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of the Maine Municipal Association

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Maine Townsman

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Anticipation



They say the waiting is the hardest part. Now that recreational use of marijuana is legal in Maine, municipal leaders need the state to set important legal details.

Police chiefs across the state are concerned, but not overly so, about enforcing limits around marijuana possession and driving while impaired. [Page 17](#)

The recent Presidential election was rough, no question, and the term "fake news" is now in vogue. How much have U.S. politics really changed? [Page 5](#)

ABOUT THE COVER: Ben Thomas, MMA's website and social media editor, captured this image on a Friday afternoon at the University of Southern Maine in Gorham.

University Inclusion

University of Maine System Chancellor James H. Page knows that municipal leaders are important partners for his colleges. Here's more about his outreach plan. [Page 7](#)

Town Report Tips

Winners of MMA's Annual Town Report contest offer advice and insights about assembling their documents and preserving pieces of history. [Page 23](#)

MMA's 2017 Training Calendar

We will be busy again. MMA will hold and organize 97 training events throughout the state in 2017. We hope members take advantage of our expansive program. [Page 27](#)

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A MESSAGE FROM MMA

BY ERIC CONRAD / EDITOR

The more things change, the more they...

At each of Maine Municipal Association's Elected Officials Workshops, wedged in between two of our attorneys speaking on weighty matters like governance and law, it's my turn. As the Director of Communication & Educational Services, my section is called "Effective Communication & Engaging the Media." It's an area I know pretty well, after 27 years as a newspaper editor and reporter in Maine, Florida, Pennsylvania and Connecticut.

We cover a lot of ground in 40 minutes, discussing how to develop key messages, how to rephrase and repeat them for effectiveness and how the mainstream media in 2017 is a shadow of what it used to be. We take inventory of the many communication channels that municipal officials have at their fingertips.

In some ways, it is a fast and dangerous world out there.

Back in the early and mid-1980s, print journalists typed on IBM Selectric typewriters, scanned in their work and editors pored over each article with care. Then, pages were assembled, photographic plates were made and put onto printing presses – and newspapers eventually were delivered. Television news was important too, dominated by the three major networks (ABC, CBS and NBC), nationally and locally. Radio stations employed real reporters – not just hosts and headline readers – with original news updates on the hour. Do you remember?

Just as it's doing with the retail industry, the Internet changed everything. True radio news is gone. Newspapers and their affiliated websites are in trouble. Cable channels and TV networks vie for the national television audience, with viewers often preferring the cable news shows most likely to reflect their views.

Now, there's the phenomenon of "fake news," which originally, or so I thought, referred to fabricated reports put out by bedroom bloggers on websites with weird and unfamiliar names. That seems to be evolving. Some people use the term to refer to news that may be legitimate, but they don't believe or don't want to believe.

Sometimes, it feels like our public discourse and journalism itself are at all-time lows. There's no need to rehash



the claims and reports during the recent election and installation of our new president. On all sides, it was rough, reckless and, to use a term from the '80s, occasionally gross.

"Unprecedented," the national pundits tell us. "We've never seen an election like this one." I recently heard a Maine radio show host say that what he considered to be fake news and invasive media reporting dates to "the administration of Bush II." A sympathetic caller agreed and

said laws should be changed to punish so-called journalists who invade others' privacy or – and this so depends upon your political views – irresponsibly report claims and allegations about our leaders.

But, how new is this?

Way back in the Stone Age, when I attended college for journalism and they taught about history and ethics (I imagine they still do), we read about the election of President Grover Cleveland. He ran in 1884 against a fellow named James Blaine. You may have heard of him. Our Governor's mansion is named for him. Blaine was from Maine, a Republican and former U.S. Senator and Speaker of the House, who nearly won.

Much like in 2016, there was great personal acrimony, including uncontested allegations that Cleveland fathered a child out of wedlock while he was a lawyer in Buffalo, N.Y. Newspaper cartoonists had a field day. At rallies throughout the campaign, Blaine supporters would chant: "Ma, ma, where's my pa?" followed by "Gone to Washington, ha, ha, ha!"

Eerily familiar, as they say.

One thing *has* changed. We use technology so much today, from cell phones and laptops to e-mails, Tweets, text messages and social media. There are many ways to make careless mistakes with written messages, and those comments can be hacked by people we've never met. (Something else we cover at Elected Officials Workshops.)

Yes, we live in a fast-changing world, with new ways to communicate that both empower and imperil. But are we more partisan and "polarized" than in days gone by? Were we really a genteel and respectful society, back in President Cleveland's day? ■

- 2017 -

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.)**

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. Attendees can participate via ITV Technology by viewing the presentation remotely. ITV broadcasting allows for live viewing as well as interactive participation with the attendees. A facilitator will be onsite to assist. Should you wish to attend this session at NMDC, simply fill out the registration form and select the Caribou live broadcast.

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 ever-changing local government responsibilities and issues.

Frequently Asked Questions:

- 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?

Roles of Elected Officials & Municipal Managers

Who Should Attend:

This workshop is geared for municipalities with Manager/Administrator form of government. Councilors, selectmen, managers and administrators: this workshop will focus on the differing roles and responsibilities of elected officials (selectpersons/councilors) and appointed officials (managers and administrators), including key responsibilities, legal requirements, personnel issues, communication and goal setting. It will help elected and appointed officials run an effective hiring process and understand their respective roles, their differing needs and how to work smoothly together. It will provide insight and understanding as well as specific ideas and tools to bring back to your municipality.

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 - 2/21/2017

Maine Municipal Association
60 Community Dr., Augusta, ME 04330

Caribou - 2/21/2017 *Live Video Conference*

Northern Maine Development Commission
11 West Presque Isle Rd., Caribou, ME 04473

Old Orchard Beach - 4/5/2017

The Galley Ballroom at Duffy's Tavern & Grill
168 Saco Ave., Old Orchard Beach, ME 04064

Skowhegan - 5/24/2017

Margaret Chase Smith Library
56 Norridgewock Ave., Skowhegan, ME 04976

Machias - 6/20/2017

University of Maine at Machias, Science Building
116 O'Brien Ave., Machias, ME 04654

Rangeley - 7/18/2017

Rangeley Inn & Tavern - 2443 Main St., Rangeley, ME 04970

Houlton - 8/22/2017

The Center for Community Health Education
Houlton Regional Hospital
20 Hartford St., Houlton, ME 04730

Portland - 9/14/2017

Embassy Suites by Hilton
1050 Westbrook St., Portland, ME 04102

Augusta - 11/30/2017

Maine Municipal Association
60 Community Dr., Augusta, ME 04330

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Live Video Conference
Northern Maine Development Commission
11 West Presque Isle Rd., Caribou, ME 04473

Roles of Elected Officials & Municipal Managers

Date & Location:

Belfast - 4/11/2017

Hutchinson Center
80 Belmont Avenue, Belfast, ME 04915

Managing Freedom of Access Requests

Date & Location:

Lewiston - 3/13/2017

Ramada Inn
490 Pleasant Street, Lewiston, ME 04240



Maine Municipal Association

University system reaching out to 'stranded adult learners'

Municipalities can be key partners in the higher education process, U-Maine System Chancellor James Page says. The Town of Mount Desert provides one example.

By Janine Pineo

"I've never been to Fort Kent in my life," said Jim Willis, police chief for Mount Desert and Bar Harbor.

Yet in 2013, Willis graduated with a Bachelor of Science degree in rural public safety administration from the University of Maine at Fort Kent, while working full-time more than 200 miles away.

"A long-term goal was to get a bachelor's degree," said Willis, who had an Associate's Degree from back in the mid-1980s. He started working for the Town of Mount Desert in 2003. "I guess I wasn't sure what I was going to do for the rest of my career."

It was his sister who found the degree program, after Willis mentioned that he was thinking about finishing his degree, more than 20 years after he got his two-year diploma. He applied in 2010 and was accepted. Willis, whose job expanded to include Bar Harbor during the end of his push to complete his degree, said he was encouraged during the admittance process to submit documentation about his training during his employment.

"They were willing to give me experiential credits. I wanted to be able to apply that," he said.

After that, he signed up for one or two classes per semester. "It's a commitment," he said. "It was every weekend for three years."

And Willis did all of his classes via the internet. "For me, it was the online stuff that was so attractive," he said.

Willis was the poster child for a presentation on Maine adult learners made by Dr. James H. Page, chancellor of the University of Maine Sys-

tem, during the Maine Municipal Association's Annual Convention in Bangor in October 2016.

Invested but 'stranded'

Maine has 200,000 "stranded adult learners," like Chief Willis, who have time and money invested in a college education but have not achieved a bachelor's degree. These potential students often cite family or work obligations for not completing their four-year degrees.

The Adult Degree Completion program is the UMS answer to help meet the state's need for more individuals with bachelor degrees. "About 60 percent to two-thirds (of Maine's future work force) will require a degree," Page said. "How do we get them? Maine has a great high school graduation rate. We never had to sell that to Mainers."

"Now a majority of jobs require post-secondary education," Page said. "We don't have the work force."

With changes in technology and the ability to telecommute for classes, a new world of possibilities is available for non-traditional students. In 2014, the Maine Legislature earmarked funds for UMS to establish the Adult Degree Completion Scholarship Program to provide up to \$4,000 annually to adults who need financial assistance to resume their course work and earn their bachelor's degrees.

As of the 2016 fall semester, 167 students from across the state were in the program. In two years, the



Dr. James H. Page

program has served 94 Maine communities, with 34 degrees attained.

"It's not a lot by some standards," Page said. "Boy, you've got to start somewhere."

Page sees this program as an opportunity to engage with municipalities. "We have to be active working partners with you," he said. "We can do this together, if we partner in it."

Controlling costs

Page stated he felt UMS lost sight of that municipal partnership, describing how that is changing now. He said the system's structural deficit has been reduced to \$20 million, and he expects that debt to be gone by 2019. UMS needs to "engage more deeply and more responsively" with the communities it serves. Part of that is maintaining control over tuition prices, which he said have been flat for "an historic six years."

"We're a good partner. We're a good investment," Page said. "What do we do going forward? The best thing we can do going forward... is fully realize our partnership with you."

Page offered several key components. First, he said, "we have to be accessible to every population group in the state." The number of traditional students going to UMS needs to increase as does the number of non-traditional adult learners if the state is to reach the two-thirds projection for the work force within the next few years.

Next, he said, is affordability, followed by quality programs, which

Janine Pineo is a freelance writer from Hudson and regular contributor to the Maine Townsman, jepineo@gmail.com.



Entrance sign at USM's Gorham campus. (Photo by Ben Thomas)

leads to a final component: relative training in fields where there are needs.

"We have readily identifiable skill needs," Page said, pointing to nursing and teaching shortages as examples.

This action plan feeds into a five-

year plan, Page said. The focus for UMS will be to:

- Increase enrollments.
- Improve student success.
- Support Maine through research and economic development.
- Enhance the fiscal positioning

ABOUT THE PROGRAM

For more information about Adult Degree Completion Scholarship Aid, visit the website learn.maine.edu and click on "scholarships" for application and eligibility information. Or call 1-800-868-7000 to get started.

of UMS.

This is where the Adult Degree Completion Scholarship enters the picture, along with UMS partnering with Maine Municipal Association to find what communities need. Page said UMS is working with MMA to increase access to apprentice programs.

"We hope it makes our graduates more relevant," he said. "We have vibrant communities in Maine. Towns only work if they have good government."

The numbers for the program's first couple of years are small, Page acknowledged. "These are concrete steps. But this is Maine. We've always bootstrapped it and that's why we're going to be successful."

Who is eligible for a scholarship to Adult Degree Completion?

- Must be a Maine resident.
- Must be a matriculated student at a UMS institution seeking a first baccalaureate degree.
- Must be a returning undergraduate student who has experienced an education gap of at least three years and is enrolling at a UMS institution no more than one semester prior to

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A Friday scene at USM-Gorham. (Photo by Ben Thomas)

applying for this scholarship.

- Must have a minimum of 30 credits earned from any institution toward a degree.
- Must demonstrate financial need as determined by a completed Free

Application for Federal Student Aid (FAFSA).

- Must be registered at least part-time (six to eight credits per semester minimum).

“We’re seeing an increasing number of nontraditional students,” said Lori Wingo, coordinator at the Life-long Learning Advising Center at the University of Maine and a nontraditional student adviser on that campus. She pointed to the financial crisis of 2008-2009, and said that is part of what has fueled a change on campuses. For example, paper mill closings occurred, she said, displacing workers

who had not needed a degree for their employment.

“One option is to come back to school,” she said. “I think in large part this initiative is part of that need.”

Easy application process

That initiative, Adult Degree Completion, has a “very painless” application process, she said, with relatively quick turnaround to decide on eligibility. A new short application is offered for adult learners, two pages vs. the traditional six pages. Wingo said the new application lacks questions on extracurricular activities and the like, making it relevant to nontraditional students.

Up to \$4,000 in aid can be awarded annually, which applies to a full course load of 12 credits per semester. The scholarship is pared down proportionally with fewer credits per semester, Wingo said.

Wingo’s job is to help nontraditional students get started. “I tag along with them until they are assimilated and comfortable,” she said. “It’s a very gratifying experience. They’ve got the motivation.”

She estimated that 40 percent of the students she assists she never meets in person, although advisers to nontraditional students will travel to the student if asked. “We will meet them where they are,” she said.

While the Adult Degree Comple-

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tion Scholarship requires 30 credits for eligibility, a degree program exists to help along those who have even fewer credits, Wingo said.

The Bachelor of University Studies requires 18 completed credits for qualification and may be the bridge to reach the scholarship eligibility by taking a full semester of 12 credits within this program.

Barbara Howard, director of Bachelor of University Studies, said the program started back in the 1970s. "This is really great for students with a family and work responsibilities," she said.

There are three tracks with set courses: labor studies, leadership studies and Maine studies. A self-designed track is available, she said, which takes a multidisciplinary approach. Some classes are online, although some may not be. But all of it is designed for students who can't attend during traditional hours.

"The adult learners I work with are absolutely inspirational," Howard said. "They serve as great role models."

Town manager support

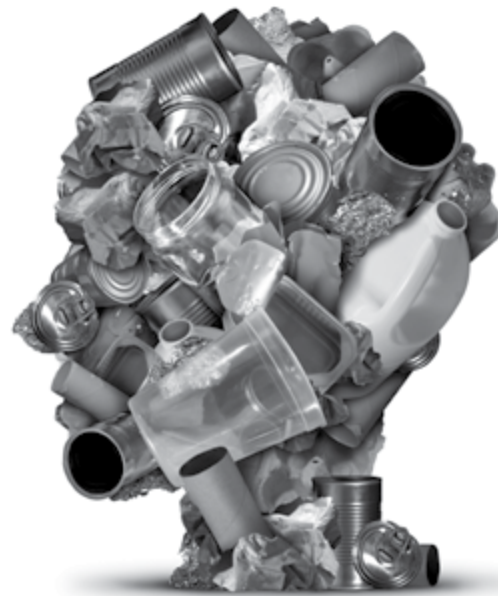
Police Chief Willis discussed his intention to go back to school with his town manager, Durlin Lunt. "He sort of challenged me to get it done," he said.

Willis was a student before the Adult Degree Completion Scholarship was created and part of his conversation with Lunt was about educational compensation.

"We... pretty much paid for that degree," Lunt said. "We felt it would be an important part of his development." The terms were that Willis had to achieve at least a "B" average, Lunt said. Willis graduated with a perfect 4.0 grade-point average.

Lunt said that while municipalities post job descriptions that list ideal candidates, the reality is that the person who gets the job may not have every qualification. That is where targeted education comes in.

"I think we get an employee whose training is honed in to the job they're doing," Lunt said. "A motivated and happy work force is going to be reflected in their interactions with the public." ■



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Our keynote speaker, Dr. Kay Potetz, is a management consultant and sought-after presenter who has been leading conferences like this one since the early 1980s. She spent over 25 years in administrative and management capacities in the health care field, including serving as vice-president for a Cleveland hospital.

Suffice it to say she has witnessed a great deal of change and that's why she's coming here, to tell us: "It Ain't the Same, and It Never Will Be."

Dr. Potetz also leads programs on: Time Management, Change, Team Building, Communication Skills, Emotional Intelligence, Dealing with Difficult People, Delegation and Stress Management. She has spoken to hundreds of groups in health care, education, technology and the private sector.

Marijuana legalization in Maine: Key issues for municipalities

Towns and cities are urged to confront myriad issues surrounding legalized marijuana now, even as the Legislature modifies our new law.

By Ted Kelleher, Attorney, Drummond Woodsum

On Nov. 8, 2016, Maine voters passed, by the narrowest of margins, Maine Question 1, which enacted the Maine Marijuana Legalization Act (the “Legalization Act”). Broadly speaking, the Legalization Act legalizes the possession and use of marijuana in a non-public place by persons over 21 years of age, and creates a framework for a regulated commercial marijuana industry in Maine, within which marijuana would be cultivated, processed and sold at retail stores to consumers. Additionally, the Legalization Act provides municipalities with a strong element of local control over the commercial aspects of this industry, which will lead to a host of decision points municipalities will face in the coming months and years.

This article will summarize key aspects of the Legalization Act, and discuss the kinds of issues that Maine municipalities will confront in connection with marijuana legalization. One word of caution: There are a variety of efforts to amend the Legalization Act pending in the Maine Legislature, as interest groups and legislators attempt to deal with ambiguities and perceived deficiencies in the Legalization Act as passed by the voters.

For example, as the sponsors of Question 1 now concede, there were technical drafting errors in the act that arguably would have allowed minors to possess and use marijuana without legal sanction. The Legislature is likely to fix these drafting issues early in the



current legislative session. This article will discuss the Legalization Act as passed by the voters, but it’s important to recognize that efforts to amend the act are ongoing at the time this article went to press, and such amendments might lead to different conclusions than the ones drawn here.

The Legalization Act

The Legalization Act legalizes the possession and use of marijuana in a non-public place by persons over 21 years of age. It will also allow people over 21 to grow up to six marijuana plants for personal use. While someone growing marijuana may give it away to other people over 21, they may not sell it. These provisions of the Legalization Act became effective on Jan. 30, 2017.

The Legalization Act sets out a framework for the creation of a commercial marijuana marketplace in Maine. The act designates the Department of Agriculture, Conservation and Forestry as the regulatory body overseeing the industry in Maine. According to industry lobbyists and policymakers, it appears likely that the act will be amended to make the primary regulator of the retail mari-

juana industry the Bureau of Alcoholic Beverages and Lottery Operations (“BABLO”). BABLO has extensive experience regulating an industry with many of the same features of the marijuana industry.

Whoever the regulator is, that agency will be required to promulgate an extensive set of regulations that governs essentially all aspects of the marijuana industry: licensure standards and procedures, packaging, labeling, grow standards, security, testing procedures and requirements and many others. Most of these are major, substantive regulations that will require legislative approval before becoming effective.

The Legalization Act creates five categories of licensure for the Maine marijuana marketplace: cultivators, processor/manufacturers, retail sales, testing labs and social clubs.

Cultivation licenses allow license holders to grow marijuana for sale at wholesale to manufacturers and retailers. Licenses will be granted in “blocks” of 100 square feet of cultivation “canopy.” Canopy is the marijuana industry’s term for the amount of square footage dedicated to growing marijuana plants. Cultivation licenses are the only class of license with any kind of limit on a statewide basis. This is done through a cap on statewide canopy size; the act imposes an 800,000 square foot cap on marijuana canopy statewide. Cultivation licenses will be given out in two “tiers:” a tier of smaller licenses for cultivation sites of less than 3,000 square feet; and, a tier of licenses for larger grows between 3,000 square feet and up to a maximum of 30,000 square feet. A minimum of 40 percent of licenses must be smaller tier licenses.

Attorney Edward “Ted” Kelleher heads the Regulatory Substances Practice at the law firm Drummond Woodsum in Portland, where he has worked for 25 years. He is a graduate of the University of Notre Dame, the University of Massachusetts and Northwestern University Law School, tkelleher@dwmlaw.com

Manufacture licenses allow licensees to purchase marijuana at wholesale and process it into other products, such as edible products infused with marijuana and marijuana oils and extracts. Manufacturers themselves can sell at wholesale to retailers. Retailers may buy products from licensed cultivators and manufacturers and sell them at retail to consumers over 21 years of age.

Testing lab licenses allow license holders to test marijuana for purity and potency, and the act and related regulations will mandate some level of testing of marijuana and marijuana products in Maine.

One of the most controversial aspects of the Legalization Act is the "social club" category of license. These are facilities that would allow on-premises sale and consumption of marijuana products. Only Alaska has authorized the creation of social clubs, and at the time this article went to press, no licenses had been granted in Alaska for those kinds of facilities. It is hard to analyze the problems created by social clubs at this time.

There are a few other provisions of the act that merit short discussion. The

act imposes a tax rate on marijuana sales of 10 percent. This is significantly lower than the tax rate on marijuana sales imposed by other states. There appears to be consensus in the Legislature to raise this tax rate. Additionally, while the act imposes application and license fees for state license applicants, those fees are quite low compared to other states.

Finally, as discussed in the next section, the Legalization Act provides for extensive local control of the marijuana

industry. Unfortunately, it provides little structure or guidance for how municipalities should exercise that control, and contains some confusing and inconsistent time frames.

Local control of the industry

The Legalization Act contains provisions that create a strong element of municipal control in the commercial marijuana system contemplated by the act. In broad terms, these local powers are grouped in three categories.



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ries. First, the act conveys the power to prohibit commercial marijuana activities entirely, or in the alternative to prohibit certain classes of licensees or to limit the number of licensees that can operate in a municipality. Second, it acknowledges municipalities' power to zone with respect to commercial marijuana activities. Finally, it provides the power to impose regulations on marijuana licensees over and above those imposed by the state.

Prohibition or limitation of licensees: Under the Legalization Act, municipalities may choose to be "dry" with respect to commercial marijuana activities. 7 MRSA §2447(4). This power can be applied to all five license classes, or to any number of them. For instance, a town may choose to permit testing and processing facilities, but prohibit cultivation, retail stores and social clubs.

Towns may also limit the number of licensees in any class that may operate within a town. 7 MRSA §2447(4). For example, a town may allow two

cultivators, one retail store, no social clubs and an unlimited number of testing labs and manufacturers. Municipalities which choose to allow but limit the number of licensees will have two questions to resolve: First, how to set the limits on the number licensees in each category; second, how to choose between competing parties seeking licenses in the event that there are more applicants for a license in a town than the town is willing to allow. This is quite likely to happen in many instances, especially with respect to cultivation licenses and retail sales licenses

Unfortunately, the Legalization Act does not provide any guidance or standards to guide towns when making these decisions. As towns and their advisers contemplate these issues over the coming months, some consensus positions on best practices are likely to emerge, but at the moment there is an absence of a clear set of standards

that towns can use when confronting these issues.

Zoning: The Legalization Act affords municipalities broad power to "regulate the location" of licensees by establishing zoning standards relating to marijuana commercial operations. 7 MRSA §2449(1). This provision of the Legalization Act specifically references 30-A M.R.S.A. §§ 4351-4361, which set out the requirements that a municipality must follow when engaging in zoning, such as the requirement of a public hearing and consistency with a municipality's comprehensive plan. That is, a town's adoption of an ordinance regulating the location of retail marijuana establishments must be treated like any other zoning ordinance process.

Considerations at work here will be things like the potential odors produced by cultivation sites and manufacturing businesses, security consid-

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erations (since marijuana businesses are cash intensive), aesthetics considerations, effects on surrounding businesses and so on.

Local Regulation: The Legalization Act allows municipalities to impose regulations on marijuana establishments over and above those imposed by the state. 7 MRSA §2449(4). Whether towns will feel a need to do this will depend to some extent on the rigor and robustness of the regulations issued by the state. Since those regulations are many months in the future, it's difficult to say how extensively towns may want to regulate licensees. However, there are some areas to which towns will want to pay attention.

Marijuana cultivation operations use high-intensity lighting, which often requires an electricity service upgrade. Consequently, towns may want to consider employing specialized fire code and life safety code provisions for cultivation sites. Similarly, marijuana manufacturing companies that employ extraction technologies may utilize solvents, such as butane, that are combustible. Again, specialized life and safety code issues may be relevant for these businesses.

The marijuana industry operates on a largely cash basis, so towns may want to consider security requirements, such as requiring exterior lighting, surveillance cameras and alarm systems for licensees, particularly retail stores.

Finally, municipalities will want to ensure that code enforcement officers, fire officials and law enforcement have access to the premises and an appropriate range of business records, to ensure compliance with local regulations.

Conclusion

Maine's Marijuana Legalization Act incorporates extensive elements of local control. Towns will face several critical decision points as they contend with the emergence of the recreational marijuana industry. Unfortunately, the Legalization Act itself provides little in the way of guidance to towns about how to make these decisions. As municipal officials and their advisers ponder these questions, standard practices will begin to emerge, but it's important for towns to begin engaging in the process of confronting these issues now. ■

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While wary, police largely wait and see with legal marijuana

Police chiefs, who generally opposed the new law, say determining impairment will be difficult, both inside and outside of the courtroom.

By Glenn Adams

Maine municipal police chiefs are not rushing to change their marijuana enforcement practices in light of the new law legalizing the use and limited possession of the drug by adults. Some are training a few officers to be drug recognition experts. But most are doing nothing new, preferring to wait and see what revisions may be made to the initiated law.

“There will be no immediate changes,” said Chief Stacy Carter of the Rumford Police Department. “We will continue to deal with marijuana issues as state law dictates. Officers will use their discretion as to whether or not charges will be filed. If the citizen is in possession outside the legal limits then enforcement may be taken.”

Police, the majority of whom didn’t like the idea of legalization in the first place, say the new law is clouded by inconsistencies, lacks specifics and is short on enforcement guidelines.

Maine was one of four states in which voters decided in November to legalize recreational use of marijuana by adults at least 21 years old. The close vote in Maine survived a recount requested by opponents.

Gov. Paul LePage on Dec. 31, 2016 signed a proclamation verifying the results of the referendum, and the law took effect Jan. 30. Using marijuana in public remains illegal.

The new citizen-initiated law allows adults to possess up to 2.5 ounces of marijuana and grow a limited number of cannabis plants. But before retail marijuana shops and social clubs where pot can be smoked open their doors, licensing and regulatory rules must be developed by the state, which

ONLINE SUMMARY

A summary of Maine’s law, provided by Ballotpedia, can be found at:

[https://ballotpedia.org/Maine_Marijuana_Legalization,_Question_1_\(2016\)](https://ballotpedia.org/Maine_Marijuana_Legalization,_Question_1_(2016)).

could take up to a year. The new law gives municipalities considerable sway over where pot can be sold, and even lets towns declare the drug off-limits except for in private settings.

Even before the law formally kicked in, legislators were in agreement that the measure raises so many questions that a moratorium is needed to allow time to work out the bugs. A panel of 17 legislators was assembled to review the roughly 50 bills that deal with the new law and try to answer questions it poses. By late January, lawmakers had passed a bill clarifying that marijuana will only be legal for those 21 and older, that retail sales licensing be delayed until February 2018, and that neither drivers nor passengers in a moving motor vehicle (including boats and snowmobiles) can use marijuana. On Jan. 27, Gov. LePage signed a law that will give the Legislature and governor one year to fine-tune details on retail and other details.

The initiated bill left many unanswered questions. During a Maine Public Radio call-in program, Senate President Michael Thibodeau, R-Winterport, said hotel owners have asked how the law addresses guests smoking marijuana in their rooms.

Others have said the new law lacks standards for judging impairment of drivers who appear to be stoned. And guidelines on how to measure

the potency of pot being sold – not to mention the rules for retail sales and taxation – are lacking. With no legal sales, the question becomes: How can people use marijuana legally in the first place?

Major questions loom

The issue has been a big topic of conversation for police chiefs across the state, said Robert Schwartz, executive director of the Maine Chiefs of Police Association.

Schwartz said that he expects no drastic change in the way marijuana laws are enforced for the time being, given all of the smoke surrounding the issue. It does appear clear that police will need to train more drug recognition experts to deal with an expected upturn in impaired driving cases, he said.

A big question is whether President Donald Trump’s new administration will impose a stronger enforcement policy in states like Maine, where marijuana use has been approved by voters. Under the previous administration, enforcement was relaxed in those states, “but this administration doesn’t appear to be willing to take that stance,” said Schwartz.

Municipal police officials said uncertainties in what kinds of changes may be forthcoming leave them with no clear directives on whether to change enforcement.

Portland Chief Michael Sauschuck said through a city spokeswoman that “there are no immediate changes in terms of enforcement.” Like others, he was waiting for clarification of the legalization law to see what changes may be needed.

In Bangor, police public information Officer Sgt. Tim Cotton said, “All

Glenn Adams is a freelance writer from Augusta and relatively new writer for the Maine Townsman, adamsgjr1@gmail.com.

I can tell you is that we are taking a wait-and-see position until the regulations and rules are reviewed and put into place.”

Cotton said he was not comfortable addressing “scenario based” situations such as whether a police officer would make an arrest if the officer stopped a car and found the legal limit of 2.5 ounces in the driver’s possession.

“In any instance that a law enforcement officer comes across an individual using marijuana, that officer has discretion in how to deal with it,” said Cotton. “There are laws on the books at this time and those are the statutes that police have to work with. I believe that most of those that are tasked with enforcing the current laws usually temper their action based on the circumstances surrounding the issue or incident.”

Status quo for now

Presque Isle Police Chief Matthew Irwin said he also was not directing his officers to conduct investigations or bring charges any differently until the new law becomes clarified, and that he expects his officers to continue to exercise proper judgment and good

discretion in carrying out their duties.

“The fact that imminent or pending legislation may take effect (particularly with so much uncertainty) should not impede an officer’s ability to act within the scope of current law,” Irwin wrote in an email.

Glenn Moshier, the interim police chief in Ellsworth, is bracing for some of the same sorts of challenges seen in other states that have experience with legalized marijuana or have just legalized it.

Going into November’s referendum, four states – Washington, Oregon, Colorado and Alaska – already had laws allowing recreational marijuana. Maine, Massachusetts, Nevada and California voters approved recreational marijuana referendums this past fall,



Interim Chief Glenn Moshier



Chief Michael J. Sauschuck



Chief Brian O'Malley



Chief Jack Peck



Meet Our Attorneys Andrew Hamilton

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

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while Arizona rejected a proposal.

Moshier sees trouble ahead with more stoned drivers, and the lack of police enforcement tools to curb them. Moshier is a certified drug recognition expert (DRE), trained to identify drivers under the influence of drugs. But most police officers are not. In fact, there are only about 80 DREs in Maine, he noted.

While alcohol intoxication can be measured – the legal limit is 0.08 percent blood alcohol content – there’s no way to measure intoxication by THC, the active ingredient of marijuana, said Moshier. So if police want a charge to stick, they must call in a DRE.

Judges are reluctant to convict without some kind of measurement to a driver’s intoxication, “and those numbers don’t exist,” Moshier added.

“So the amount of impaired drivers out on the road will increase... and there’s no real consistent way to get them off the road,” he said. Even before legalization, “very high levels” of people stopped by police had marijuana in their possession, Moshier said.

No leverage

Even though there are no legal recreational marijuana sales in Maine yet, Moshier said marijuana will still be out there. But if an officer asks where a person bought the pot, there’s little incentive to answer if a possession offense can’t be used as leverage.

Moshier’s No. 2 concern after more impaired drivers is pot getting into the hands of kids. Youths now can get marijuana, but under the new law “the issue becomes availability.”

“How difficult is it for a kid to snatch mom or dad’s Marlboro before heading off to school?” said Moshier. With legalization, he wonders, how often will that scenario play out with a joint?

The new law allows possession of up to 2.5 ounces by an adult. But Moshier believes that in many cases that 2.5 ounces would be sold illegally (remember, the new law is supposed to regulate and tax sales).

“Just because it’s legal doesn’t mean the black market will stop,” said Moshier. “You’re creating a whole new underworld for marijuana that doesn’t exist now.”

Those are just some examples of issues that need to be addressed as

Maine’s law is clarified, in Moshier’s view. Other big concerns likely to be addressed by the Legislature include: defining private vs. public places; smuggling pot into other non-legalization states; and, availability of edible cannabis products to children.

Lewiston Police Chief Brian O’Malley isn’t convinced impaired driving will be a major problem.

“I think we’ll have to wait and see,” O’Malley said. But he did say the Lewiston Police Department has one drug recognition expert on the force and is sending two more for training.

The biggest change he sees is that officers will not issue summonses for marijuana possession any more, given the 2.5-ounce legal limit.

“It will be one less thing that we have to enforce,” said O’Malley. Big stashes spotted by police would be brought to the station to be weighed. But officers won’t carry around scales to weigh borderline bags of pot, he said.

As for prospects of more pot in the schools, O’Malley said, “It’s hard to tell if that’s going to happen. I may answer this differently in six months.”

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Life in a college town

The police chief in the college town Farmington said he doesn't know whether the new law will bring about an influx of marijuana to the University of Maine campus there, or to the high school, for that matter. "I honestly don't know," said Chief Jack Peck.

Peck has tried to be proactive in anticipation of the law. Two of his officers have been trained as DREs, and several others attended a conference in Augusta in which an attorney from Colorado outlined some of the lessons learned by that state since it legalized marijuana.

Asked what an officer will do if a driver who is stopped smells of pot but otherwise is compliant, Peck said, "I think you have to look and see if the driver is impaired." If so, appropriate steps will be taken, he said. That's when the drug recognition experts may be called. Peck noted that Maine does have a law against driving under the influence of drugs.

Peck said he will pay close attention to any changes that may be made in the marijuana law in the months ahead. But in the meantime, "We're going to enforce the laws – whatever laws are on the books at any given time."

Maine's emergency medical technicians won't be impacted by the law other than through existing statute that deals with impairment by EMTs, said Shaun St. Germain, director of state Emergency Medical Services in the Department of Public Safety.

The legalization law's lack of clarity referenced by the chiefs is reflected by town and city governments' actions. Even before the referendum, many Maine towns were calling time-outs to give them an opportunity to explore the matter of having pot shops within their jurisdictions.

Bangor council adopted a six-month moratorium on retail sale and cultivation of recreational marijuana days before the statewide referendum. Portland also passed a six-month delay on marijuana establishments a couple of weeks after the vote. Augusta took similar action in December.

In October, the Town of Gray adopted a six-month moratorium so it can set rules on clubs and retail establishments where cannabis is smoked or sold. Gardiner decided in December to impose a 180-day moratorium to

allow time to publicly air the issue. Cumberland approved a two-month moratorium and Westbrook set a 180-day moratorium. Warren, Richmond and Madison are among towns that imposed moratoriums.

Oakland Town Council passed an ordinance to bar recreational marijuana establishments from starting up, making it one of the first, if not the first, town to do so.

Even where no local restrictions are imposed, still open to question is whether businesses would want to operate where there are no ground rules.

Other states

Going into November's referendum, four states – Washington, Oregon, Colorado and Alaska – already had laws allowing recreational marijuana.

Experiences of those and other states where marijuana's been legalized presage what Maine may encounter as it feels its way through new legal territory. In Massachusetts, one of the four states that legalized it in November, legislators in December approved a bill that effectively delays "pot shops" where the drug can be sold until mid-2018. The new law does not block adults from using or possessing small amounts of marijuana.

A report on Colorado's experience says police there have experienced "numerous challenges" in conducting investigations, establishing probable cause, determining search and seizure procedures, and addressing public safety concerns with home-growing operations under the state's law.

The report by the Washington, D.C.-based non-profit Police Foundation and the Colorado Association of Chiefs of Police came out in 2015, three years after voters decided to allow recreational marijuana for adults.

The report, "Colorado's Legalization of Marijuana and the Impact on Public Safety: A Practical Guide for Law Enforcement," also said predic-

tions by that state's law-enforcement officials of sharply increased criminal activity due to the law had not been borne out. Predictions that the elimination of arrests for marijuana would result in big savings for police and the criminal justice system also did not come true, it says.

While some Colorado law enforcement agencies have at least one full-time officer dedicated to marijuana regulation and enforcement, the analysis said "most agencies do not have this option and are struggling to deal with the additional workload brought by legalized marijuana. Many law enforcement leaders are frustrated by the conflict between enforcing the new law and upholding federal statutes that continue to view marijuana use as illegal."

Overlapping medical marijuana and recreational marijuana laws "left law enforcement in Colorado with the challenge of both interpreting and enforcing the law," says the report. Maine, like Colorado, also has a medical marijuana law.

The Colorado report suggests that police develop policy, training and practices that take into account conflicting federal and state laws relating to marijuana legalization in that state. Another recommendation calls for new standards to determine whether a marijuana growing operation is illegal or legal.

In other states where marijuana's been legalized, changes in policing have occurred. In Washington state, where voters also approved legalization in 2012 and recreational marijuana sales began in July 2014, some police have applied different standards in making arrests.

A state patrol sergeant told National Public Radio that he used to decide whether to make an arrest after detecting a marijuana odor in a vehicle he stopped. But since legalization, he's more likely to let people go if they are over 21 and compliant with the law. ■

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

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

Understand roles, responsibilities when issuing municipal bonds

“It’s your deal,” writes the head of the Municipal Securities Rulemaking Board. She also provides online and other tools to help guide local leaders through the bond process.

**By Lynnette Kelly, Executive Director
Municipal Securities Rulemaking Board**

Financing a public project with municipal bonds is a team effort in which many professionals work together to achieve the goals of the municipality. But as government officials consider issuing municipal bonds in 2017, keep in mind that it’s *your* deal.

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And while the issuance of municipal bonds is your deal, municipalities have an important ally in the Municipal Securities Rulemaking Board (MSRB), the national regulator responsible for promoting a fair and efficient municipal securities market. Protecting municipal bond issuers is a central aspect of the MSRB’s mission. Importantly, the MSRB does not regulate state or local governments; its rules are designed to make sure you are treated fairly by the underwriters and with the utmost good faith by municipal advisors you hire.

The MSRB also operates a public platform called the Electronic Municipal Market Access, or EMMA®, website, which is your key to accessing important information about the municipal market and communicating information to investors. Additionally, the MSRB provides free, objective educational materials for municipal issuers.

Since issuing bonds may be only an occasional event for certain communities, it’s helpful to understand how the MSRB can support you when you decide to issue bonds.

Decision to borrow

The decision to access capital from the \$3.8 trillion municipal securities market is always handled at the state and local level. Government officials have a responsibility to their taxpayers to make informed decisions about how to finance a public project. Understanding conditions in the municipal securities market and evaluating your locality’s existing bonds are important steps in the decision to borrow.

The MSRB’s EMMA website provides free access to information and data about the municipal market and nearly all existing municipal bonds. Before deciding to issue bonds, visit EMMA’s Tools and Resources page to see what issues are scheduled to come to market and how they are priced, monitor the trade activity of your locality’s existing bonds and view upcoming federal economic reports or other events that can have an impact on the municipal bond market.

Once a municipality has decided to issue bonds, an important step is assembling the deal team, which can include municipal advisors and underwriters. Check the MSRB’s website, at www.msrb.org, to ensure that any firm you consider is properly registered with the MSRB and that individual professionals have passed the appropriate professional qualification examinations. Working with unregistered or unqualified financial professionals puts a municipality at risk.

MSRB rules and professional qualification requirements are designed to ensure the advice you receive from a municipal advisor is in the municipality’s best interest. MSRB rules require underwriters working with a municipality to deal fairly, disclose potential conflicts of interest and honor your wishes

about some of the ways bonds are marketed and distributed to investors. You can read more about protections for municipal bond issuers in the Education Center on the MSRB’s website. If at any time you suspect a municipal finance professional of violating MSRB rules or acting unfairly, report it to the MSRB by phone at 202-838-1330 or by email to complaints@msrb.org and the MSRB will forward your complaint to the appropriate enforcement authority.

Continuing disclosure

Once a municipality’s bonds have been issued, it is the municipality’s responsibility to provide investors with required ongoing material information in a timely and complete manner. Annual financial and operating information, notices of major events that may affect bondholders and other information is essential to helping investors make fully informed decisions about buying, selling or holding a municipality’s bonds. The MSRB’s EMMA website serves as the official platform to disclose this information to investors.

Municipalities can schedule free email reminders from the MSRB to alert key individuals of upcoming filing deadlines. The MSRB also offers free phone support, how-to videos and educational resources to support state and local governments with understanding and fulfilling their continuing disclosure obligations.

Whenever a municipality decides to issue bonds, remember – it’s your deal, and rules and resources of the MSRB are there to help ensure the process is fair. Take advantage of these tools and resources to help you make informed decisions about issuing municipal bonds and communicating with investors. ■

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Top town reports use photos, staff time and community involvement

The Maine Townsman asked winners of MMA's recent Town Report contest what tips they had to offer. Guess what? They shared some of their best 'secrets.'

By Janine Pineo

Mike Young, recently retired as town administrator in Phippsburg, probably can convince you that he had a thing for town reports.

"I guess if I had an obsession... during my tenure, it would have been the annual town report," he wrote in his farewell message published in last year's Phippsburg report. "When I went into the vault the first time and saw all the reports going back to the late 1800s, I realized that this is the history of our town and that a century from now, someone will be reading these reports to find out what went on – not only in terms of the municipal government, but in terms of the town itself. This is the one opportunity we have to let the next generation know what we were all about and provide a 'snippet of history.'"

Couple that sentiment with Young's list of hard numbers from the past nine years that track the number of pages, amount of color pages, number of copies, printing costs, number of copies to mail in town and out of town, overall cost of mailing in town and out of town and the actual weight of each town report, and you might agree with Young's obsession confession.

The result has been Phippsburg regularly placing for an award in the Maine Municipal Association's Annual Municipal Report Competition, winning the Supreme Award for 2016. The Sagadahoc County town of about 2,200 people won Category C for municipalities with populations between 1,000 and 2,499.

The MMA competition highlights the importance of annual reports



Amanda Esler and Patti Dubois of the City of Waterville with their 2016 Annual Report Award. (Submitted photo)

by giving municipalities an opportunity to showcase staff work to record everything from financial reports to events throughout the year. The judging standards are: 20 percent attractiveness, which includes the cover, the report's layout, and the report's appeal to readers; 20 percent utility, which includes whether it has a table of contents and offers graphic presentation through charts and photos, and the brevity of reports; and 60 percent content. The largest standard deals with the report's arrangement, presentation of fiscal statistics and data and the depth of that presentation, future planning, and a summary of what was accomplished throughout the year within the municipality.

The five categories are population based and for 2016 included six first-place winners: Waterville, Boothbay

and Vassalboro (tie), Phippsburg, Carabassett Valley and Cranberry Isles.

Waterville – Category A, pop. 5,000 and over

The City of Waterville took a decade-long hiatus from offering a municipal report, said Amanda Esler, executive assistant to the mayor and city manager.

Five years ago, the report was reinstated, although the number of paper copies is significantly less. Unlike many smaller municipalities, the city prints only a handful of reports for distribution, according to Patti Dubois, city clerk. Two copies are bound professionally. "One goes in the vault for history and the other goes to MMA," she said.

Another 20 or so copies are printed and bound in-house, usually with

Janine Pineo is a freelance writer from Hudson and regular contributor to the Maine Townsman, jepineo@gmail.com.



Mary Sabins



Mike Young



Dave Cota



Nan Hadlock

the intent of going to the family of the person to whom the report is dedicated.

The compilation process is a joint effort between Esler and Dubois. "I'm kind of a muscle," Dubois said. She gets the department reports together and contacts elected officials, such as the congressional delegation, for their annual letters.

Esler uses the city newsletter, which is published several times a year, to help with employee information and to find information of interest, such as property developments and business closings to mark historic changes to the city.

Boothbay (tie) – Category B, pop. 2,500-4,999

Boothbay's deputy town clerk won with her first entry and she didn't even know there was a competition. "It was quite an honor," Tammie Mayo said.

"Last year was my first year, so I didn't even have a process," she said. "I made a lot of lists."

She also credits the previous clerk, Heidi Fuller, with lending a hand, including helping with the photographs.

Mayo said she didn't start the pro-

cess early enough and realized some information, such as the taxpayer list, could be prepared well in advance of the print deadline in the spring. She estimated she worked about 80 hours on the report, juggling it with her regular duties most of the time.

The town prints about 1,000 copies of the report but none are mailed automatically.

Vassalboro (tie) – Category B, pop. 2,500-4,999

Ask Town Manager Mary Sabins what her secret to success is for Vassalboro's annual report and she gladly offers it.

"I get as many people from the community involved as I can," she said. "We're a very resourceful community."

Sabins has compiled the report since 2008, creating a formula that regularly places Vassalboro in the winners' list, including capturing the Supreme award annually since 2013. "I don't reinvent the wheel every year," she said. "If it's not broke, don't fix it."

Her rough estimate is that she puts in about 80 hours of work over the months and is "very grateful" for resident Sue Bourdon, who owns her own

design company and puts together the report.

In the report are features that Sabins believes make it exceptional, including an historical piece on the town for the centerfold, usually focusing on a town event or anniversary. She also believes photographs with an accompanying photo credit are essential. "I work so hard to make sure that information (credit) is in there," she said.

About 500 books are printed on a budget of \$2,600, Sabins said. The report is no longer mailed, but it is left in batches around town for residents to pick up.

The selectmen are "always happy" to get the award, she said. "It's important to our town."

Phippsburg – Category C, pop. 1,000-2,499

Phippsburg, another perennial winner in the report competition, printed 1,550 copies at a cost of \$6,128 last year. Unlike the larger municipalities, the town mails its report, according to Mike Young, the former town administrator.

That cost the town \$771.62 to ship 1,143 copies in town and another \$150.16 to mail 84 copies out of town. The self-proclaimed "obsessed" administrator even had the weight of the 208-page publication recorded at 1.137 pounds.

Young's enthusiasm for the report is obvious in the details and his efforts to involve townspeople, whose feedback has been "very positive."

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“I think that the No. 1 thing that gets people to open it up is the photos,” he said. “We put out a request to the townspeople: Send us pictures.”

After being interviewed, he sent an email as a follow-up: “I gave some thought to our discussion on what makes a good town report. I think that it is community involvement, having citizens realize that this is ‘their’ town report and creating one that they like and will actually read and keep on the shelf instead of round filing it.”

Carrabassett Valley – Category D, pop. 500-999

“I go back a long way and the town report was a big deal,” said David Cota, Carrabassett Valley’s town manager. “I don’t think the town report is what it used to be. I say that reluctantly.”

Cota, who has served for four decades, mulled the possible reasons why, including the era of instantaneous media, but he isn’t certain of the source of the decline in interest.

The town now has an annual newsletter that is mailed out to almost 3,000 taxpayers every fall, he said. On the other hand, the town prints only 150 to 175 copies of the town report, which is no longer mailed. A downloadable copy is available on the town website and printed copies are at the library and town office.

Cota likes to produce a good report. “I don’t like to put anything out that’s not right,” he said.

His secret to success are the pho-

tographs. “They’re a historical reference, no doubt,” he said. “I want a stunning cover shot. I try to get a really nice nature-based cover shot.”

Cranberry Isles – Category E, pop. 0-499

Ask Nan Hadlock what the process is for compiling the Cranberry Isles report and she ticks off her list of deadlines, letters and board approval. After 11 years of creating the town report – with this her last year – the deputy town clerk has it down pat.

The report is a reference, a source of news and a record of the year on the islands. This coming year’s report will be larger than usual with the inclusion of maps associated with the shoreland

zoning ordinance.

“Since it’s a report that’s kept forever, we try to put a little bit of history in,” Hadlock said. All the photographs are submitted by people in the community, with the selectmen deciding which are included.

Once the 300 copies are printed and returned, she said, “then Denise (McCormick, town clerk) and I hand deliver them.” Of the municipality’s five islands, only Islesford and Great Cranberry have year-round residents, about 130 combined. The rest of the reports are mailed on request or can be picked up at the Islesford post office.

“That’s how we keep people informed,” Hadlock said. ■

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

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

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Falmouth chief: Training key as Maine's drug problem continues

Edward Tolan, who also heads the Maine Chiefs of Police Association, reminds officers that they represent not just themselves and their departments, but entire towns.

By Liz Mockler

Falmouth Police Chief Edward Tolan believes leadership is even more important as the newly approved citizen initiative legalizing the recreational use of marijuana consumes the time and energy of police chiefs across Maine.

Increasing drug abuse and the ongoing opioid crisis also is zapping time and energy from his and other departments.

"The types and amount of illegal drugs have become overwhelming and is driving the increase in the associated crimes of theft and burglary," Tolan said.

Tolan, president of the Maine Chiefs of Police Association, said he serves on several committees that work to inform and train officers about the newest law, which allows retail stores and social clubs for marijuana use. The work requires extra time each week and applies more pressure on many already overtaxed or understaffed departments.

"Many days are requiring hours beyond the typical work week," said Tolan, who began his law enforcement career in 1973 in Cape Elizabeth. He worked there until being offered the Gorham chief's job in 1991. He has served as Falmouth chief since 1995.

Tolan, a retired U.S. Army police officer, said his most important work is providing leadership to his department of about 30 full- and part-time of-



Chief Edward Tolan

ficers, while also being responsive to the needs of Falmouth residents. He said when he interacts with the public, he represents not only the department, but the entire town.

"I want people to know that I genuinely care about what they have to say or what they have for a concern," he said.

'Very important'

Tolan reminds his officers that while a call might seem minor to them, "it is a very important issue to the person who has called for assistance."

"Our officers and dispatchers need to respond to the public's needs in a professional and timely manner," adding that he is well pleased with his force and the work it does for Falmouth residents.

"I have been chief of the department for over 21 years and have been (fortunate) with many outstanding men and women who work with me," Tolan said. "I believe the department serves the citizens of Falmouth in a very professional manner while constantly evaluating our goals and procedures."

Tolan said he could not name any significant area of his department's operation that he would change at this time. "I have been blessed to work for an outstanding town manager and a town council that have been very supportive of the police department during my tenure with the community," he said.

The Falmouth department leaders

work well together, Tolan said, which is reflected in the service provided to the community from the supervisory level to the front-line officers. He said recruiting staff continues to be a challenge for Falmouth, as it is in many Maine departments.

"Like most police departments we are facing the challenge of recruiting young men and women into a profession that has become even more challenging with the recent events across our country," said Tolan, who earned a bachelor's degree in law enforcement from the University of Maine and a master's degree in police administration from Western New England University.

"We need to find new and innovative ways to attract members of this generation," he said.

Tolan, also a graduate of the FBI National Academy in Quantico, Va., said his department receives about 15,000 calls a year, with most of the calls dealing with traffic concerns. "Suffice it to say many times people call the police department because they have no other recourse."

While drug use and abuse is a serious and growing problem, Tolan said most of the department's calls still relate to traffic problems, accidents and speeding. ■

ABOUT THIS SERIES

Elected and appointed officials provide essential services to their communities across our state. Maine Municipal Association began this series of profile articles in 2016, our 80th Anniversary year. The series continues in 2017 as we highlight the work that municipal officials do.

2017 MMA & Affiliate Training Calendar

KEY TO GROUPS/WORKSHOP SPONSOR

MMA	Maine Municipal Association	MFCA	Maine Fire Chiefs' Association
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 "blue" with a 🔍 symbol are new courses!

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

FEBRUARY

2/1	Wed.	MTCCA Title 30A - Town Meeting and Local Election Law	Bangor - Spectacular Event Center	MTCCA
2/2	Thurs.	MFCA Legislative Breakfast	Augusta - Senator Inn	MFCA
2/7-8	Tues.-Wed.	MeWEA/MWUA Joint Conference	Portland - Holiday Inn by the Bay	MeWEA
2/7	Tues.	Planning Board/Boards of Appeal	Augusta - Maine Municipal Association	MMA
2/7	Tues.	Planning Board/Boards of Appeal - Video Conference	Caribou - Northern Maine Development Commission	MMA
2/9	Thurs.	MWDA GA Basics	Westbrook - Public Safety Building	MWDA
2/16	Thurs.	Moderating Town Meetings	Orono - Black Bear Inn	MMA
2/21	Tues.	Elected Officials Workshop	Augusta - Maine Municipal Association	MMA
2/21	Tues.	Elected Officials Workshop - Video Conference	Caribou - Northern Maine Development Commission	MMA
2/22	Wed.	MTCCA Title 30A - Town Meeting and Local Election Law	Portland - Embassy Suites by Hilton	MTCCA
2/22	Wed.	MTCCA Title 30A - Town Meeting and Local Election Law	Portland - Embassy Suites by Hilton	MTCCA
2/22	Tues.	Aerial Drones and the Current Legal Landscape	Augusta - Maine Municipal Association	MMA

MARCH

3/9	Thurs.	MBOIA Membership Meeting & Training	Waterville - Waterville Elks Banquet & Conference Center	MBOIA
3/9	Thurs.	MeWEA Legislative Breakfast	Augusta - Senator Inn	MeWEA
3/13	Mon.	Managing Freedom of Access Requests	Lewiston - Ramada Inn	MMA
3/14	Tues.	MMTCTA Tax Liens Workshop	Orono - Black Bear Inn	MMTCTA
3/14	Tues.	MWDA Advanced GA	Augusta - Maine Municipal Association	MWDA
3/21	Tues.	Aerial Drones and the Current Legal Landscape	Augusta - Maine Municipal Association	MMA
3/22	Wed.	MTCCA Notary Public 101	Waterville - T&B's Celebration Center	MTCCA
3/24	Fri.	MTCMA 38th Annual Statewide Manager Interchange	Bangor - Hilton Garden Inn	MTCMA
3/24	Fri.	MeWEA Ski Day with NHWPCA	Bartlett, NH - Mount Attitash	MeWEA
3/28	Tues.	Verbal Judo - Tactical Communication for the Public Employee	Augusta - Maine Municipal Association	MMA
3/28	Tues.	MMTCTA Tax Liens Workshop	Lewiston - Ramada Inn	MMTCTA
3/29-31	Wed.-Fri.	MFCA Joint Conference	Newry - Sunday River	MFCA

APRIL

4/4	Tues.	MTCCA New Clerks	Portland - Fireside Inn & Suites	MTCCA
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4/5	Wed.	Elected Officials Workshop	Old Orchard Beach - Galley Ballroom at Duffy's Tavern & Grill	MMA
4/6	Thurs.	MCAPWA Annual Spring Meeting	Waterville - T&B's Celebration Center	MCAPWA
4/7-8	Fri.-Sat.	MACA Annual Business Meeting & Training	Bangor - Hollywood Casino Hotel	MACA
4/11	Tues.	Roles of Elected Officials & Municipal Managers	Belfast - Hutchinson Center	MMA
4/12 -13	Wed.-Thurs.	MCAPWA Supervisory Leadership in Public Works Program - Part I	Augusta - City Center Plaza	MCAPWA
4/14	Fri.	MAAO Northern Maine Spring Workshop	Caribou - Northern Maine Development Commission	MAAO
4/14	Fri.	MeWEA Spring Conference	Lewiston - Ramada Inn	MeWEA
4/20	Thurs.	Planning Board/Boards of Appeal	Bethel - Bethel Inn	MMA
4/21	Fri.	MTCCA Vital Records	Augusta - Maine Municipal Association	MTCCA
4/21	Fri.	MTCCA Vital Records - Video Conference	Caribou - Northern Maine Development Commission	MTCCA
4/25	Tues.	Personnel Practices	Augusta - Maine Municipal Association	MMA

MAY

5/1-2	Mon.-Tues.	MWDA Spring Conference	Freeport - Hilton Garden Inn	MWDA
5/2	Tues.	MTCCA Licensing	Augusta - Maine Municipal Association	MTCCA
5/11	Thurs.	Municipal Technology Conference	South Portland - DoubleTree by Hilton	MMA
5/11	Thurs.	MAAO Board of Assessment Review	Augusta - Maine Municipal Association	MAAO
5/17-19	Wed.-Fri.	MCAPWA Supervisory Leadership in Public Works Program - Part II	Augusta - City Center Plaza	MCAPWA
5/19	Fri.	MMTCTA Annual Conference	Waterville - Waterville Elks Banquet & Conference Center	MMTCTA
5/22-23	Mon.-Tues.	MBOIA 8th Annual Maine Code Conference	Sebasco - Sebasco Harbor Resort	MBOIA
5/23	Tues.	Running Effective Meetings	Boothbay Harbor - Spruce Point Inn	MMA
5/24	Wed.	Elected Officials Workshop	Skowhegan - Margaret Chase Smith Library	MMA

JUNE

6/1	Thurs.	MCAPWA Highway Congress	Skowhegan - Skowhegan Fairgrounds	MCAPWA
6/6	Tues.	Planning Board/Boards of Appeal	Presque Isle - Presque Isle Inn & Convention Center	MMA
6/8	Thurs.	Basic Municipal Budgeting	Dover-Foxcroft - Mayo Regional Hospital	MMA
6/15	Thurs.	Municipal Human Resources & Management Conference	Waterville - Thomas College	MMA
6/20	Tues.	Elected Officials Workshop	Machias - University of Maine, Science Building	MMA
6/22	Thurs.	MMTCTA Cash Management	Augusta - Maine Municipal Association	MMTCTA
6/27	Tues.	New Managers Workshop	Augusta - Maine Municipal Association	MMA
6/28	Wed.	Grant Writing for Municipal Projects	Union - Union Town Hall	MMA
6/29	Thurs.	MTCCA Municipal Law for Clerks	Augusta - Maine Municipal Association	MTCCA
6/29	Thurs.	MTCCA Municipal Law for Clerks - Video Conference	Machias - Machias Career Center	MTCCA

JULY

7/13	Thurs.	MFCA Membership Meeting & Networking	Hope - Hope Fire Station	MFCA
7/13	Thurs.	MMTCTA Basic Excise Workshop	Augusta - Maine Municipal Association	MMTCTA
7/18	Tues.	Elected Officials Workshop	Rangely - The Rangely Inn & Tavern	MMA
7/20	Thurs.	MBOIA Membership Meeting & Training	Augusta - Maine Municipal Association	MBOIA
7/25	Tues.	Planning Board/Boards of Appeal	Saco - Ramada Inn	MMA
7/27-28	Thurs.-Fri.	MMTCTA Basic Accounting I	Waterville - Waterville Elks Banquet & Conference Center	MMTCTA
7/31	Mon.	Customer Service Excellence	Augusta - Maine Municipal Association	MMA

AUGUST

8/3	Thurs.	MTCCA New Clerks	Waterville - Waterville Elks Banquet & Conference Center	MTCCA
8/9-8/11	Wed.-Fri.	MTCMA 72nd New England Management Institute	Newry - Sunday River	MTCMA
8/15	Tues.	MMTCTA I've Got The Job - Now What? Workshop	Augusta - Maine Municipal Association	MMTCTA
8/17	Thurs.	MTCCA Vital Records	Bangor - Spectacular Event Center	MTCCA
8/22	Tues.	Elected Officials Workshop	Houlton - The Center for Community Health Education Houlton Regional Hospital	MMA
8/30	Wed.	 Keeping Your Data Secure: A Pressing Concern	Augusta - Maine Municipal Association	MMA

SEPTEMBER

9/6-8	Wed.-Fri.	MAAO Fall Conference	Sebasco - Sebasco Harbor Resort	MAAO
9/6	Wed.	MTCCA Voter Registration	Caribou - Caribou Inn & Convention Center	MTCCA
9/7	Thurs.	MTCCA Title 21A - State Election Law	Caribou - Caribou Inn & Convention Center	MTCCA
9/8	Fri.	MCAPWA Golf Tournament	Cumberland - Val Halla Golf Course	MCAPWA
9/8-10	Fri.-Sun.	MSFFF Annual Convention/Meeting	Boothbay - Boothbay Fire Department	MSFFF
9/12	Tues.	MTCCA 22nd Networking Day & Annual Business Meeting	Waterville - T&B's Celebration Center	MTCCA
9/14	Thurs.	Elected Officials Workshop	Portland - Embassy Suites by Hilton	MMA
9/14	Thurs.	MBOIA Membership Meeting & Training	Gray - Spring Meadows Golf Club	MBOIA
9/14	Thurs.	MWDA GA Basics	Augusta - Maine Municipal Association	MWDA
9/20-22	Wed.-Fri.	MeWEA Fall Convention	Newry - Sunday River	MeWEA

OCTOBER

10/4-10/5	Wed.-Thurs.	81st Annual MMA Convention	Augusta - Augusta Civic Center	MMA
10/7	Sat.	MSFFF Firefighters Memorial Service	Augusta	MSFFF
10/17	Tues.	MTCCA Voter Registration	Augusta - Maine Municipal Association	MTCCA
10/18	Wed.	MTCCA Title 21A - State Election Law	Augusta - Maine Municipal Association	MTCCA
10/26	Thurs.	MMTCTA Municipal Law for Tax Collectors & Treasurers	Orono - Black Bear Inn	MMTCTA
10/27	Fri.	Verbal Judo - Tactical Communication for the Public Employee	Bangor - Hilton Garden Inn	MMA
10/31	Tues.	MBOIA DECD & Fire Marshal's Office Training	Portland - Fireside Inn & Suites	MBOIA

NOVEMBER

11/1	Wed.	MBOIA DECD & Fire Marshal's Office Training	Orono - Black Bear Inn	MBOIA
11/2	Thurs.	Planning Board/Boards of Appeal	Dedham - Lucerne Inn	MMA
11/2	Thurs.	MBOIA DECD & Fire Marshal's Office Training	Waterville - Waterville Elks Banquet & Conference Center	MBOIA
11/15	Wed.	Labor & Employment Law	Portland - Fireside Inn & Suites	MMA
11/16	Thurs.	MMTCTA Municipal Law for Tax Collectors & Treasurers	Augusta - Maine Municipal Association	MMTCTA
11/30	Thurs.	Elected Officials Workshop	Augusta - Maine Municipal Association	MMA
11/30	Thurs.	Elected Officials Workshop - Video Conference	Caribou - Northern Maine Development Commission	MMA

DECEMBER

12/5	Tues.	Planning Board/Boards of Appeal	Lewiston - Ramada Inn	MMA
12/8	Fri.	MWDA Winter Issues Training	Augusta - Maine Municipal Association	MWDA
12/14	Thurs.	MBOIA Annual Membership Meeting & Training	Lewiston - Green Ladle	MBOIA
Dec	TBD	MTCMA Joint Workshop with MMANH	TBD	MTCMA

PEOPLE



Leverett "Tink" Mitchell

Bath City Councilor **Leverett "Tink" Mitchell**, a longtime city firefighter and former fire chief, died Dec. 30 at the age of 68. Mitchell served four terms on the Bath City Council. He worked for the fire department for near-

ly 30 years, the final four as chief. He was a Bath native and U.S. Navy veteran. He was serving as councilor at the time of his death after being re-elected to a three-year term in 2016. Mitchell also served on numerous committees, both presently and in the past, including the budget and finance committee and the Sagadahoc County Communications Center Board of Directors.

Lewiston Fire Chief **Paul M. LeClair** was named director of the Lewiston-Auburn 911 Communications Center, effective March 1. LeClair has served as interim director since last November. In his role with the Lewiston department, LeClair worked with dispatchers in Lewiston-Auburn since 1996. His chief's contract was extended for three years last December. Meanwhile, interim and Deputy Police Chief **Brian O'Malley** was named police chief in January. He replaces **Michael Bussiere**, who resigned last July to take a job in the Dallas, Texas area. O'Malley, a 27-year veteran of the Lewiston department, was chosen from a pool of candidates nationwide, 20 of whom were interviewed. During his career, LeClair has worked as a patrol officer, detective, patrol sergeant and lead detective in the department's Criminal Investigations Division before being promoted to deputy chief.



Austin Bleess

Caribou City Manager **Austin Bleess** was named city manager of Jersey Village, Texas. His resignation is effective March 3. Bleess has served as Caribou manager for more than four years. He worked as Winnebago, Minn.,

manager prior to taking the Caribou job. Jersey Village is located in the Greater

Houston area and has a population comparable to Caribou. Bleess, who served on numerous committees and community groups, earned the status of a credentialed manager with the International City/County Management Association in early January.

Andrew Dube, Madawaska code enforcement officer, recently was certified in numerous levels of state code and land use by the Maine CEO Training and Certification program. Dube also serves as the town's business development director. He already was certified in land use and shoreland zoning codes before completing several programs for residential certification.

Patricia Finnigan resigned as Camden town manager, effective Jan. 20. Former Town Manager **Roberta Smith** will serve as interim manager while selectmen conduct a search for a permanent replacement. Finnigan replaced Smith in 2011, leaving her job as assistant city manager of Portland. Finnigan did not give a reason publicly for her departure. Finnigan was elected to the Bangor City Council after graduating from the University of Maine in 1975, making her the youngest elected councilor at the time. She served as Auburn assistant city manager for four years and then as city manager for 12 years before taking the Portland job.

Lincolnton selectmen named **Steve Gibbons** to replace outgoing Fire Chief **Ben Hazen**. A former fire chief in Glenburn and Camden, Gibbons, deputy fire chief, was elected by department firefighters to replace Hazen and appointed by the council. Gibbons also worked as a dispatcher in Bangor and for Knox County after taking a break from firefighting. He was hired as deputy Lincolnton fire chief in June 2013. Hazen, who served the town since 1995, stepped down to spend more time with his wife and new child. Hazen served as fire chief for two stints, the first from 2008 to 2010, and then again since from 2013 to present.

Biddeford City Councilor **Rick Laverriere** resigned in January, ending his fifth term early for personal reasons.

Laverriere was defeated in 2013, but then elected to his fifth term in 2015. He intends to continue his service as chairman of the Biddeford Airport Commission and was appointed to the city's Fire Advisory Committee upon his resignation from the council. **Norman Belanger**, a Harvard-educated lawyer who served on the city's first environmental board, was appointed to Laverriere's seat.



Gary Wentzell

Mexico Fire Chief **Gary Wentzell** died of cancer on Jan. 8 at the Dana-Farber Cancer Institute in Boston. He had served the western Maine town for 25 years; some firefighters said he was more a father figure than a boss. He was 69. Firefighters rallied around Wentzell and his family during his fight with cancer. Wentzell, who was active in many community groups, was known for hard work, authenticity and dedication. His ashes were brought home to Maine by a procession of firetrucks and other emergency vehicles. It took the procession three hours to drive back to Mexico on Interstate 95.



Winifred Tate

The Waterville City Council in mid-January named Colby College associate professor **Winifred Tate** to complete the term of **Dana Bushee**, who resigned Jan. 4. Bushee said the decision to resign early was difficult, but she needed to focus on her family and job. She was appointed to fill an open seat in December 2013 and then elected to a three-year term that expires this November. Tate is an associate professor in the Colby Department of Anthropology, although presently she is researching U.S. drug policy. She was one of three candidates considered for the vacancy. ■

If your municipality submits a news item for the Townsman, consider sending a corresponding photo to:
Eric Conrad or Jaime Clark (econrad@memun.org or jclark@memun.org)

AUGUSTA

City councilors are interested in studying the idea of providing a trolley-style bus service from the downtown to the State House complex, other state facilities and the Lithgow Library, among other stops. The idea was presented in January by Councilor Anna Blodgett and drew enough interest from other councilors that the idea will be studied as the city begins new budget goals. Blodgett and others said the trolley would allow state workers and others to frequent downtown businesses and eateries rather than drive to Hallowell during their lunch hours. It also would address the lack of public transportation in Augusta. The city owns two 1994, 17-passenger trolley-type buses that operated until they were taken out of service in 2012.

CUMBERLAND

The Maine Supreme Judicial Court ruled in late January in favor of the town in a lawsuit brought by the heirs to a Foreside Road beach property. The high court agreed with a lower court, which ruled the heirs lacked standing. The heirs did not want a public beach near their property. Now known as Broad Cove Reserve, the property was sold to the town for \$3 million in late 2014 in order to offer residents access to 2,200 feet of shoreline, as well as a 200-foot pier. The case was dismissed by a Superior Court judge in 2015 after upholding the town's Board of Adjustment and Appeals' finding that the proposed use of the property was allowed in the town's Low Density Residential district. The Superior Court further ruled the heirs did not have standing to bring the suit.

EASTON

Six Amish families that contested a recent revaluation of their barns have lost their case in Superior Court. The Jan. 3 decision overturned a decision by Aroostook County commissioners who granted tax abatements to the families for barns with values ranging from \$93,391 to \$129,501. All of the properties are located in Easton, which had not revalued town property for 23 years. Commissioners had granted abatements to the property owners that reduced the barns' value by 25 percent but the court ruled the commissioners made their decision without supporting

NEW ON THE WEB www.memun.org

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

Executive Orders. The National League of Cities has provided a brief legal analysis on Presidential executive orders, what they mean and why they matter to municipal leaders.

Community Engagement. The University of Maine and University of New Hampshire will hold a joint, three-day training program about engaging and leading community discussions.

Governor's Budget. MMA's State & Federal Relations Department penned a nine-page analysis showing how Gov. LePage's proposed, 2018-19 state budget will affect local government and property taxpayers.

evidence. The judge also ruled while the families had proved the assessments were likely high, they did not prove what their assessments should be. The county will not appeal the decision, officials said.

FORT FAIRFIELD

The town council in January agreed to promote a municipal land incentive program that would give away town-owned land for business development. Town officials were searching for a way to stand out among the many small Aroostook County towns trying to attract new business and jobs. Officials agreed the town cannot afford to give away money to business start-ups, but could dole out land parcels from the several large tracts it owns in predominately commercial zones. For example, the town owns 6.8 acres of land with access to water and sewer lines that could be among the first properties offered under the new program. The initiative would be administered by the town's Economic Development Board.

RUMFORD

Selectmen in January narrowly rejected a citizen petition asking for a special town meeting to consider a moratorium on the sale of town water. The petition followed the Jan. 4 decision by the town's water district to start talks with Poland Spring Water Co., which wants to draw water from the Ellis River watershed. Selectmen voted 3-2 to deny the petition. The town attorney advised selectmen that enacting a moratorium that it has no power to enforce would expose the town to litigation.

SOLDIERTOWN TOWNSHIP

A New York philanthropist known for

supporting environmental causes provided \$5 million to build an education facility and trails near Baxter State Park and the new Katahdin Woods and Waters National Monument. If approved by state regulators, the Maine Waterside Trails will be built on the East Branch of the Penobscot River off Route 11. Gilbert Butler, founder of the Butler Conservation Fund, based in Great Neck, N.Y., was enchanted with the Katahdin region while vacationing there five years ago. His foundation bought 5,000 acres of land in the area. Butler has now donated \$5 million to the project, which will allow as many as 3,500 Maine students in grades 4 to 12, from Newport to Houlton, a chance to hike, mountain bike, snowshoe and cross-country ski on the Waterside Trail. The project will include a 3,000-square-foot administrative office and storage facility and eight miles of trails.

SOUTH PORTLAND

City's police officers began using body cameras on Jan. 20 in a move to protect police and public safety and build trust in the department. City officials weighed issues such as privacy, the public's right to know, as well as meeting the need of preserving investigation information. Officials said the camera footage would be available under the Maine Freedom of Access law as long as it does not compromise investigations. Under the city's new policy, the cameras will not be turned on during strip searches, while an officer appears in court or if a victim or witness asks not to be recorded. The South Portland Police Department is believed to be the first department to use body cameras in Maine. ■

MUNICIPAL BULLETIN BOARD

FEB. 16

Moderating Town Meetings: Orono

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 Black Bear Inn in Orono, 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. 21

Elected Officials Workshop: Augusta, Caribou

Attorneys and staff from MMA's Legal Services and Communication & Educational Services departments will lead a workshop for Elected Officials on Feb. 21 at the Christopher G. Lockwood Conference Center in Augusta. The workshop will be available via videoconferencing at the Northern Maine Development Commission office in Caribou. 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 in Augusta for the workshop is \$55 for MMA members and \$110 for non-members. Cost in Caribou is \$45 for MMA members.

FEB. 22

Title 30-A: Town Meeting & Elections, Portland

Town clerks (including deputies and assistants) are the principal targets for this workshop, which will cover many aspects of town meetings and election procedure. Selectmen and moderators may benefit from the training too, and are encouraged to attend. The session is sponsored by the Maine Town & City Clerks' Association.

Speakers will include: Christine Wolfe, Town Clerk in Freeport; Merton Brown, Town Clerk in Kennebunk; and, attorneys from MMA's Legal Services Department. The day-long session will be held at the Embassy Suites by Hilton hotel in Portland. Registration begins at 8:30 a.m. Cost is \$60 for MTCCA members and \$80 for non-members.

MARCH 13

Managing Freedom of Access Requests: Lewiston

This timely workshop is aimed at helping municipal staffs, designated "Public Access Officers," elected and appointed officials understand Maine's FOA law, why requests are filed and how to deal with them appropriately.

The afternoon workshop will be held on March 13 at the Ramada Inn and Conference Center in Lewiston. Registration begins at 1:30 p.m. and the workshop will conclude at 4:30 p.m. It also will be offered live via videoconference at the Northern Maine Development Commission office in Caribou. Presenters include: Richard Flewelling, Assistant Director of MMA's Legal Services Department; Nathan Poore, Manager in the Town of Falmouth; and, Eric Conrad, MMA's Director of Communication & Educational Services. Cost for the workshop is \$35 to MMA members.

MARCH 14

Tax Lien Procedures: Orono

The Maine Municipal Tax Collectors' and Treasurers' Association will hold a one-day session on Tax Lien Procedures on March 14 at the Black Bear Inn in Orono. The program will focus on the proper procedures and paperwork involved in the tax-lien process. The emphasis is on the "how to," rather than legal requirements, of tax liens.

Gilberte Mayo, administrative assistant for MMTCTA, will be the presenter. The workshop starts with registration at 8:30 a.m. and will end at 3:30 p.m. Cost is \$55 for MMTCTA members and \$75 for non-members.

SPECIAL SESSION!

MARCH 21

Aerial Drones / Legal Landscape: Augusta

This newly revised workshop is devoted to legal issues involving unmanned aerial vehicles, or drones, which are surging in popularity and creating a host of legal issues. The afternoon workshop, presented by a drone consultant and attorneys with the law firm of Bernstein Shur, will tell municipal leaders what they can and cannot do about drones, even in their own backyards. Rules were recently clarified by the Federal Aviation Administration.

The workshop also will help guide fire-rescue and police attendees on whether to use aerial drones in their official lines of work. The class will be held at the MMA Conference Center in Augusta. The workshop will begin at 2:00 p.m. and will conclude at 4:30 p.m. Cost is \$35 for MMA members and \$70 for non-members. ■

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LEGAL NOTES

Parts of Marijuana Law Delayed Until Feb. 2018

The Legislature has delayed the effective date of certain parts of the new “recreational” marijuana law while also clarifying other parts.

Public Law 2017, Chapter 1 (eff. Jan. 27, 2017) postpones the State licensing of retail marijuana establishments, including retail marijuana stores, marijuana cultivation, manufacturing and testing facilities, and marijuana social clubs, until Feb. 1, 2018. Unless and until licensed by the State, none of these establishments can operate legally.

The personal use and possession parts of the law became legal on Jan. 30, 2017, but the law clarifies that users must be 21 or older. Personal use is also limited to private residences or private property not generally accessible by the public and with the owner’s permission. Use is also prohibited by both operators and passengers in vehicles on public ways.

Since the retail parts of the law have been delayed, local officials with doubts about the law have been asking whether local action – in the form of either a moratorium or an ordinance banning retail establishments – is still imperative. We continue to advise that if a municipality wishes to act, the sooner the better because, notwithstanding the delay in State licensing, there are still some potential legal risks if there are no local safeguards in place in the meantime.

For a sample moratorium and a sample ordinance prohibiting retail marijuana establishments, see “Legal Marijuana & Municipalities,” *Maine Townsman*, Legal Notes, December 2016. For more on how to adopt a moratorium, see “Moratoriums on Marijuana,” *Maine Townsman*, Legal Notes, January 2017.

On a related note, the U.S. Bureau of Alcohol, Tobacco, Firearms (ATF) has revised the form required for federal background checks to clarify that marijuana users, even in states where marijuana has been “legalized,” cannot legally purchase a gun. This is because marijuana is still a prohibited drug under federal law, and the federal Gun Control Act of 1968 bans gun purchases by any user of illegal drugs. (By R.P.F.)

MUNICIPAL CALENDAR

ON OR BEFORE FEBRUARY 15 — 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 20 — Presidents’ Day, the third Monday in February, is a legal holiday (4 MRSA § 1051); and shall be observed as a school holiday in the absence of any vote of the superintending school committee designating how the day shall be observed (20-A MRSA § 4802).

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. Send copy of town report to the following: MAINE MUNICIPAL ASSOCIATION, State Tax Assessor, Fogler Library at UMO and State Librarian.

■ 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.

■ Copies of annual report are to be deposited in the municipal office or a convenient place of business for distribution to voters at least 3 days prior to the annual meeting (30-A MRSA § 2801)

■ Check 30-A MRSA § 5823 for audits, and § 2801 for town reports.

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)].

Challenging a Vote @ Open Town Meeting

Question: How can a vote at a traditional “open” town meeting be legally challenged?

Answer: Short of a lawsuit by a disappointed candidate or voter, the only method for legally contesting or appealing a vote, including a vote by paper ballot, at an open town meeting is the procedure set forth in 30-A M.R.S.A. § 2524(3)(B). This provision states, “When a vote declared by the moderator is immediately questioned by at least 7 voters, the moderator shall make it certain by polling the voters or by a method directed by the municipal legislative body.”

There is no procedure for inspecting or recounting votes after an open town meeting has been adjourned. Hence, there is no requirement that paper ballots or tally sheets be preserved. The

right to request a post-election inspection or recount is available only in secret (pre-printed) ballot elections. (Note that municipal recount procedures now, for the most part, follow State recount procedures, see 30-A M.R.S.A. §§ 2531-B, 2532.)

The reason there is no inspection or recount procedure for open town meeting votes after adjournment is that, unlike secret ballot elections, the results of a vote are immediately available to question as provided in § 2524(3)(B), and a challenge can be resolved instantly by polling the voters. If there is no such challenge and the meeting is adjourned, all votes are presumed valid.

Where a vote was to elect officials, the only legal recourse for an unsuccessful candidate is to file suit in Superior Court within 30 days after the meeting (see 30-A M.R.S.A. § 2533). A vote to elect someone cannot simply be voided

LEGAL NOTES

by local officials or a subsequent town meeting.

Where a vote was on any other matter, again, the only method for legally contesting it is via suit in Superior Court. However, unlike the election of officials, most other town meeting votes – except where contracts have been signed or bonds have been issued or other third-party rights have vested – can be reversed by calling another town meeting on the same question. (By R.P.F.)

Two New Land Use Cases from the Maine Law Court

The Maine Supreme Court closed out 2016 with a pair of local land use decisions that should surprise no one.

In one case (*Fryeburg Trust v. Town of Fryeburg*, 2016 ME 174), the Law Court held that the zoning ordinance's definition of "secondary school" was sufficiently broad to include an outdoor classroom and administrative offices. Opponents tried to argue that all required courses must be taught in a classroom in order for it to qualify, and that offices are not classrooms at all, but the Court was unconvinced. These arguments, it said, would lead to an "absurd result" and required a "crabbed reading" of the ordinance. Its reading, by contrast, was based on the plain language of the ordinance and "common sense."

In the other (*Friends of the Motherhouse v. City of Portland*, 2016 ME 178), opponents challenged the rezoning of a vacant Roman Catholic convent to permit its redevelopment into 88 units of senior housing. They argued that the rezoning was inconsistent with the comprehensive plan, but again, the Court seemed in an unreceptive mood. Citing its earlier holding in *Rommel v. City of Portland*, 2014 ME 114, the Court noted that the law requiring consistency between a zoning ordinance and comp plan (see 30-A M.R.S.A. § 4352(2)) requires only "basic harmony" between the two, not perfect alignment. The Law Court also, as in *Rommel*, granted substantial deference to the city council's legislative judgment.

For the full text of these two decisions (as well as all other published opinions of the Law Court), go to: http://www.courts.maine.gov/opinions_orders/

supreme/publishedopinions.shtml (By R.P.F.)

Ridesharing Services – Municipal Preemption

We weren't aware of it until recently, but Maine law expressly preempts municipalities from regulating smart-phone-based ridesharing services such as Uber and Lyft.

Title 29-A M.R.S.A. § 1677, which is part of the Transportation Network Company Insurance Act (see 29-A M.R.S.A. §§ 1671-1677, eff. June 30, 2015), prohibits municipalities from enacting any ordinance, regulation or procedure governing the operation of "transportation network companies" (e.g., Uber and Lyft), their drivers or motor vehicles. Municipalities are also barred from imposing any tax or fee on, or requiring a license for, transportation network companies, drivers or vehicles.

In exchange for this protection against local regulation, ridesharing services are required to obtain an annual State permit and to maintain specified liability insurance coverages. Drivers also must meet a variety of qualifications relating to driving history, criminal background, use of drugs and alcohol, vehicle safety and emissions, and so on.

Uber and/or Lyft now operate in Maine's larger metropolitan areas, namely, Portland, Lewiston and Bangor, and in many tourist towns, including Ogunquit, the Kennebunks, Old Orchard Beach, Freeport and Bar Harbor. But expect these popular alternatives to traditional taxi service to continue expanding throughout the state.

Incidentally, municipalities continue to have authority to license and regulate taxicabs or vehicles for hire, and

many do. These ordinances may be enacted by the municipal officers (see 30-A M.R.S.A. § 3009(1)(F)). (By R.P.F.)

Maximum Interest Rate for 2017 Delinquent Taxes: 7%

The State Treasurer has established 7% as the maximum interest rate that municipalities may set for delinquent property taxes committed during calendar year 2017.

However, as anyone familiar with delinquent taxes knows, interest does not accrue on unpaid taxes unless a municipality, by vote of its legislative body, establishes the rate of interest and the date or dates after which interest will accrue. This must be done at the meeting at which the body votes to raise a tax or at any subsequent meeting prior to commitment of the tax (see 36 M.R.S.A. § 505(4)). This rate then applies to all delinquent taxes committed that year until they are paid in full.

For details on how to calculate interest on delinquent taxes, see MMA's *Municipal Liens Manual*, available free to members at www.memun.org. (By R.P.F.) ■

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