

# KNOX COUNTY COMMISSION

## **Special Meeting**

**Thursday – December 1, 2016 - 6:00 p.m.**

A special meeting of the Knox County Commission was held on Thursday, December 1, 2016, at 6:00 p.m., at the county courthouse, 62 Union Street, Rockland, Maine.

Commission members present were: Carol L. Maines, Commissioner District #1, Richard L. Parent, Jr., Commissioner District #2, and Roger A. Moody, Commissioner District #3. Commissioners not present:.

County staff present included: County Administrator Andrew Hart, Administrative Assistant Candice Richards, and Chief Deputy Tim Carroll.

Municipal representation present: (*see below*).

Legislative representation present: (see below).

Others present: Geoff Herman, MMA legislative advocate; Pen Bay Pilot reporter Chris Wolf, and Courier Publications reporter Dan Smith (*arrived at 6:08 p.m.*).

**Special Commission Meeting**  
**Meeting with Knox County Municipalities & Legislative Delegates**  
**Agenda**  
**Thursday – December 1, 2016 – 6:00 p.m.**

**I. Called to Order**

**II. Discussion Items**

1. Introduction of County Commission, Municipal Officials, and Legislators
2. Maine County Commissioners Association Legislative Priorities (Roger Moody)
3. Maine Municipal Association Legislative Priorities (Geoff Herman)

**III. Action List**

**IV. Adjourn**

**I. Called to Order:**

Commission Chair Roger Moody called the special meeting of the Knox County Commission to order at 6:00 p.m. He advised everyone that the meeting was being streamed live on the internet and that the microphone will pick up side conversations.

**II. Discussion Items:**

**A. Introduction of County Commission, Municipal Officials, and Legislators:**

Commission Chair Roger Moody asked everyone to introduce themselves.

Municipal representation:

- Bill Chapman, Rockport Selectman
- Jay Feyler, Union Town Manager
- Wes Daniels, Washington
- Ann Dean, Washington Town Clerk
- Dave Matthews, Owls Head Selectman
- John Fenner, Appleton Selectman
- William Lufkin, Washington Selectman
- William Clayton, Rockland City Mayor
- Andrew Dorr, Vinalhaven Town Manager

Legislative representation:

- Dave Miramant, State Senator District 12
- John Spear, State Representative District 92

- Paula Sutton, State Representative District 95

County representation:

- Carol Maines, Commissioner District 1
- Richard Parent, Commissioner District 2
- Roger Moody, Commission Chair District 3
- Andrew Hart, County Administrator

B. Maine County Commissioners Association Legislative Priorities:

Commissioner Moody explained that he served on the MCCA board and had given everyone a list of legislation that MCCA was focused on (*which has been inserted below, verbatim*).

**MCCA Ideas for Legislation – 128<sup>th</sup> Maine State Legislature**

- Equitable Jail Sentencing —
  - (A) Any inmate incarcerated in a county jail longer than 9 months shall either be moved to state prison for the remainder of their incarceration, or the county shall be fairly compensated by the State for all time the inmate is incarcerated in county jail in excess of 9 months.
  - (B) Individuals who violate probation shall be returned to the corrections facility in which they were initially incarcerated and when their probation was granted.
- Phlebotomy Regulation — Individuals, who administer blood draws for the purpose of obtaining evidence in suspected illegal substance use cases (phlebotomy), shall be medically certified.
- Jail Tax Cap — The current 3% cap on property tax increases for county jails shall be removed, and jail budgets should be regulated by the same LD 1 growth factor that applies to all other county budget components, with the provision that the limit may be overridden by the requisite vote of the legislative body.
- Revenue from the Legalization of Marijuana for Recreational Purposes — If the sale and use of marijuana is declared legal in Maine for citizens 21 years and older, county government shall be included in any revenue sharing formula developed and utilized as a result of marijuana sales. County government will need additional revenue to pay for increased planning, policy development, monitoring, and enforcement and must receive a "piece of the revenue pie" to help defray costs that may accompany such a major change in public policy.
- Video Arraignments — The availability and use of video arraignments shall be mandatory in all jurisdictions of the State of Maine.
- Medicare and Medicaid for County Jail Inmates — The State of Maine shall allow for the *suspension* of Medicaid or Medicare eligibility while persons are incarcerated, rather than *termination* of those benefits. That way, when the person is released from jail, their benefits may resume, thereby eliminating one factor that may lead to higher rates of recidivism.

There was a discussion about the issues the Sheriff's Office and other law enforcement agencies are having throughout the state with getting blood samples to be able to use in their OUI cases. Hospitals will only draw blood if it's for a medical reason, and testing to see if someone is operating under the influence doesn't fall in to that category. Some law enforcement officers have taken training at the Maine Criminal Justice Academy to be qualified to draw blood, but it might not be the best idea having the arresting officer doing the blood draw. Some agencies won't let their employees do this because of liability and other issues. Now that there are more drugs being used, however, there are more causes of OUI besides just alcohol. Enforcement of OUI's has been difficult because the Sheriff's Office can't get someone to draw blood. There is medical staff out there, such as the nurse at the jail, but most medical staff willing to do blood draws are not going to want to go out at 3 a.m. to an incident site to draw blood. The County could work with an EMS service to do this for them, but there is always going to be a cost involved which may not

work for either side. Another conflict is that the hospital does different types of testing than the crime lab. However, if the Sheriff’s Office can get the blood that the hospital has within a certain time frame, it can be taken up to the crime lab to be tested.

**Factors that Increase Jail Time & Costs**

- Overcrowding due to opioid epidemic arrests
- Mental illness
- Substance abuse/addiction
- Medical conditions
- Lack of communication and understanding among criminal justice system stakeholders
- Delays in trial court and sentencing caused by:
  - prosecuting district attorneys
  - defendants/defense attorneys
  - scheduling by court clerks
  - types of sentences issued by judges
  - inability to pay bail
  - scheduling/conducting psychological evaluations
  - medical conditions
  - addiction/substance abuse treatment & counseling
  - inexperienced court-appointed attorneys who avoid unpleasant clients
- Sending probation violators to county jail, rather than to the state facility where their underlying sentence was imposed
- Lack of discretionary authority on the part of county law enforcement personnel to issue summonses, rather than arrest and put law violators in jail in some cases
- Consecutive sentencing for more than one conviction and other judicial sentencing decisions
- Natural cost increases of goods and services due to changing economics

**C. Maine Municipal Association Legislative Priorities:**

Geoff Herman from the Maine Municipal Association gave out two handouts to everyone. He said that the tax revenue chart includes data that shows that the state is going in a disproportionate direction towards property tax (*included below*).

**Table 1 -Tax Mix (2005-2015)**

Year	Property	Income	Sales	Total	% of Total Tax Revenue		
					Property	Income	Sales
2005	\$1,721,736,987	\$1,406,088,242	\$941,221,839	\$4,069,047,068	42%	35%	23%
2006	1,791,109,664	1,442,522,221	993,202,706	4,226,834,591	42%	34%	23%
2007	1,876,244,644	1,537,786,028	1,020,864,253	4,434,894,925	42%	35%	23%
2008	1,955,410,009	1,627,982,772	1,035,157,942	4,618,550,723	42%	35%	22%
2009	2,004,979,062	1,508,523,695	974,636,315	4,488,139,072	45%	34%	22%
2010	2,047,787,605	1,473,328,488	954,025,264	4,475,141,357	46%	33%	21%
2011	2,100,857,920	1,624,280,132	976,359,279	4,701,497,331	45%	35%	21%
2012	2,175,579,309	1,666,335,184	1,029,513,306	4,871,427,799	45%	34%	21%
2013	2,267,190,093	1,693,849,829	1,036,887,515	4,997,927,437	45%	34%	21%
2014	2,344,821,945	1,589,045,886	1,156,331,624	5,090,199,455	46%	31%	23%
2015	2,426,921,238	1,667,907,728	1,244,308,294	5,339,137,260	45%	31%	23%

Sources: Maine Revenue Services, Municipal Valuation Return Statistical Summaries, Maine Revenue Forecasting Commission Reports

Mr. Herman also handed out a document that shared MMA's 10 pieces of legislation being worked on in MMA's 2017-2018 Legislative Agenda (*taken verbatim from the handout*):

## **MMA's 2017-2018 Legislative Agenda**

### **Revenue Sharing**

Background. After nearly 40 years as a stable state policy of tremendous municipal importance, the Legislature began deserting the municipal revenue sharing partnership program in 2009. Each year since, the financial redirection grew larger until nearly \$100 million each year was being diverted away from the dedicated municipal distribution and into the state government's budget. In 2015, the Legislature statutorily reduced the size of the municipal revenue sharing distribution by 60% — from 5% of all state sales and income taxes collected to just 2%. This \$100 million annual reduction is scheduled to stay in place until Fiscal Year 2020, when the commitment would return to the original 5% level.

MMA's legislation. *MMA's legislation provides a ramped-up restoration of the percentage of state sales and income tax revenue dedicated to the Local Government Fund from the temporary 2% level to the historical 5% level over a three-year period, beginning in 2018.*

### **Homestead Property Tax Exemption**

Background. The Homestead property tax exemption was established in 1998 as a \$7,000 exemption for Maine's primary residents, with 100% of each municipality's lost tax revenue reimbursed by the state, thereby preventing a shift in tax burden to businesses and other non-homesteaders. The Homestead exemption was the target of extensive and annual legislative amendment from 2004 through 2010. The ultimate result was a \$10,000 exemption with only 50% of the municipal tax revenue losses reimbursed by the state, thereby shifting tax burden onto local businesses, farmland, etc. The shift from 100% to 50% reimbursement also decreases the effective value of the exemption for the homesteaders. Since 2010, the current Administration has regularly proposed to eliminate the Homestead exemption for homesteaders under the age of 65. In 2015, the Legislature increased the value of the Homestead exemption to \$15,000 (for tax year 2017) and \$20,000 (for tax year 2018), and also increased the reimbursement level from 50% to 62.5%, beginning in tax year 2018.

MMA's position. *MMA will oppose all attempts to weaken or repeal the Homestead exemption or reduce the newly-established municipal reimbursement rate as currently provided in law. MMA will explore the impact of increasing the Homestead Exemption benefit, potentially as a tool for attracting year-round residents to Maine.*

### **Tax Exempt Property**

Background. The state's Supreme Judicial Court has issued at least two decisions that allow corporations and institutions that are exempt from paying property taxes to use their property for purposes not related to their charitable or educational mission and still retain their tax exempt status. These decisions seem to ignore an express "exclusive-use" requirement in Maine law. The Court relied on a finding that the alternative use of the property, and the revenue that alternative use generated, was "incidental" to the organization's mission and therefore allowed.

MMA legislation. *The MMA legislation responds to recent Law Court decisions by affirming the requirement that tax exempt property be used exclusively for the charitable or "literary and scientific" purposes and expressly disallowing revenue producing incidental use.*

Additional Background. A long-established principle of tax exemption policy is that the exemption is only provided to the qualified owner of the exempt property and not to other non-exempt interests "by extension". As a result, taxable property that is merely rented or leased by tax exempt organizations is not exempt from taxation because the true owner of the property is not entitled to exempt status. The only exception to this general principle in Maine law is the personal property leased by hospitals and certain other medical service corporations, which is exempt from taxation even though the owner of the property (the lessor) is not qualified for the exemption.

MMA legislation. *The MMA legislation would repeal the unique property tax exemption provided to the personal property leased by hospitals and, instead, expressly qualify that property for exempt status under the Business Equipment Tax Exemption (BETE) program.*

Additional Background. For decades, the municipalities have been seeking an authority to require tax exempt corporations to pay service fees to their host municipalities to cover the direct costs of the municipal services provided to those corporations by their municipal hosts.

MMA legislation. *The MMA legislation would implement the most comprehensively developed service fee authority developed by members of a legislatively-established task force in 2013, which is designed to balance the interests of municipalities (being fairly compensated for public services directly provided) and the interests of the tax exempt corporations (having the value of their charitable services to their host communities appropriately recognized).*

## **Education**

Background. Municipal officials believe very strongly that the Legislature should allocate substantially more financial resources to support K-12 public education than is currently allocated, both for the purpose of improving the equity of educational opportunity statewide and to protect Maine's property taxpayers. To that end, Maine's municipal leaders advanced the citizen initiative adopted by the voters in 2004 that directed the Legislature to honor the unfulfilled promise it made 32 years ago to cover 55% of the total cost.

Question 2 on the November 2016 ballot is a related citizen initiative designed to achieve the 55% funding goal. Now that Question 2 has been adopted by the voters, and assuming the Legislature will not frustrate the voters' intention that the state finally fund at least 55% of the Essential Programs and Services school funding model (EPS), the implementation of the Question 2 initiative should recalibrate of the EPS school funding model to most equitably distribute the increased state-share contribution.

MMA legislation. *The MMA legislation includes the following amendments to the EPS school funding model to restore integrity to the model and ensure that the distribution of school subsidy from the state will be equitably distributed as the state fully funds the model at the 55% level.*

- *Improve the responsiveness of the model by establishing an adjustment that distributes supplementary subsidy when current-year or "real time" data: (1) reveal significant increases in specialized student populations; (2) substantiate the start-up implementation of pre-K through Grand 2 programming; or (3) substantiate the sudden loss of municipal fiscal capacity.*
- *Remove the various "transition percentages" that have allowed the EPS model to be funded by the state at less than the 55% level.*
- *Amend the "fiscal capacity" element of the model (which is simply a measure of the each municipality's taxable base) to appropriately reflect the real-life taxable base in the circumstance of sudden and severe reductions in taxable value.*
- *Allow some legitimate student transportation costs to be included in the model's "subsidizable costs" that go beyond direct transportation between the school and the student's home, to include other educationally important student transportation costs.*
- *Adjust the model's system of recognizing for subsidy purposes increased school costs for economically disadvantaged students, targeting the enhanced subsidy to related educational programming.*
- *Repeal the current system of reducing state subsidy proportionate to the school's receipt of federal "Title I" funds.*
- *Repeal the arbitrary requirement in the current EPS model to ignore actual data regarding each school system's special education student population.*
- *Speed up the implementation of the model's enhanced calculation of the subsidy provided to "minimum receiver" school systems.*

Additional background. Also on the education front, municipal officials in many school jurisdictions are becoming increasingly frustrated with the statutorily required school budget adoption process that mandates the "school budget validation referendum." The process that requires the ratification of an earlier vote of the legislative body creates a disconnect in the budget adoption process and can easily

result in multiple expensive and poorly attended referenda elections that fail to result in budget approval deep into the school year.

MMA legislation. *MMA's legislation would restore home rule authority to the municipal school systems regarding their school budget adoption process and also authorize the Regional School Units to implement alternative procedures governing the adoption of the school budget, contingent upon district voter approval.*

### **County Jail Management and Funding**

Background. Legislation enacted in 2008 was designed to provide state-level oversight with respect to the management of the county jails in order to maximize the efficient use of the 15 jails' collective capacity and ensure that individual jail facility business models were coordinated and not generating excessive incarceration costs. That experiment in "jail consolidation" suffered from a lack of buy-in from the direct participants and clear direction on jurisdictional issues, and was repealed in 2015.

A central component of the jail "consolidation" initiative was the establishment of a cap on the amount of property taxes that could be assessed for the purposes of jail operations. In 2008, \$62.5 million was assessed for jail operation purposes and that became the established cap, with each county capped at its proportional share of the \$62.5 million total.

When the Legislature repealed the consolidated jail management system, it amended the property tax cap by allowing each county's assessment for jail operation purposes to increase by up to 3% each year. The current Administration and certain legislative leaders have made it clear that they believe the limited property tax cap should be repealed. Now that the management of the county jails has been returned to the counties, the thinking goes, the counties should be required to obtain the revenue to support those jails through property taxation without statutory limitation.

From the municipal perspective, the failed jail consolidation effort stimulated a deeper observation. The incarceration of people who have been convicted of breaking the state's laws is the state's financial responsibility. The fact that the county jails are funded almost entirely by the property taxpayers is a throw-back to a much earlier time, before the income tax was established in 1969 and the sales tax was established in 1953...a time when the property tax paid for just about all governmental services. It is only by force of habit and convenient political inertia that the county jails remain the financial responsibility of Maine's property owners.

MMA legislation. *MMA will advance two legislative initiatives to respond to the issues central to the management and funding of the county jails:*

- *The primary initiative shifts all jail management authority and ownership responsibility over to state government, with a strictly capped property tax contribution.*
- *Another bill establishes an express authority for each county's budget or finance committee to have final authority with respect to the jail operation components of the county budget.*

### **Economic Development: Broadband Access.**

Background. From the municipal perspective, high-quality and high-speed broadband infrastructure reaching throughout the state is a necessary infrastructure in order to attract and support economic development as well as demographic in-migration. Work is being done in a handful of communities that have the resources to expand access to high speed internet, but it is not the average municipality that can afford to make these investments without any financial assistance from the state. Two years ago, MMA advanced a proposed \$10 million bond issue to capitalize the programs that contribute financially toward municipal investments in broadband expansion in unserved and underserved regions of the state. Among those in the Legislature who make the decisions about state borrowing, however, expanding broadband was not a high-enough priority and the bond proposal was killed.

MMA legislation. *MMA's legislation would send to the voters a proposed \$10 million bond issue for the purpose of providing resources for the expansion of high-speed internet infrastructure on the condition that recipients with limited exceptions may only use the funds to install fiber optic transmission lines, and that the publicly-funded infrastructure must be made available to service providers in an open access, non-discriminatory manner.*

## **Marijuana Facilities and Local Land Use Regulation**

Background. The implementation of the Medical Marijuana Act has not been well integrated with the municipal land use regulatory system, particularly with respect to the medical marijuana growing and dispensing systems in caregiver facilities. In some cases the owners and operators of those facilities believe they are immune from land use regulation of any kind and may legally operate without being subject to local land use regulation. Undeniably, however, caregiver facilities present the same land use and incompatibility issues that may apply to any other commercial operation, including traffic and parking management, security, fire and public safety, building and electric code compliance, etc. These land use management issues are magnified when multiple caregivers combine their operations under one roof.

MMA legislation. *MMA's bill clarifies the municipal authority to adopt and enforce land use regulations that apply to facilities that grow, process, package, distribute, sell or provide marijuana in the same manner as any other commercial activities generating the same land use and compatibility impacts, closing loopholes that might currently exist which allow certain facilities to evade local regulatory oversight.*

### Jail Funding Discussion:

There was a brief discussion about whether or not the State of Maine Constitution required sheriffs to run a jail. It was explained that the Sheriff runs Patrol and the Jail but the Commission has control of the jail budget. Unfortunately, because of the current legislation, the jail can only increase by a certain percent over the tax cap, and it has been that way since the Board of Corrections was established. Even with the BOC gone and control returned to the counties, current law prevents the jails from being able to budget what they actually need to run properly. It is possible that the state may want to take the jails, and those with newer jails might end up having to pay their debt service back anyway even when they don't have their jail anymore, and that's a big concern. Knox County's jail is paid off but the County badly needs to replace the control system. SMRT did a facility study to see what needed to be done to bring the facility up to standard, and the control system was the main item, but there was also about another \$1.5 million that was recommended to be spent on other repairs that haven't been done. The lack of maintenance was a symptom of the BOC limiting funds and was not the fault of improper leadership. The County has a temporary waiver from the Maine Department of Corrections and during that time the County needs to replace the control system.

Commissioner Moody was asked for his opinion on whether the MCCA would support the idea of the state taking over the jails. He responded that the MCCA wouldn't support it. All options need to be looked at, though, and the counties need to coordinate and work together. County commissioners tend to feel like it's "our jail, our county, our budget, our control". Mr. Herman added that the model the MMA Policy Committee was looking at would be a method of calculating what the total cost for incarcerating services should be. Once that is generated, then it's easier to establish ratios of participation between state and local government. Everyone was encouraged to visit the County's jail. Staff would make that available to anyone that wished to have a tour to better understand the jail's situation.

It was mentioned that the legislators have signed up for various committees as part of the legislature, but they won't know what committees they'll actually get until probably the third week of December.

### **III. Action List:**

Commissioner Moody asked if it was okay to periodically contact the legislators and invite them to any further meetings. Everyone agreed that this was a good idea.

Senator Miramant encouraged the legislators to have their legislative email account forwarded to their home email address and to communicate with each other so they can support each other's bills.

**IV. Adjourn**

- A motion was made by Commissioner Carol Maines to adjourn the meeting. The motion was seconded by Commissioner Richard Parent. A vote was taken with all in favor.

The meeting adjourned at 7:15 p.m.

Respectfully submitted,

Candice Richards  
Administrative Assistant

**The Knox County Commission approved these minutes at their regular meeting held on December 13, 2016.**