	Planning Board/Boards of Appeal Planning Board/Boards of Appeal - <b>Video Conference</b>	Augusta - Maine Municipal Association Caribou - Northern Maine Development Commission	MMA
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### FEBRUARY

2/1	Thurs.	MFCA Legislative Breakfast	Augusta - Senator Inn	MFCA
2/6	Tues.	MTCCA Title 30A - Town Meeting and Local Election Law	Caribou - Caribou Inn & Convention Center	MTCCA
2/6	Tues.	MWDA GA Basics	Topsham - Topsham Library	MWDA
2/6-7	Tues.-Wed.	MeWEA/MWUA Joint Conference	Portland - Holiday Inn by the Bay	MeWEA
2/13	Tues.	Elected Officials Workshop	Augusta - Maine Municipal Association	MMA
2/22	Thurs.	Moderating Town Meetings	Lewiston - Ramada Inn	MMA
2/28	Wed.	MTCCA Title 30A - Town Meeting and Local Election Law	Augusta - Maine Municipal Association	MTCCA

### MARCH

3/1	Thurs.	MeWEA Legislative Breakfast	Augusta - Senator Inn	MeWEA
3/2	Fri.	MeWEA Ski Day with NHWPCA	Rumford - Black Mountain Resort	MeWEA
3/7	Wed.	Basic Municipal Budgeting	Lewiston - Ramada Inn	MMA
3/8	Thurs.	MTCCA Records Management	Waterville - Waterville Elks Banquet & Conference Center	MTCCA
3/13	Tues.	MMTCTA Tax Liens Workshop	Orono - Black Bear Inn	MMTCTA
3/15	Thurs.	MWDA Advanced GA	Augusta - Maine Municipal Association	MWDA
3/16	Fri.	MTCMA 39th Annual Statewide Manager Interchange	Bangor - Hilton Garden Inn	MTCMA
3/19	Mon.	Verbal Judo - Tactical Communication for the Public Employee	Freeport - Hilton Garden Inn	MMA
3/28	Wed.	MTCCA New Clerks	Augusta - Maine Municipal Association	MTCCA
3/28-30	Wed.-Fri.	MFCA Joint Conference	Newry - Sunday River	MFCA
3/29	Thurs.	MMTCTA Tax Liens Workshop	Portland - Keeley's Banquet Center	MMTCTA

### APRIL

4/4	Wed.	<b>Regulating Vacation Rentals (NEW!)</b>	<b>Augusta - Maine Municipal Association</b>	<b>MMA</b>
4/5	Thurs.	MCAPWA Annual Spring Meeting	Waterville - T&B's Celebration Center	MCAPWA
4/6-7	Fri.-Sat.	MACA Annual Business Meeting & Training	Bangor - Hollywood Casino Hotel	MACA
4/10	Tues.	MTCCA Vital Records	Portland - Fireside Inn & Suites	MTCCA
4/11	Wed.	Elected Officials Workshop	Portland - Fireside Inn & Suites	MMA
4/12	Thurs.	<b>Parliamentary Procedures (NEW!)</b>	<b>Augusta - Maine Municipal Association</b>	<b>MMA</b>
4/13	Fri.	MeWEA Spring Conference	Bangor - Sheraton Four Points	MeWEA

Date:	Day:	Course Name:	Location:	Sponsored By:
4/20	Fri.	MAAO Northern Maine Spring Workshop	Caribou - Northern Maine Development Commission	MAAO
4/23-24	Mon.-Tues.	MWDA Spring Training Seminar	Bangor - Hollywood Casino Hotel	MWDA
<b>4/27</b>	<b>Fri.</b>	<b>Municipal Technology Conference</b>	<b>Augusta - Augusta Civic Center</b>	<b>MMA</b>
April	TBD	MCAPWA Supervisory Leadership in Public Works Program - Part I	Augusta - City Center Plaza	MCAPWA
April	TBD	MLGHRA Spring Training	TBD	MLGHRA

## MAY

5/1	Tues.	MAAO Board of Assessment Review MAAO Board of Assessment Review - <b>Video Conference</b>	Augusta - Maine Municipal Association Caribou - Northern Maine Development Commission	MAAO
5/2	Wed.	Personnel Practices	Portland - Fireside Inn & Suites	MMA
5/8	Tues.	Planning Board/Boards of Appeal	Ashland - Community Center	MMA
5/15	Tues.	MTCCA Licensing	Augusta - Maine Municipal Association	MTCCA
5/16	Wed.	Managing Freedom of Access Requests	Skowhegan - Margaret Chase Smith Library	MMA
5/18	Fri.	MMTCTA Annual Conference	Waterville - Waterville Elks Banquet & Conference Center	MMTCTA
5/21-22	Mon.-Tues.	MBOIA 9th Annual Maine Code Conference	Northport - Point Lookout Resort and Conference Center	MBOIA
<b>5/30</b>	<b>Wed.</b>	<b>How to Lead Effective Meetings (NEW!)</b>	<b>Belfast - Hutchinson Center</b>	<b>MMA</b>
May	TBD	MCAPWA Supervisory Leadership in Public Works Program - Part II	Augusta - City Center Plaza	MCAPWA

## JUNE

<b>6/5</b>	<b>Tues.</b>	<b>Meet the Grant Funders (NEW!)</b>	<b>Rumford - Town Office</b>	<b>MMA</b>
6/7	Thurs.	MCAPWA Highway Congress	Skowhegan - Skowhegan Fairgrounds	MCAPWA
<b>6/14</b>	<b>Thurs.</b>	<b>Municipal Human Resources &amp; Management Conference</b>	<b>Waterville - Thomas College</b>	<b>MMA</b>
6/14	Thurs.	MMTCTA Cash Management	Augusta - Maine Municipal Association	MMTCTA
6/19	Tues.	Elected Officials Workshop	Ellsworth - General Moore Community Center	MMA
6/26	Tues.	New Managers Workshop	Augusta - Maine Municipal Association	MMA
6/27	Wed.	MTCCA Municipal Law for Clerks MTCCA Municipal Law for Clerks - <b>Video Conference</b>	Augusta - Maine Municipal Association Caribou - Northern Maine Development Commission	MTCCA

## JULY

<b>7/10</b>	<b>Tues.</b>	<b>Legal Update on Recreational Marijuana (NEW!)</b>	<b>Bangor - Cross Insurance Center</b>	<b>MMA</b>
7/12	Thurs.	MFCA Membership Meeting & Networking	Hope - Hope Fire Station	MFCA
7/12	Thurs.	MMTCTA Basic Excise Workshop	Augusta - Maine Municipal Association	MMTCTA
7/19	Thurs.	Elected Officials Workshop	East Millinocket - Town Office	MMA
7/19	Thurs.	MBOIA Membership Meeting & Training	Augusta - Maine Municipal Association	MBOIA
7/25	Wed.	MTCCA New Clerks	Bangor - Spectacular Event Center	MTCCA
7/26	Thurs.	Planning Board/Boards of Appeal	Portland - Clarion Hotel	MMA
7/26-27	Thurs.-Fri.	MMTCTA Basic Accounting I	Waterville - Waterville Elks Banquet & Conference Center	MMTCTA
7/30	Mon.	Verbal Judo - Tactical Communication for the Public Employee	Augusta - Maine Municipal Association	MMA

## AUGUST

8/8-8/10	Wed.-Fri.	MTCMA 73rd New England Management Institute	Newry - Sunday River	MTCMA
8/14	Tues.	MMTCTA I've Got The Job - What Now? Workshop	Augusta - Maine Municipal Association	MMTCTA
8/23	Thurs.	MTCCA Vital Records MTCCA Vital Records - Video Conference	Augusta - Maine Municipal Association Machias - Machias Career Center	MTCCA
8/29	Wed.	Elected Officials Workshop	South Berwick - Spring Hill	MMA

## SEPTEMBER

9/5	Wed	MTCCA Voter Registration	Portland - Fireside Inn & Suites	MTCCA
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<b>Date:</b>	<b>Day:</b>	<b>Course Name:</b>	<b>Location:</b>	<b>Sponsored By:</b>
9/5-7	Wed.-Fri.	MAAO Fall Conference	Sebasco - Sebasco Harbor Resort	MAAO
9/6	Thurs.	MTCCA Title 21A - State Election Law	Portland - Fireside Inn & Suites	MTCCA
9/6	Thurs.	<b>Municipal Leadership: How to Achieve Results When Your Teammates Can Tackle You (NEW!)</b>	<b>Gray - Spring Meadows Golf</b>	<b>MMA</b>
9/11	Tues.	MTCCA 23rd Networking Day & Annual Business Meeting	Waterville - Waterville Elks Banquet & Conference Center	MTCCA
9/13	Thurs.	Planning Board/Boards of Appeal	Farmington - Franklin Memorial Hospital	MMA
9/19-21	Wed.-Fri.	MeWEA Fall Convention	Newry - Sunday River	MeWEA
9/20	Thurs.	Labor & Employment Law	Bangor - Spectacular Event Center	MMA
9/21-23	Fri.-Sun.	MSFFF Annual Convention/Meeting	Portland	MSFFF
9/27	Thurs.	MBOIA Membership Meeting & Training	Gray - Spring Meadows Golf Club	MBOIA
Sept	TBD	MCAPWA Golf Tournament	Cumberland - Val Halla Golf Course	MCAPWA
Sept	TBD	MWDA GA Basics/Advanced GA	Bangor - TBD	MWDA

## OCTOBER

<b>10/3-10/4</b>	<b>Wed.-Thurs.</b>	<b>82nd Annual MMA Convention</b>	<b>Augusta - Augusta Civic Center</b>	<b>MMA</b>
10/3	Wed.	MFCA Annual Membership Meeting	Augusta - Maine Municipal Association	MFCA
10/6	Sat.	MSFFF Firefighters Memorial Service	Augusta	MSFFF
10/16	Tues.	MTCCA Voter Registration	Bangor - Spectacular Event Center	MTCCA
10/17	Wed.	MTCCA Title 21A - State Election Law	Bangor - Spectacular Event Center	MTCCA
10/25	Thurs.	MMTCTA Municipal Law for Tax Collectors & Treasurers	Orono - Black Bear Inn	MMTCTA
10/30	Tues.	Elected Officials Workshop	Orono - Black Bear Inn	MMA
10/30	Tues.	MBOIA DECD & Fire Marshal's Office Training	Portland - Fireside Inn & Suites	MBOIA
10/31	Wed.	MBOIA DECD & Fire Marshal's Office Training	Orono - Black Bear Inn	MBOIA

## NOVEMBER

11/1	Thurs.	Basic Municipal Budgeting	Orono - Black Bear Inn	MMA
11/1	Thurs.	MBOIA DECD & Fire Marshal's Office Training	Waterville - Waterville Elks Banquet & Conference Center	MBOIA
11/8	Thurs.	<b>Supervisors' Boot Camp (NEW!)</b>	<b>Portland - Fireside Inn &amp; Suites</b>	<b>MMA</b>
11/14	Wed.	MMTCTA Municipal Law for Tax Collectors & Treasurers	Augusta - Maine Municipal Association	MMTCTA
11/29	Thurs.	Planning Board/Boards of Appeal	Northport - Point Lookout Resort and Conference Center	MMA
Nov	TBD	MLGHRA Fall Training	TBD	MLGHRA

## DECEMBER

12/6	Thurs.	Elected Officials Workshop	Bethel - Bethel Inn	MMA
12/7	Fri.	MWDA Winter Issues Training	Augusta - Maine Municipal Association	MWDA
12/11	Tues.	Managing Freedom of Access Requests	Portland - Embassy Suites	MMA
12/13	Thurs.	MBOIA Annual Membership Meeting & Training	Lewiston - Green Ladle	MBOIA
12/18	Tues.	Elected Officials Workshop Elected Officials Workshop - <b>Video Conference</b>	Augusta - Maine Municipal Association Caribou - Northern Maine Development Commission	MMA
Dec	TBD	MTCMA Joint Workshop with MMANH	New Hampshire	MTCMA

**Online registration is easy!**

<http://www.memun.org/TrainingResources/WorkshopsTraining.aspx>

# PEOPLE



**Linda Abromson**

Former Portland Mayor **Linda Abromson** died on Nov. 30, at the age of 78, following heart surgery. She was first elected to the city council in 1980, served a term as mayor and was credited for helping to transform the Old Port and recruit the Sea Dogs baseball team, among myriad civic efforts over her lifetime. Among her first initiatives as a councilor was to squash the policy of charging women five cents to use the ladies room at the city airport since men paid nothing. She was considered a staunch advocate for the city in many specialty areas, including the arts and education, as well as being a dedicated leader in the Portland Jewish community. Abromson served four, three-year terms on the council as well as a six-year stint on the school board. She also served for nine years on the Maine Human Rights Commission. She led the kind of life books are written about and will be buried next to her husband, Joel, a four-term state senator. Mr. Abromson's tombstone reads "He made a difference" and the family plans to have etched "So did she" on her stone.



**Philip Hart**

Gardiner City Councilor **Philip Hart** retired in December after serving 30 years on the council. The Gardiner native was called an "institution and icon" for the city and an honorable and kind man. He sought office at his wife's urging. Hart acknowledges learning a great deal about local government during his decades of service.

Former Rumford Fire Chief **Robert Chase** has been named deputy fire chief for the City of Auburn, effective Jan. 2. Chase, who has agreed to work part-time for the Rumford department during its transition, served as Rumford chief since 2009.

South Portland voters elected **Adrian Dowling** and **Katherine Lewis** to the city council in voting on Nov. 7. Dowling

ran unopposed, receiving 5,140 votes, to replace Brad Fox, who did not seek re-election. Lewis defeated a challenger by a vote of 4,834 to 1,380 to replace Patricia Smith, who was termed out after serving three, three-year terms. **Claude V.Z. Morgan** also was elected with 5,257 votes, running unopposed.



**John Gibson**

**John Gibson** of Caribou was named deputy director of the Aroostook County Emergency Management Agency, effective Nov. 27. Gibson moved from the Hutto, Texas, area last March when his wife, Caribou native **Christina Kane-Gibson**, was hired as the city's events and marketing coordinator. Gibson has been a professional firefighter since 2000, but began as a volunteer in 1998. He worked briefly for the Caribou Fire Department before accepting the county job.



**James Lapolla**

**James Lapolla** was named director of Wells Emergency Medical Services during the select board's Nov. 21 meeting. He succeeds **Brian Watkins**, who served as director for six years. Lapolla began his career in the U.S. Navy in 1982, when he worked as a hospital corpsman. He served as a firefighter/paramedic for 20 years for the Town of Durham, N.H. He has worked the past four years as assistant director of emergency management for the University of New Hampshire in Durham.



**Allan Moir**

Kennebunkport Fire Chief **Allan Moir** died of cancer on Dec. 24 at the age of 63. Moir grew up in Upton, Mass., and moved to Maine in 1981 to take the job of superintendent of the Kennebunkport Wastewater Department. Even while working for the wastewater department, Moir joined the fire department as a part-time firefighter in October 1994 and was named chief of the volunteer force in 2010. Moir was a skilled scuba diver and performed many water rescues over his career. He also trained other divers. He was considered an ace in hazardous materials and waste and served on the York County Hazmat team. Moir also served as a firefighter for Kennebunk, as well as a reserve police officer until he was named Kennebunkport fire chief.



**Jeremy Turner**

Most police officers work for years before gaining much recognition, but not so for almost-rookie Portland officer **Jeremy Turner**, whose performance of "O Holy Night" in Tommy Park went viral on the internet, with more than 100,000 people clicking to listen within just a few days. A fellow officer filmed Turner singing at dusk on Dec. 16. His performance, against the backdrop of trees lit for Christmas, also garnered applause from a crowd in the snow-covered park. Turner joined the department in August 2016 after graduating from the Maine Criminal Justice Academy. ■

If your municipality submits a news item for the Townsman, consider sending a corresponding photo to:

**Eric Conrad or Jaime Clark**  
([econrad@memun.org](mailto:econrad@memun.org) or [jclark@memun.org](mailto:jclark@memun.org))

## STATEWIDE

KeyBank Foundation will donate \$450,000 over three years to support small business growth and job creation in rural Maine. The money will be distributed through Coastal Enterprises Inc., based in Brunswick. The grant award is part of KeyBank's \$16.5 billion National Community Benefits Plan. CEI officials said the money will provide lending and business consulting services to 1,400 existing and new small business owners and is expected to help create 300 jobs.

## ANSON

By only two votes, residents agreed to accept the closed Madison Paper Industries sludge landfill as town property, as well as \$2.4 million from the owners to maintain it and ensure it remains safe. The vote was 18-16. The landfill, which held non-toxic wood chips and clay from the mill, was closed and capped two years ago under the supervision of the Maine Department of Environmental Protection. State officials told residents that if there was a problem with the landfill, it would have surfaced by now. The mill closed in May 2016 and was sold to a trio of venture capital firms in December 2016. The money will be used for general maintenance of the landfill site, such as mowing. The town plans to invest some of the \$2.4 million. The deal is expected to be completed this year.

## CASCO

Town officials decided to either live-trap beavers who have been plugging up culverts throughout the town or publicize the problem prior to the state's beaver-trapping season. The cost of unlogging the culverts ranges from \$200 to \$600 an hour, depending on what equipment is used. The town in recent years has replaced or sleeved many culverts and town officials agreed to tackle the beaver problem to protect the infrastructure investment. Property owners must agree to allow the beavers to be trapped, if that option is pursued. Beavers can clog up a culvert in less than three days.

## GORHAM

Town council agreed unanimously in December to authorize its Ordinance Committee to study a proposed tax rebate program for senior residents. The current proposal would give residents

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

Highlights of what's been added at [www.memun.org](http://www.memun.org) since the last edition of the Maine Townsman.

**Spirit of America.** Your municipal governing body is encouraged once again to pick a local person, project or organization to receive a 2018 Spirit of America Foundation tribute for outstanding community service.

**Community Engagement.** The University of Maine and University of New Hampshire will hold an interactive, three-day "academy" for local leaders who seek to improve community engagement, particularly as it relates to downtown development.

**New Deadline: Clerks.** In a law that took effect Nov. 1, 2017, the filing deadline for municipal nomination papers has been moved from 45 to 60 days prior to Election Day. Thus, nomination papers should be available earlier than in the past.

age 70 and older a rebate of up to \$500 a year, as long as they have lived in town for at least 10 years. The Gorham council also joined many Maine municipalities in December in enacting a moratorium on retail marijuana businesses and social clubs.

## LEWISTON

The city has been named one of the safest U.S. cities following an online survey of 182 municipalities by WalletHub, which provides credit scores and other finance-related data to consumers. The survey analyzed 35 "key indicators of safety," which included how many assaults were reported per capita, unemployment rates and the quality of local streets. Lewiston was ranked seventh safest in the survey, while Portland was rated as ninth safest. The two cities were the only Maine communities included in the survey.

## PRESQUE ISLE

A group of Aroostook County municipalities are collaborating on a project to replace standard street lights with LED lights. The project was devised by the Aroostook Municipal Association. The initiative will save the 14 participating cities and towns as much as 60 percent of their current annual street light costs. Most towns lease street lights from Emera Maine, which uses sodium light bulbs. The City of Presque Isle, for example, pays the utility \$180,000 a year for street lights. The effort has been approved by the Maine Public Utilities Commission. The communities will buy the LED lights as a group and contract to have them installed. Participating municipalities include: Caribou, Fort Fairfield, Fort Kent, Frenchville, Grand

Isle, Houlton, Island Falls, Limestone, Madawaska, Mapleton, Mars Hill, Presque Isle, St. Agatha and Washburn.

## ROCKLAND

The city will need at least \$250,000 to clean up a downtown property it acquired in 2016 for lack of tax payments. The city acquired three contiguous properties, and one served as a commercial junkyard for nearly a century. Once the junkyard was cleaned out, officials tested the soil and learned it was contaminated. There are parties interested in buying the property, but would not be able to afford the hazmat cleanup. City officials will seek grants to help finance the work. The property cannot be sold or used as public space in its present state.

## ST. GEORGE

The select board voted in mid-December to oppose an offshore wind project being erected 12 miles off the town's coastline. The selectmen's action supports local fishermen, who argue the transmission cable necessary for the wind turbine would jeopardize their livelihoods. More broadly, fishermen are concerned that Maine waters will become home to multiple wind farms.

## WISCASSET

A group of town first responders delivered a baby boy on Dec. 21 after dispatchers were told a woman was in labor at her home and needed help. The baby was born under a Christmas tree nine minutes after crews arrived. The mother and child were transported to MidCoast Hospital in Brunswick after the delivery. Both are in good condition. ■

# MUNICIPAL BULLETIN BOARD

**JAN. 23**

## **Planning Boards/BOA: Augusta, Caribou (via video)**

MMA's Legal Services Department will host a session for local Planning Board and land use Boards of Appeal members from 4 p.m. to 8:30 p.m. on Jan. 23 at Maine Municipal Association's Christopher G. Lockwood Conference Room in Augusta. The workshop will be shown via video at the Northern Maine Development Commission office in Caribou.

The workshop is designed as an introduction for new or less experienced members, but veterans may find an update useful as well. Among the topics to be covered: jurisdictional issues; conflicts of interest and bias; public notice requirements; site visits; procedure for decisions; and, variances. The cost is \$55 for MMA members and \$110 for non-members in Augusta and \$45 for attendees in Caribou.

**FEB. 6**

## **Title 30-A, Town Meeting and Elections: Caribou**

The Maine Town & City Clerks' Association will hold a workshop on Title 30-A – town meetings and elections – on Feb. 6 at the Caribou Inn & Convention Center, starting with registration at 8:30 a.m. Speakers will include a municipal clerk who oversees these processes first-hand and an attorney from MMA's Legal Services Department.

Cost for the workshop is \$60 for MTCCA members and \$80 for non-members. The event is scheduled to end at 4 p.m.

**FEB. 6**

## **GA Basics: Topsham**

The Topsham Public Library is the site of a workshop on General Assistance Basics, to be held starting with registration at 8:45 a.m. on Feb. 6. The day-long class is recommended for select board members, GA administrators, town managers (with MTCMA credits) and others responsible for administering GA benefits.

There are new applications and forms to be discussed. Reimbursement forms will also be reviewed in a step-by-step fashion. The class is scheduled to conclude at 3 p.m. Lunch will be provided. Cost is \$45 for MWDA members and \$65 for non-members. The session is sponsored by the Maine Welfare Directors Association.

**FEB. 13**

## **Elected Officials Workshop: Augusta**

Attorneys and staff from MMA's Legal Services and Communication & Educational Services departments will lead a workshop for Elected Officials on Feb. 13 at the MMA Conference Center in Augusta. The evening workshop begins with registration at 4 p.m. and ends at 8:30 p.m., including a light dinner. Officials who attend will receive a certificate saying they have met the state's Freedom of Access training requirement.

The workshop is designed for newly elected officials, but veteran councilors and select board members will benefit from the refresher and legal updates as well. Topics include: open meeting and records; roles and responsibilities; effective communication; media relations; and, conflicts of interest, among others. Cost for the workshop is \$55 for MMA members and \$110 for non-members.

**FEB. 22**

## **Moderating Town Meetings: Lewiston**

Dick Thompson, an experienced Town Meeting moderator and regular speaker for MMA, will lead this annual workshop that examines effective strategies for leading town meetings in Maine. The workshop references MMA's Moderator's Manual and all attendees will be provided one.

The workshop, to be held at the Ramada Inn and Conference Center in Lewiston, begins with registration at 5:30 p.m. and will end at 8:30 p.m. Cost is \$55 for MMA members and \$110 for non-members. The session is intended to inform both new and seasoned Town Meeting moderators.

**FEB. 28**

## **Title 30-A, Town Meeting & Elections: Augusta**

The Maine Town & City Clerks' Association will hold a workshop on Title

30-A – town meetings and elections – on Feb. 28 at the MMA Conference Center in Augusta, starting with registration at 8:30 a.m. Speakers will include municipal clerks who oversee these processes first-hand and an attorney from MMA's Legal Services Department.

Cost for the workshop is \$60 for MTCCA members and \$80 for non-members. The event is scheduled to end at 4 p.m.

**MARCH 7**

## **Basic Municipal Budgeting: Lewiston**

Biddeford City Manager James Bennett and Brunswick Town Manager John Eldridge will co-present MMA's valuable and long-running workshop on Basic Municipal Budgeting on March 7 at the Ramada Inn in Lewiston.

The interactive session looks at understanding, preparing and presenting town and city budgets. Attendees won't just listen to how the budget process is done – they will be asked to do it themselves. Cost for the workshop is \$75 for MMA members and \$150 for non-members. Registration begins at 8:30 a.m.

**MARCH 19**

## **Verbal Judo: Freeport**

One of MMA's most popular programs – Verbal Judo: Tactical Communications for the Contact Professional – returns on March 19. The all-day workshop will be led by Joel Francis, National Director/Trainer for the U.S. Verbal Judo Institute. It begins with registration at 8 a.m. and will be held at the Hilton Garden Inn in Freeport. It is scheduled to conclude at 4:30 p.m.

Boiled down, Verbal Judo teaches employees who have contact with the public how to calm difficult people who may be acting out of emotional stress or other influences. Cost is \$110 for MMA members and \$205 for non-members. ■

**All of the upcoming workshops can be found  
on the MMA website.**

**Use the following link:**

**[http://www.memun.org/TrainingResources/  
WorkshopsTraining.aspx](http://www.memun.org/TrainingResources/WorkshopsTraining.aspx)**

# LEGAL NOTES

## Prepaid 2018 Property Taxes

In the waning days of December 2017, town offices all across the state were deluged by taxpayers seeking to prepay their 2018 property taxes. The reason: The new federal income tax cuts limit the deduction for state and local income and property taxes to \$10,000 starting in 2018. Thus, taxpayers whose combined state and local taxes normally exceed \$10,000 thought that by prepaying their 2018 property taxes, they could deduct them on their 2017 federal return, before the \$10,000 cap on this deduction takes effect.

Whether this is actually correct now appears doubtful. The IRS has apparently advised that 2018 property taxes are deductible for 2017 only if they were assessed as well as paid by December 31, 2017. This of course is a legal impossibility under Maine law. While Maine law does authorize prepayment of property taxes not yet assessed if the municipal legislative body (town meeting or town or city council) so votes (see 36 M.R.S.A. § 506), property taxes for any given year cannot be assessed until at least April 1 of that year, when the taxable status of all property must be determined (see 36 M.R.S.A. § 502). Hence, one of the two prerequisites for deducting 2018 property taxes in 2017 (that they were actually assessed in 2017) cannot, under Maine law, be met.

We suspect this may come as an unpleasant surprise to many taxpayers who prepaid their 2018 property taxes expecting to deduct them for 2017. We also suspect that some of them, upon learning their prepayment is not deductible, may demand a refund. But provided a municipality has authorized prepayments (see above), a taxpayer who voluntarily prepays is not entitled to a refund for any reason, nor is a tax collector authorized to give one. Prepayments are final and non-refundable unless there is an excess over the taxes finally assessed, in which case the excess must be refunded, with interest if any was authorized. (By R.P.F.)

## Ambulance Services & Fees

**Question:** Must municipalities provide ambulance services, and if they do so, may they charge ambulance fees?

**Answer:** There is no legal requirement that municipalities provide ambulance services. But municipalities are expressly

## MUNICIPAL CALENDAR

**ON OR BEFORE JANUARY 31** — Written statements, as prescribed by State Tax Assessor, of wages withheld in the previous calendar year is to be furnished each employee (36 MRSA § 5251).

■ Monthly/Quarterly expenditure statement and claim for General Assistance reimbursement to be sent to Department of Human Services, General Assistance Unit, DHS #11, Augusta, ME 04333-0011 [22 MRSA §4311].

**FEBRUARY 19** — Presidents' Day, the third Monday in February, is a legal holiday (4 MRSA § 1051).

**BEFORE TOWN MEETING** — Selectmen must have a warrant posted at least 7 days before town meeting and have a constable or named resident make return (30-A MRSA §2523). If adoption of an ordinance is proposed, make sure of compliance with 30-A MRSA §3002.

■ Town Meeting voter registration and voting list requirements. The registrar shall accept the registration and enrollment of voters prior to the municipal election according to the time schedule prescribed by 21-A MRSA § 122 unless changed by municipal officers.

■ Deposit copies of annual report in the municipal office or a convenient place of business for distribution to voters at least 3 days before the annual meeting (30-A MRSA § 2801). Send copy of town report to: State Tax Assessor, State Librarian, UMO's Fogler Library, and Maine Municipal Association.

**BY MARCH 1** — Solid Waste Municipal Reporting forms are due back to the State Planning Office, 38 State House Station, Augusta Me 04333 [38 MRSA §2125(1)].

authorized to raise and appropriate public funds to operate a municipal ambulance service or support a separately incorporated ambulance service (see 30-A M.R.S.A. § 5725(9)). A municipality may charge an ambulance fee if it operates a municipal ambulance service but not if it merely provides financial support for a separate service.

Ambulance fees are not imposed by state law. In order to charge a fee for a municipal ambulance service, a municipality must establish a fee by "home rule" ordinance (see 30-A M.R.S.A. § 3001) enacted by its legislative body (town meeting or town or city council). The fee should be proportionate to the actual cost of providing the service, should be imposed only on those who actually receive the service, and should be imposed on all similarly situated persons equally. The fee cannot be used to raise general revenue or to fund other services or general government.

It is probably permissible to charge an ambulance fee to non-residents but not to residents of the municipality. There is a rational basis for this distinction because

non-residents do not pay local taxes to fund a municipal service, whereas residents do (see generally *Baldwin v. Fish & Game Comm'n of Montana*, 436 U.S. 371 (1978)). It is probably not permissible, however, to charge only those with insurance because it would be difficult to demonstrate a rational basis for this distinction.

Ambulance fees that are collected must be deposited and may disbursed by the municipal treasurer in accordance with the laws governing municipal funds. If a fee is not paid voluntarily, a municipality may go to court (Small Claims Court if the fee does not exceed \$6,000) to collect it. If the person billed has insurance, their plan may cover the fee, but a municipality should not bill the insurer directly because there is no legal relationship between the municipality and the insurer. Instead, the person billed should be instructed to submit the claim to their insurer if they have one.

For more on fees, see our "Information Packet" on Fees, User Fees, Impact Fees, Service Charges and PILOTS, free to members at [www.memun.org](http://www.memun.org). (By B.N.G.)

# LEGAL NOTES

## Before-and-After Notice of Shoreland Variances

Here's a reminder to local boards of appeals and their staff: Municipalities must notify the Maine Department of Environmental Protection (DEP) both before and after any shoreland zoning variance decision is made.

The law requires municipalities to forward a copy of every shoreland zoning variance request to the DEP at least 20 days before action by the local appeals board (see 38 M.R.S.A. § 438-A(6-A)). This material must include the application and all supporting information provided by the applicant. The DEP may comment if it determines that comments are warranted, and if it does, these comments must be made part of the record and considered by the appeals board prior to acting on the appeal.

The requirement for prior DEP notice is in addition to the requirement that written notice of all shoreland zoning-related appeals board decisions be given to the DEP afterward. This notice must state the reasons and the basis for the board's decision, including the facts found and conclusions reached. This notice must be mailed or hand-delivered to the applicant and to the DEP within seven days of the board's decision (see State of Maine Guidelines for Municipal Shoreland Zoning Ordinances, Section 16(H)(4)(b)(iv)). Copies of all such decisions must also be given to the planning board, CEO, and municipal officers (selectmen or councilors).

Contact information for the DEP's Shoreland Zoning Unit is available here: <http://www.maine.gov/dep/land/slz/#contact>. (By R.P.F.)

## Tax-Acquired Property: Eviction Not Necessary

(Reprinted from the March 2009 *Maine Townsman* Legal Notes.)

**Question:** Are we legally required to evict the occupants of tax-acquired property before we sell it?

**Answer:** No. In fact, we generally advise against initiating forcible entry and detainer (eviction) proceedings unless the occupants are committing "waste" (damage) or the property is to be retained and converted to municipal use. There is simply no reason, legal or otherwise, in most cases to forcibly vacate the prem-

ises. If the property is to be sold, it should be sold "as is," with the burden of dealing with the occupants falling to the buyer.

There are in fact some good reasons *not* to forcibly vacate tax-acquired property. For one, a municipality can be held liable for a tax-acquired building vacated by its former occupants after 60 days (see "Municipal Liability for Tax-Acquired Property," *Maine Townsman*, Legal Notes, August-September 2008). As long as the building remains occupied, however, the municipality cannot be held liable.

For another, occupants of tax-acquired property may (not surprisingly) have insufficient resources to relocate, so if evicted, they may be entitled to municipal general assistance (GA). Unless they apply and are GA-eligible, though, a municipality has no obligation to relocate or otherwise assist them.

While we do not recommend eviction in most cases, we also do not recommend that a municipality try to collect rent or exercise custody or control over the premises while occupied. Such actions would likely be construed as establishing a landlord-tenant relationship, with all the attendant liabilities falling to the municipality. Instead, we advise that occupants of tax-acquired property be allowed to remain "at sufferance" (tolerated, but without express consent) unless, again, they are committing waste or the property is to be converted to municipal use.

For much more on tax-acquired property, see our "Information Packet" on the subject at [www.memun.org](http://www.memun.org). (By R.P.F.)

## Local Sealers: A Local Option

We weren't aware of it until recently, but the Legislature has reinstated the position of local sealer of weights and measures – as a local option (see PL 2017, c. 172, eff. Nov. 1, 2017). Until 2013, when the prior law was repealed, the position of local sealer was actually mandatory (see former 10 M.R.S.A. §§ 2451-2455). We're pretty sure, though, that this state mandate was not common knowledge locally and was thus widely ignored.

Under the new local sealer law (see 10 M.R.S.A. §§ 2461-2462), the municipal officers (selectmen or councilors) may, at their option, appoint a local sealer of weights and measures and a deputy if necessary. This discretion rests exclu-

sively with the municipal officers and is dependent only on sufficient local funds being available for compensation and related expenses, such as testing equipment. The choice of a local sealer must be communicated by the municipal clerk to the State sealer within 10 days. The State sealer has final approval authority over the selection.

A local sealer need not be a resident of that municipality but must be (1) a resident of Maine, (2) at least 18 years of age, and (3) a U.S. citizen – the same as required for any other municipal office (see 30-A M.R.S.A. § 2526(3)). Also, before assuming the duties, a local sealer must complete certification by the National Conference of Weights and Measures. A local sealer may serve as sealer for several municipalities.

Local sealers have many of the powers and duties of the state sealer but remain under the jurisdiction of the State sealer. Local sealers must make a detailed annual report of their doings for the preceding 12 months by July 1.

For municipalities that do not choose to appoint a local sealer, the State sealer retains sole authority to enforce State weights and measures laws in those municipalities. The State sealer may, however, appoint others, at State expense, to carry out the State sealer's responsibilities.

By our reckoning only a handful of municipalities in Maine have employed local sealers in recent years. The new law reinstating local sealers – as a local option – was likely enacted so that these municipalities can lawfully continue the practice if they wish, despite the fact that this is now widely viewed as a State responsibility. (By R.P.F.) ■

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# Maine Municipal Bond Bank

## 2018 SPRING BOND ISSUE SCHEDULE

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

FEBRUARY						
				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			

### Wednesday, February 14th

Application Deadline.

### Wednesday, March 21st

Application approval (Board Meeting).

### Monday, April 9th

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

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

### Wednesday, April 11th

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

### Monday, April 23rd & Tuesday, April 24th

Maine Municipal Bond Bank Pricing.

APRIL						
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					

### Wednesday, April 25th

Maine Municipal Bond Bank Sale Meeting (Board Meeting).

### Monday, May 14th

Final documents due from bond counsel.

### Wednesday, May 23rd

Pre-Closing.

MAY						
		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		

### Thursday, May 24th

Closing - Bond Proceeds Available (1:00 PM)

If you would like to participate in or have any questions regarding the 2018 Spring Bond Issue, please contact Toni Reed at 1-800-821-1113, (207)622-9386 or tir@mmbb.com.



When you need a **finance team**  
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**your team.**



Shana Cook Mueller



Lee Bragg



Nelson Toner



Zack Brandwein



Ginny Coull



Janet Davis

Meet the Municipal Finance Team. With many decades of experience, we specialize in public finance, tax-exempt bonds and various other financing options for public entities. We find ways to provide our services in the most cost-effective manner to save our clients legal costs over the long term.



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