



Legislative/Nominating Committee Meeting

October 19, 2021

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For public comment, you will need to use the "raise your hand" feature. To raise your hand via the telephone, please hit *9. You will be unmuted by the host when it is time for public comment.

AGENDA

ZOOM INFORMATION:

Please click the link below to join the webinar:

<https://us02web.zoom.us/j/86047065349?pwd=T28xbHE5ZUtvZWxlNjArYVQra0h6QT09>

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II. Call to Order

III. Approval of October 5, 2021 Meeting minutes

- a. Minutes from the October 5, 2021 Meeting

IV. Legislative Update

V. Other Business

- a. Discussion of Commission To Increase Housing Opportunities in Maine by Studying Zoning and Land Use Restrictions, with City Staff

VI. Adjournment

Legislative and Nominating Committee Minutes
October 5, 2021

The October 5, 2021 Legislative Committee meeting was called to order by Chair Pious Ali at 8:00 AM on Zoom.

Councilor Pious Ali (Chair), Mayor Kate Snyder, Councilor Nick Mavodones, Anne McGuire (Assistant City Manager), Dena Libner (Chief of Staff), Alysia Melnick (Bernstein Shur), and Chris Feeney (Bernstein Shur) were present. Councilor April Fournier was not in attendance.

Councilor Ali opened the meeting and explained that the purpose of the meeting was to go over upcoming legislation and determine the City's position on those bills.

Alysia Melnick explained the process for bills in this emergency session, and that the only information that is currently available is bill titles and sponsors. Chris Feeney provided a document highlighting bills sponsored by the Portland Delegation.

Chris Feeney discussed carryover and new bills for the emergency session.

Sen. Chipman has two bills being carried over this session, notably [LD 987 An Act To Authorize a General Fund Bond Issue for the Portland Harbor Commercial Revitalization Project's Confined Aquatic Disposal cell and Dredging Project](#). This and many other carryover bills are mostly bonds, and may not be meaningfully worked as a two thirds majority is required for passage.

From Representative Talbot Ross, [LD 343 An Act To Set Aside Funds from Federal Block Grants for Certain Communities](#) was previously of interest to the Committee. Representative Talbot Ross also brought forward a homestead tax bill, both of which Chris Feeney is monitoring. [LD 1475 An Act To Authorize a General Fund Bond Issue for Targeted Food Processing Infrastructure](#) was also highlighted, and was previously supported by the Committee.

Representative Brennan's [LD 49 An Act To Authorize a General Fund Bond Issue To Invest in Infrastructure To Address Sea Level Rise](#) and [LD 50 An Act To Authorize a General Fund Bond Issue To Invest in Housing for Persons Who Are Homeless](#) were highlighted, as was [LD 910 An Act To Amend the General Assistance Laws Governing Reimbursement](#), which the City strongly supported and provided testimony for.

Representative Crockett carried over [LD 133 An Act To Authorize a General Fund Bond Issue To Invest in Fire Stations](#) which the City supported.

Representative Sylvester carried over [LD 181 An Act To Authorize a General Fund Bond Issue To Complete the Renovation of a Wharf and Bulkhead in Portland for Marine Research](#), as well as [LD 555 An Act To Expand the Rights of Public Sector Employees](#), which would affect the rights of public employees to strike and potentially have impacts on the City.

Councilor Mavodones and Mayor Snyder both stated that their priorities haven't changed and that they are comfortable discussing new bills when appropriate.

Councilor Ali noted that when LD 555 was introduced, staff raised concerns and it was suggested that Alicia Melnick and possibly Mayor Snyder might meet with Representative Sylvester to discuss the bill and its potential impacts, but a meeting was not scheduled. Alicia Melnick suggested that this bill be discussed further with Representative Sylvester.

Mayor Snyder asked about the potential for looking at the status and potential progress of bills the City supported going forward, specifically LD 1337, which had to do with taxation for seasonal Mainers. Alysia Melnick agreed to bring that forward for the list for the next Legislative Committee meeting.

Councilor Ali asked about Representative Talbot Ross's CDBG bill and wanted more detail and clarification, given the City's recent vote on current CDBG rules. Alysia Melnick agreed to provide more information at the next meeting.

Alysia Melnick noted Senator Chipman's LR 2264, which is a bill he has been working on with City of Portland staff, and will bring full language of additional for review at the next meeting.

Councilor Ali asked if there were any Study Commissions that the City should be paying attention to. Alysia Melnick noted that decisions coming out of the [Commission To Increase Housing Opportunities in Maine by Studying Zoning and Land Use Restrictions](#) will likely have the most impact on the City of Portland's zoning practices.

CM will discuss bringing Mary Davis to LC meeting w/Christine regarding a Housing and Economic Development Committee proposal. Dena Libner noted that Christine Grimando has provided comments to commission which will be shared with the Legislative Committee

Mayor Snyder made a motion to approve the minutes for the September 28, 2021 and September 28, 2021 Legislative Committee meetings, seconded by Councilor Mavodones, vote (3-0).

Mayor Snyder made a motion to adjourn the meeting, seconded by Councilor Mavodones, vote (3-0). Meeting was adjourned at 8:30 AM.

Memorandum

To: Commission To Increase Housing Opportunities in Maine by Studying Zoning and Land Use Regulations

From: MMA's Affordable, Senior and Workforce Housing Working Group

Date: August 30, 2021

Re: Municipal Perspectives on Housing Development Efforts

The Maine Municipal Association has formed a 25-member municipal housing working group to collect data and information regarding local level efforts and challenges associated with increasing access to housing. The group will continue to meet as the Commission completes its work and to that end held its first meeting on August 17.

At that meeting, municipal officials discussed: (1) locally implemented housing programs and efforts; (2) resources necessary to successfully address Maine's housing shortages; and (3) the barriers State statutes, regulations, programs and mandates place on the development and implementation of municipal housing programs and initiatives.

What follows is a summary of the ensuing discussion. If you have any questions about the information provided in this memo or our efforts, please contact Kate Dufour, MMA's Director of State and Federal Relations (kdufour@memun.org).

Thank you for your interest in and consideration of the municipal perspective. Municipal leaders look forward to working collaboratively in the implementation of mutually beneficial outcomes.

Opportunities

Municipal leaders are keenly aware of the housing crisis impacting their residents, businesses and economies. Volunteers in all areas of the state are meeting, studying and implementing changes to ensure communities have the housing stock necessary to support economic development and community health and vitality. Municipal leaders, planners, and code enforcement officers recognize that changes in the way in which communities plan for and implement housing development initiatives will enable greater opportunities for low income residents, families and seniors.

Of greatest priority among municipal leaders is the need to amend local ordinances and State statutes and rules to make zoning more inclusive and accessible. Among the several recommendations, municipalities believe that significant zoning changes, such as form-based zoning, reductions in minimum lot sizes and other changes to dimensional requirements, relaxed parking requirements, as well as the adoption of ordinances allowing for accessory dwelling units will help expand the state's housing inventory.

Challenges & Resources

Home Rule, Partnerships & Collaboration. However, implementation of policies that veer from the norm will take time, investment and assistance from State partners. Key among the first steps is the need to honor home rule authority through the development of state/local/private partnerships to ensure that municipalities have access to resources and tools necessary to implement locally designed and state incentivized solutions. Furthermore, as recommendations are designed the Commission is encouraged to turn to local officials for feedback on the feasibility of implementing particular solutions.

Education. Messaging is vital to the ability to create new housing opportunities. Municipalities need the technical assistance to not only clarify what “affordable, workforce or senior” housing is, but to educate residents of the importance and value of a community with a diverse socioeconomic mix. Residents of varied backgrounds and experiences volunteer in their respective communities, contribute to economic growth, and are integral to the social fabrics of the villages, towns, and cities where they live.

Additionally, while accessory dwelling units may be seen as a logical element of a package of solutions, not all residents want to be landlords, and this should be viewed as one tool among many that could help with the availability and diversity of housing options in a community. As an example, programs geared toward assisting residents in managing a rental unit could be helpful.

State Policies. State policies also have an impact on a community’s ability to expand access to housing. The Maine Uniform Building and Energy Code has increased building costs, which has frustrated developers. While the new energy standards further valuable sustainability goals, how to balance those requirements with the need for additional housing is worth consideration. In addition, the state’s septic and subsurface wastewater rules play a role in the development of ordinances with large lot size requirements, especially in rural areas.

Economy. The economy also plays a role, as the current market is driving the cost of building materials and home sales prices.

Retaining Affordability. In an effort to retain affordability, changes in ownership of housing need to be managed at the State or regional level or through assistance to communities with limited capacity or resources to accomplish this task. Without sufficient oversight, municipal leaders fear that owners and developers that benefit from affordable housing programs may maximize their investments by selling currently affordable units at the market rate. Municipalities often do not have the resources, time or expertise necessary to manage the portfolio of affordable housing stock.

Solutions & Resources

Access to Data. In order to successfully implement housing strategies, municipalities will need access to data. Questions regarding the type of housing needed in a community today and into the future, the role mixed-use developments have on a community’s value and ability to generate

property tax revenue, and impacts on infrastructure, including roads, water, sewer and broadband need to be answered.

Assessment of State Role. To some, the abolishment of the State Planning Office signaled a lack of interest in planning at the state level. The State must be willing to once again provide the resources and guidance communities need to implement housing strategies, whether through a state planning office, the creation of equivalent financial and technical support for the implementation of planning goals, or greater financial investment in regional planning commissions and councils of governments. It is unacceptable to rely solely on the property taxpayers to fund these programs and initiatives.

Incentive Based Policy. Not only should the Commission's recommendations rely on programs incentivizing municipal planning approaches, but also the housing decisions made by residents. For example, enabling residents to age in their community of choice is important. However, municipal officials question whether incentives could be put in place to encourage residents to move into smaller units within the community, thereby making larger homes available for multiple unit development or to accommodate the needs of growing households. This would not only support aging-in-place, but our existing downtowns, residential neighborhoods, and sustainable development patterns.

Home Rule/Local Control. Lastly and most importantly to municipal leaders, the solutions offered by the Commission should focus on issuing guidance, resources and incentives in lieu of regulation and providing municipalities the flexibility necessary to address the unique needs of each community. In the event the State implements requirements that communities meet housing creation and affordability goals, there should be flexibility in how they are able to meet those requirements, reflecting their scale, resources, and affordability challenges.

A list of proven options for local implementation is a good first step.

Other Materials

Attached as Appendix A is a table summarizing the MMA working group's discussion. A list of members is attached as Appendix B.

Summary of MMA's Affordable, Senior and Workforce Housing Working Group Meeting
August 17, 2021

Opportunities	• Honor home rule authority by providing communities with a list of options to consider, including form-based zoning to encourage mixed-use development or relatively higher density residential development that also supports and protects community character. • Reduce minimum lot sizes and other dimensional and use impediments to housing creation. • Relax parking space requirements. • Encourage adoption of accessory dwelling unit ordinances.
Challenges & Needs	• Ensure municipalities have access to resources and tools necessary to implement solutions. • Facilitate needed State/municipal/private partnerships. • Clarify affordable, workforce and senior housing thresholds in housing policy deliberations and recommendations, as well as the role of increased housing supply (not deed restricted for affordability) has in making housing more accessible for all. • Develop the resources necessary to help residents understand why change is necessary. • Develop programs encouraging homeowners to consider renting out accessory dwelling units. • Review State policies that may impede growth and development, including the Maine Uniform Building and Energy Code, and septic and subsurface wastewater rules • Assess the impact the market (e.g., labor, materials, national housing market trends, etc.) has on housing development. • Develop programs to assist communities administer affordable housing programs, either through a State or regional body, or through additional financial and technical assistance to communities.
Tools & Resources	• Provide municipalities with access to housing data and best practices necessary to make short-term and long-term housing development decisions. • Solidify and emphasize the State's role as providing guidance and technical and financial assistance to help

	communities achieve their planning goals. Many on the working group emphasized the appropriateness of this approach rather than mandates. • Create programs and incentives that rely on State resources rather than property taxes and other local revenue for implementation. • Develop incentives to positively impact residents' housing decisions. • Develop solutions that rely on local ingenuity, creativity and flexibility to meet the community's needs. • In the event the State requires that communities meet housing certain and affordability goals, there should be flexibility in how they are able to meet those requirements, reflecting their scale, resources affordability challenges and context.
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Appendix B

Members of MMA's Affordable, Senior and Workforce Housing Working Group

Name	Title	Municipality
Butler, Robert	Selectboard	Waldoboro
Caler, Audra	Town Manager	Camden
Caterina, Jean-Marie	Councilor, Chair of Ordinance Committee, Liaison to the Scarborough Affordable Housing Committee and founder of Ad hoc Group on Work Force Housing	Scarborough
Crockett, Larissa	Manager	Wells
Davis, Mary	Acting Director of Housing & Economic Development	Portland
Drexler, Kyle	Town Planner	Orono
Drost, Matthew	CEO (Chesterville, Vienna, Chelsea) Selectperson, Randolph	Randolph
Farr, Vanessa	Senior Planner	Greater Portland Council of Governments
Feldman, Lee Jay	Director of Land Use & Planning	Southern Maine Planning & Development Commission
Gilliam, Werner	Director of Planning and Development	Kennebunkport
Grimando, Christine	Planning & Urban Development Director	Portland
Hepler, Allison	Selectperson and Legislator	Woolwich
Humphrey, April	Council Chair	Yarmouth
Jenkins, Priscilla	Councilor	Winthrop
Jones, Dusty	Selectperson	Wiscasset
Jordan, Penny	Councilor	Cape Elizabeth
Levesque, Jason	Mayor	Auburn
Moison, Cathy	Councilor	Lincoln
Piekut, Elena	City Planner	Ellsworth
Powers, Andrea	Town Manager	Fort Fairfield
Smith, Laurie	Town Manager	Kennebunkport
Sturgis, Matthew	Town Manager	Cape Elizabeth
Towne, Terry	Elected Assessor	Lamoine
Tudor, Bronwen	Selectperson	Georgetown
Ward, William	Selectperson	Kennebunk



CITY OF PORTLAND
Planning & Urban Development
Christine Grimando, AICP, Director

To: Senator Hickman, Speaker Fecteau and Members of the Commission.

From: Christine Grimando, AICP, City of Portland, Director of Planning & Urban Development

Date: September 30, 2021

RE: Summary of Testimony

The following is a written summary of my comments to the Commission on September 9th regarding Portland's local housing tools, policies, and priorities. Following a summary of my comments I also summarize the questions asked by Commission members.

For years the City of Portland has documented the need for more affordable housing more housing supply overall to meet the needs of current and future residents of the city to support Portland's own goals for growth, for equity, and to encourage a population that can support a strong local economy, support transit, and support complete neighborhoods. Though Portland has built approximately 1400 units of housing since mid-2017, housing affordability and supply issues have only been exacerbated since the onset of the pandemic. Portland has implemented a multifaceted suite of housing policies to both encourage new housing creation and require affordability. The below briefly summarizes Portland's current suite of policies, and considers initial considerations for additional, future strategies:

- *Portland's Plan 2030*, the City of Portland's 2017 comprehensive plan and the foundation for the city's land use and other policy areas, foregrounds housing as one of the city's most pressing issues, and one connected to all facets of the city's vision - equity, sustainability, and security among them. Though many of the housing initiatives below precede 2017, the plan supports new and ongoing initiatives in this area.
- The city's land use code has included provisions since the early 2000s that require that any development proposals that would remove existing housing replace those units, either within the same geographic area or by contributing to the city's Housing Trust Fund.
- Portland has implemented changes in several zoning districts to allow for greater housing creation, including adjusting the dimensional standards in several neighborhoods and corridors, to allow for smaller lots and higher residential densities. These provisions have generally been targeted towards

higher density residential zones and mixed-use zones well-served by transit, on the grounds that they create opportunities for housing development in areas of the city that are particularly well-prepared for them. These include areas of Portland's peninsula, but also strategic locations throughout the entire city.

- In late 2020, Portland adopted expanded Accessory Dwelling Unit standards, making it substantially easier to create small increments (up to two ADUs per lot) of new housing on residential properties across the city.
- The city's land use code has long included a great deal of flexibility when it comes to parking, including exemptions in certain zones, shared parking provisions, and off-site parking allowances. As of December 2020, the city's land use code offers an off-street parking exemption to any use within a ¼ mile of a transit, essentially freeing much of the city from parking requirements, expanded the suite of tools available to reduce parking requirements, and lowered the minimum parking required per residential dwelling city-wide.
- Density and height bonuses, as well other dimensional flexibility such as reduced setbacks, are given to affordable and workforce housing proposals in some zones. Extent of bonuses and fee reductions are scaled to the proportion and extent of affordability for each project.
- Affordable housing projects have been eligible for a reduction in fees and priority application review since the mid-2000s. With the passage of an impact fee ordinance in 2018, these affordable housing fee reductions were extended to include impact fees.
- As of 2015, the city adopted inclusionary zoning, which requires that projects of 10 or more dwelling units provide a share of workforce housing either on-site or as a contribution to the City's Housing Trust Fund. A second inclusionary zoning policy was adopted in 2019 for hotels.
- The City of Portland has made the potential for affordable housing creation a priority when considering disposition of city-owned property.
- The creation and funding of the City's Housing Trust, through tools such as Inclusionary Zoning, is itself a strong tool for helping to directly finance affordable housing proposals.
- The City's Housing division administers HOME, CDBG programs, Housing TIFs and a number of other programs that provide critical financial assistance for affordable housing creation.
- As part of Portland's ReCode initiative, an evaluation and rewriting of our local regulations, we're in the midst of evaluating our codes for ways to further our housing goals, particularly through a lenses of sustainability, climate change and equity, including the lingering impact of discriminatory zoning practices from the 20th c. This builds directly on 2017 comprehensive plan goals.

We recognize that there is more to do on this topic and continue to actively pursue better and more ways to create equitable housing opportunities. There will not be one single housing policy or initiative that can sufficiently address this issue, and Portland's suite of housing tools are in recognition of this. The sum of Portland's policies also affirm that encouraging housing creation and diversity of types of housing is as essential to the overall health and accessibility of our housing supply as ensuring that we have dedicated affordable and workforce housing projects. Mixing both requirements and incentives continues to be central to our housing policy. Portland, like any community, has its diversity of neighborhoods and scales and infrastructure and opinions, and having proposals that recognize those different contexts is also critical to the

work we do, and critical to our prospects for successfully implementing change, and having the community understand and support the need for that change.

As a member of MMA's working group I have enjoyed speaking with my colleagues from across the state about our both our challenges in common, and not in common, and how we might work together toward positive change. I look forward to continuing that discussion. Thank you.

Several questions were asked by the Commission following my remarks that I've summarized below:

- One had to do whether Portland had single family zoning. There are two zones on mainland Portland, as well as zones on the City's islands, that only permit single family homes. These comprise a relatively small part of the City's land area. However, through Portland's Accessory Dwelling Unit provisions, there is no zone in the City that does not allow for more than one housing unit per lot, so in practice, all zones that permit residential uses, permit more than single family homes (I will note that the September 16th EVICTION LAB presentation to the Commission, which I found overall very interesting and valuable, indicated areas where multi-family was prohibited that did not accurately represent our actual regulations in this regard). As part of Portland's ReCode process, we are examining what areas of the City could benefit from changes to dimensional and use standards.

It's worth mentioning that the question of single family zoning is a compelling one to prompt communities to reflect on what the impacts of zoning are, but eliminating single family zoning is not itself a full response to a community's housing needs. There are zones in the City of Portland with no residential density limits at all, and a wide range of possible housing densities and lot sizes and height configurations in-between. There are also zones where multi-family housing is permitted but still relatively difficult to build due to other requirements beyond the allowed uses. Other standards, such as a minimum lot sizes, have as much impact not only on housing creation but walkability and sustainability as the category of single family v. multi-family housing types (a duplex on an acre lot v. a dozen houses + ADUs on small lots on a walkable street, for instance).

- Another question had to do with the impacts of recent citizen referendums, including changes to the Inclusionary Zoning ordinance that required a significantly greater percentage of housing projects to be affordable and at deeper levels of affordability. It is not yet a year since these changes went into effect, and too early to gauge the full impacts, since many projects that have been approved in the past year were ones that had begun prior to the new regulations going into effect. There are housing projects that we were anticipating to move forward that have not since the referendum changes, and also that we are seeing a small number of new proposals come in under the new regulations.
- The last question had to do with the impact of historic districts on housing. Historic designation is intended to retain the existing building stock, and so it by design reduces demolitions to facilitate new construction. It does not, however, reduce the maximum residential density – historic buildings have the same zoning allowances or restrictions as non-historic structures – so that buildings can be

repurposed from a non-residential use or a single family home to a multi-family home, for instance. New construction is permitted in new districts (where demolition is not the precursor), as are additions. In selective cases, such as structural deterioration, or a building in a district that is determined to not have historic significance, demolition may also occur. Districts can also help to retain existing multi-family development. However, the full impact of historic districts on housing costs and creation, neighborhood stability, and the local economy is the subject of a study that Portland is undertaking this year and early next which will provide more data and insight on this topic.