Help is Here

ServeMI City

Your Personal Concierge
Making Connections to Recovery Funding

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Good Policy Goes Hand in Hand with Good Politics

There was a popular meme making the rounds as the new year approached, of a woman screaming in horror as she realized 2022 is actually pronounced “2020 too.” It’s a dark joke that probably resonated with many of us as we wearily faced into the third year of the global pandemic.

But things are different now. We’ve all learned a lot in the past two years about flexibility and resilience, and how to creatively reimagine novel solutions to unprecedented challenges. Our local leaders have relentlessly moved forward across this still-uncertain, uncharted landscape, adapting and improvising to continue providing all the many services so vital to the health and wellbeing of our communities. Thanks in large part to their efforts, this really isn’t “2020 too.”

That’s why, now more than ever, it’s vitally important that we keep pushing for good public policy and strong legislation that supports our municipalities and empowers the people who lead them, so that we can all continue moving forward to a brighter future ahead.

Good public policy is the foundation of our democracy, defining the issues and strategies that will best serve the needs of the general public. Effective public policy does more than propose a solution to a problem. It also considers the costs and benefits of those solutions, and whether or not they can be efficiently implemented in a fair and equitable manner. But in order to be truly effective, good policy must also work hand in hand with good politics, which means finding bipartisan solutions that balance the concerns, values, and needs of everyone involved.

Politicians come and go, and political stances can change on any given issue. But good public policy creates a lasting framework that goes beyond individual or partisan agendas, to produce quantifiable results for the common good based on sound economics and democratic principles.

March is the month the Review traditionally focuses in on the federal, state, and local issues that are driving today’s public policy decisions that will help to forge economically viable communities tomorrow.

In the past year, the League has worked diligently with our members to achieve some significant budget wins as well as the passage of several key bills, which you’ll read about elsewhere in this issue.

But, as always, there is much work ahead. The 2022 legislative agenda includes a wide range of issues and bills on which the League will focus its lobbying efforts throughout the coming months. You’ll read about that here in this issue, too. March is also the month when the League’s annual Capital Conference (CapCon) returns in full force on March 15-16. CapCon 2022 is all about getting our members to think deeply about partnerships and their effectiveness for changing and creating policy that builds community wealth.

The event will build on the foundation laid at Convention 2021, Trust and Belonging: Sparking a Community Revival, by helping attendees convert the energy and inspiration they got from that engagement into practical and actionable tools that support their community’s vision.

CapCon 2022 attendees will leave this year’s event with tangible information and tools for accessing federal and state resources, and the latest information on League partnerships such as State ARP, City Business Collaborative, and ServeMICity. You’ll be inspired by your fellow community leaders who’ve used partnerships like these to achieve something special. Attendees will also get the latest news on priority policy issues in Lansing and D.C. and have the opportunity to build strong relationships with key policy leaders such as legislators and state cabinet heads.

I urge each and every one of you to attend and take advantage of this rare opportunity to engage with your fellow leaders from around the state.

Lastly, I want to take this opportunity to recognize the tireless work of our State & Federal Affairs Director Chris Hackbarth and his extraordinary team. They are our front-line workers, who advocate year-round at the state Capitol on behalf of our member communities. You can reach out to them anytime via text, email, or phone. If you are not doing so already, I want to encourage you to follow the advocacy team’s Inside 208 blog, which provides up-to-date summaries of current legislative activity.

There’s a lot of work ahead to build a greater Michigan for us all, and we can’t do it alone. Our strength lies in the active engagement of our members. And that means you.

Daniel P. Gilmartin
League Executive Director and CEO
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The Michigan House and Senate wrapped up their work in December— the mid-point of the 2021-22 legislative session. The Legislature returned to session on Wednesday, January 12, 2022, to resume action. All legislation introduced during 2021 remains eligible for action through the end of 2022. The following summaries represent the main issues League staff were engaged with during the 2021 calendar year:

Year-end legislative activity centered on the book closing supplemental (HB 4398) and the passage of the Economic Development package (SB 769, 771 and HB 4082, 5603) that the Small Taxpayer Personal Property Tax expansion was tied to (HB 5351).

**Book Closing Supplemental**
The book closing supplemental appropriated nearly $850 million between fiscal years 2020-21 and 2021-22 across a variety of state departments. Of main interest to League members was the appropriation of $140 million in federal emergency rental assistance funds for rental and utility assistance to preserve housing and avoid eviction, almost $200 million in non-discretionary American Rescue Plan (ARP) funds through MDOT for airports and transit agencies with nearly $170 million of that appropriation aimed at the state’s primary airports, and $140 million of FEMA funds to the Michigan State Police for emergency and disaster response and mitigation.

**Economic Development Package**
The economic development package (SOAR—Strategic Outreach and Attraction Reserve) was signed by the governor in late December 2021, and is outlined as follows:

- $1 billion for two new MEDC job creation funds to use for cash incentives for large corporations and construction site improvements; and
- $409 million in grants for businesses affected by COVID-19 shutdowns.

The inclusion of the expansion of the Small Taxpayer Exemption component of the Personal Property Tax reimbursement system was outlined in our *Inside 208* blog following the late night action in mid-December, and was also discussed on a MIRS news podcast. In the governor and Legislature’s final move to secure the necessary votes for passage of this piece in the Senate, they added $75 million into the funding bill for the SOAR package (Senate Bill 85) to cover the first year’s cost of the expansion (which doesn’t kick in until 2023). The Senate majority leader and numerous other legislators made public comments committing to securing a long-term reimbursement mechanism, and discussions on this replacement will be a top priority for the League in the new year.
Supplemental Budget Proposals
Three different supplemental budget proposals also saw action by one chamber in December. House Bills 5522, 5523, and SB 565 provide some insights into legislative ARP spending priorities around public safety, public health investments, and water and sewer infrastructure. These bills will likely form the basis for ongoing ARP and state general fund balance spending negotiations that will continue in earnest in the new year. Our team is heavily engaged, through our ARP Coalition efforts (see article on p 20), in shaping the spending proposals within these bills and developing additional spending plans outside of these subject areas.

No Action: Short-Term Rentals; Mining; and Remote Meetings
Other year-end legislative action can be headlined for League members by what did not happen. No further action took place on HB 4722, the short-term rental zoning preemption or on SB 429, the aggregate mining preemption bill. The Legislature also failed to act on an extension for continuing to allow remote meetings under the Open Meetings Act (OMA). As of December 31, 2021, local emergency declarations were no longer allowed for remote meetings of public bodies under the OMA. The marihuana caregiver package we are supporting was also held up, pending additional negotiations.

Remote Worker Equipment
The Legislature did finalize action on Senate Bill 698, that extends the freeze on situs (in assessing terms, situs is the local unit where the equipment is sited) for assessment of equipment being used by remote workers and House Bills 5502–5506 which shifts the personal property tax business filing to a one-time filing with the Department of Treasury.

Cancer-Presumption for Workers’ Compensation
The state-funded cancer presumption for workers’ compensation was expanded to include part-time, paid on-call, and volunteer firefighters in House Bill 4172. The cost of this expansion will be supported by deposits to the state’s First Responder Presumed Coverage Fund from the state’s internet wagering proceeds.

Transformational Brownfield Program
Prior to the Legislature’s recess, a five-year extension of the sunset for the Transformational Brownfield program in Senate Bill 671 was also sent to the governor with League support.

Emergency Manager Law
A local fiscal “early warning” proposal was introduced right before the holiday recess. Senate Bill 780 was introduced alongside a full repeal of the state’s emergency manager law. SB 779 simply repeals all of Act 436 of 2012. The two bills are not tie-barred but we expect the Legislature to begin deliberation on the two proposals in the new year. In discussions with the Department of Treasury and the bill sponsor prior to introduction, the League expressed grave concerns with the original approaches outlined in SB 780 and proposed numerous revisions. We continue to work with the department and the bill sponsor to ensure local autonomy in fiscal decisions and raise awareness of the broad range of factors outside of a local unit’s control that could contribute to a community’s financial situation and ensure that those factors are acknowledged by any legislation on this topic.

Disabled Veteran Property Tax Exemption Reform
Also introduced in 2021 was the reform of the disabled veteran property tax exemption that the League has been requesting. Senate Bills 783–784 were introduced in December and the proposal would shift the burden of the veteran property tax exemption to the state’s income tax through the Homestead Property Tax credit program. These bills have 12 bi-partisan Senate sponsors, and we will be aggressively advocating for passage of these bills in the coming year. League members are encouraged to contact their legislators to express support for these bills.

Following their January return, the Legislature resumed action on the remaining ARP and state budget fund balance spending plans in preparation for the governor’s executive budget recommendation and State of the State speech in late January/early February.

Chris Hackbarth is the League’s director of state & federal affairs. He can be reached at 517.908.0304 or chackbarth@mml.org.
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When it comes to advocacy efforts, our members had a banner year. League members consistently answered our call, engaging on everything from contacting legislators and fighting short-term rental legislation, to not leaving any American Rescue Plan dollars on the table.

With several legislative issues still unresolved, the League will need the continued support of our members in 2022—by sending a letter or email to a legislator about an upcoming bill, making a phone call to your State Representative or Senator, encouraging your own residents to act on certain legislation, and testify in a committee hearing in Lansing. These things matter. They make a difference in the League’s advocacy work in Lansing and Washington, D.C.

“Thanks to this ongoing support and engagement, the League and Chris Hackbarth, MML’s director of state and federal affairs, were named among the most effective membership associations and individual association lobbyists in the state. The recognition of the League, and Chris's impact in Lansing politics, was part of the 2021 Capitol Insider Survey done by MIRS news service and EPIC-MRA in May of 2021. It’s the third consecutive time the League and Chris were both recognized.

Bills that became law that the League and our members actively pursued:
- House Bill (HB) 4281—Expanded population threshold in Public Act 33’s public safety funding tool to preserve funding for Harper Woods and include a new option for Romulus.
- Senate Bill (SB) 671—Transformational Brownfield sunset extension.
- SB 698—Extended the freeze on situs for assessing equipment used by remote workers.
Legislation the League opposed that was vetoed:
- HB 4210/SB 46— Broadband equipment personal property tax exemption.
- HB 4066— Preemption of local knife ordinances.
- SB 17— Bill would have amended PA 317 governing contracts between public servants and public entities.

Budget wins:
- $5.2 million revenue sharing increase added to the base for cities, villages, and townships.
- $5 million for a new grant program for local first responder recruitment and retention efforts.
- $433,000 restoration of the August 2020 revenue sharing cut for more than 100 cities, villages, and townships that could not utilize replacement CARES funds.
- $200 million to replace 100 local bridges.
- $100 million through the Michigan Economic Development Corporation for the Revitalization and Placemaking (RAP) Program to fund community development projects.
- $14.3 million for high water infrastructure grants.
In D.C., American Rescue Plan (ARP) and Infrastructure Investment Jobs Act (IIJA):

- Actively in securing over $4.4 billion in federal aid to all local units in Michigan—regardless of size.
- Actively encouraged all League members to apply for ARP dollars. In all, just 40 local governments classified as non-entitlement units (NEUs) out of 1,724 declined funds or were non-responsive. This was a 98-percent acceptance rate. Every city in Michigan accepted its allocation.
- Initiated a 50-member+ coalition to develop and advocate for a comprehensive spending plan for the state’s ARP allocation to be invested in local communities.
- Supported $1.2 trillion new federal infrastructure spending plan that included $550 billion in new infrastructure spending, promising billions of additional dollars for Michigan.
- Helping shape spending priorities within upcoming supplemental bills expected around water infrastructure, broadband, public safety, housing, roads and bridges, local economic and community development, and other key areas.
- Actively worked with the National League of Cities (NLC) to negotiate key components to the State and Local Fiscal Recovery Fund grant program; submitted written comments to the U.S. Department of the Treasury; and worked with NLC staff as they regularly met with administration and treasury staff.
- Worked closely with each member of Michigan’s congressional delegation to advocate for the direct support for local governments regardless of population. Since passage, we have worked closely with congressional offices, NLC staff, and Michigan Treasury staff to provide guidance and educational opportunities for League members to ensure smooth implementation of the ARP and now the IIJA.
- Encouraged our members to attend multiple White House briefings on COVID-related legislation and action.
- Sent White House statements from our MML Board President and the presidents of our affiliate organizations for significant federal initiatives.

Key legislation initiated in 2021:

- Housing coalition package. The League is serving as an executive steering committee member of a broad coalition that secured Senate passage of a six-bill package providing local governments with additional housing development tools.
- Bill introduced in the House to fix conflicts between Headlee and Proposal A.
- Veteran property tax exemption reform packages introduced in the House and Senate that would fully reimburse local governments for the costs associated with this expanding exemption. In total, three different packages were introduced between the House and Senate to reimburse locals.
- Local speed limit fix proposal passed in the House.
- Cannabis Safety Act introduced in the House that provides critical regulatory tools for local governments related to caregivers.
- Alternate short-term rental proposal introduced in the House.

Key Issues and bills the League continues to defend against into 2022:

- Short-term rental zoning preemption—passed in the House late fall, with no action yet in the Senate.
- Gravel mining preemption—passed in the Senate in early spring, but no action yet in the House.
- Utility grade solar equipment personal property tax exemption. We’re developing a payment in lieu of taxes proposal as an alternative to the Personal Property Tax exemption the governor vetoed at the end of 2020.

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One of the biggest challenges facing Michigan cities and villages as it relates to marihuana regulation is the newest wave of ballot initiatives sweeping across the state. Since the adoption of the Michigan Regulation and Taxation of Marihuana Act (MRTMA) which provided that “[i]ndividuals may petition to initiate an ordinance to provide for the number of marihuana establishments allowed within a municipality or to completely prohibit marihuana establishments within a municipality,” marihuana businesses and residents have found new ways of getting the issue in front of the local voters.

In both the 2020 and 2021 November election cycles, nearly identical petitions were filed in small communities across the state. The 2020 petitions largely involved initiated ordinances under the MRTMA or under a city or village’s charter. The newest petitions, however, have largely involved charter amendments under the Home Rule City Act (HRCA) or the Home Rule Village Act (HRVA), which have raised many questions regarding the appropriate process for placing these amendments on the ballot and what role cities and villages have in ensuring that the various legal requirements for the process have been followed.

City charter amendments may be proposed by 3/5 of the members of the legislative body, or by an initiatory petition by not less than 5 percent of the registered voters. Village charter amendments require a 2/3 approval vote by the legislative body, or by electors’ petition of at least 20 percent of the total vote cast for president at the last preceding election, unless otherwise provided by charter. Both statutes have very detailed requirements for petitions including those required under the Michigan Election Law. If the petition is complete, the city or village must place the issue on the ballot subject to specific ballot question requirements that are reviewed by the attorney general. Before submission to the electors, the governor is also presented with the proposed amendment of a city charter for approval, and signs it if approved. If not approved, it is returned to the legislative body with stated objections for reconsideration, but it is submitted to the electors notwithstanding the objections. In cities, the clerk must call a special election within 90 days after the filing of the petition to be held on the next regular election date not less than 120 days after the petition is filed.

The Charter Amendment Process
The charter amendment process is not one that is undertaken often. The HRCA and the HRVA both set forth the process for initiatory petitions to amend charters. The two forms of legally authorized changes are by revision or amendment of the charter; whether a change is considered a revision or an amendment to a charter depends on whether it is a substantial or a nominal change. Charter revisions suggest fundamental changes to the charter, while amendments are typically a correction of detail, according to the Michigan Supreme Court. Charter revisions require involvement of an elected charter commission and other additional procedural requirements that charter amendments don’t.
Marihuana Charter Amendments
Many charter amendment petitions, particularly targeting small communities, have very similar language and provisions. The most notable provisions are:

- Adding a new chapter or section to the charter dealing specifically with medical marihuana;
- Creating a new department within the city for medical marihuana and provides powers and authority such as developing an application process and scoring applications within a specified period of time (i.e., 30 days after the close of the initial application window);
- Including a 0-100 scoring process based on licensing pre-approval with the state, structural suitability of the business/location, commitment to the community, and various other factors;
- Providing for a set number of facilities (i.e., one of each type and then two provisioning centers); and,
- Providing a shot clock for implementing the amendment. Within 30 days of the effective date of the charter amendment, the amendment requires city council to enact all ordinances/resolutions necessary to facilitate operation of the new amendment.

Notably, the attorney general, in reviewing one of the commonly circulated proposed charter amendment petitions, opined that the proposed language amounted to a “revision” of the charter not an amendment because it represents a restructuring of government and, therefore, required additional procedural requirements, such as review by an elected charter commission.

Concerns and Court Cases
Section 25 (7) of the HRCA provides that a person aggrieved by an action, or failure of action, of the city clerk may bring an action against the clerk in circuit court for a writ of mandamus or other appropriate relief. Many of the cases to date have utilized that provision to ask that a court order the city clerk to certify ballot petitions because some have been rejected due to procedural defects in the petition or ballot wording, before getting to the city/village council approval and attorney general review stage. Generally, courts have rejected these mandamus actions and have noted that strict compliance with the petition requirements in the HRCA, HRVA, and the Michigan Election Law are required.

Other litigation has involved petitioners’ complaints with the timing of the submission of the petition and at which election it should be presented. For example, cities that do not have elections in odd-numbered years may have good arguments that 2022 is the next “regular municipal election” for purposes of Section 25 of the HRCA. All villages have elections in even-numbered years.

Another issue presented is the conflict in timing between the HRCA and the provisions of the Michigan Election Law. The HRCA gives the clerk 45 days to canvass the petition, which includes reviewing the sufficiency of signatures and determining whether the form of the petition complies with HRCA requirements. Further, the election cannot occur less than 90 days following the filing of the petition (triggered after the certification of the petition). Under this timeframe, if the certification of the ballot does not occur until the deadline to submit ballot language for the election has passed, then the proposal cannot be placed on the ballot.

The Michigan Election Law, however, requires that the ballot language be filed with the clerk at least 14 days before the date the ballot wording must be certified. Submission deadlines may not give the clerk enough time to complete the petition canvassing in the 45 days before the election. Courts have held that the HRCA timeframe trumps the Michigan
Election Law timeframe, which gives cities the option to push the issue out to the next election if the petition is not filed in time.

In addition to the procedural issues, there are many problematic features regarding the substance of the proposed amendments, including:
- The administrative burden of creating a new city or village department to handle marihuana applications;
- The risk of future lawsuits created by subjective selection scoring processes; and,
- The way that the petition seeks to alter the structure of the city or village government, which, the attorney general has noted, could be extremely burdensome and crippling to small communities.

It will be important to explore options with your municipal attorney in the event the issue reaches the voters and is approved, because the community may be required to take action with respect to the requirements of the amendment (i.e., adopting ordinances, resolutions, creating the department, and scoring system) within a specific period of time. Many of these issues are still being litigated.

Marihuana Legislation Update
In the meantime, at the Capitol, some legislators are working to limit the amount of marihuana caregivers could grow and distribute. More specifically, the proposed Michigan Cannabis Safety Act which, as of January 2022, was still in the introductory stages at the Legislature, would, among other things, create a new “specialty medical grower” designation, prohibit transfers of marihuana from licensed specialty medical growers to a licensee in the recreational marihuana market, and reduce the number of registered patients a primary caregiver may assist from five to one beginning March 21, 2022 (therefore, limiting the amount of plants a caregiver could grow). The legislation would also create new rules for where and how specialty medical growers may cultivate and manufacture medical marihuana (i.e., in agricultural or industrially zoned or unzoned areas only).

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Michigan is steward to 21 percent of the earth’s fresh surface water, and yet the collective state of our water infrastructure is in desperate need of repair. According to the most recent report card from the American Society of Civil Engineers: Michigan Section, Michigan’s infrastructure receives an overall grade of D+, with water infrastructures coming in with some of the lowest grades across the board. Municipal leaders have an incredible responsibility to provide high quality services and act as caretakers of our natural resources. This requires tools and resources be available at the local level to strategically invest in our water systems.

The past few years have highlighted the challenges facing our water infrastructure. We have seen the impact of high water levels, situations like the Flint and Benton Harbor water crises, and the dam failures in Midland. These situations, and many others, have brought to light the compounding impact of underfunding and disinvestment in municipalities and the unique challenges they face to maintain and modernize outdated infrastructure.

A Call for Funding
The Michigan Municipal League, as part of the Coalition for a Strong and Prosperous Michigan, has been urging the state to allocate significant funding to water infrastructure through the American Rescue Plan Act (ARP). Fortunately, it appears that this call is being heard. On December 3, 2021, the Michigan Senate unanimously passed Senate Bill 565 which would allocate $3.3 billion in federal ARP funds, Infrastructure Investment and Jobs Act dollars (IIJA), and state general fund resources to repairing water infrastructure statewide. The bill still must pass the House, but it is a promising start that suggests we are headed in the right direction towards an investment in the health and safety of our communities and the residents they serve.

The American Rescue Plan represents a unique opportunity to repair and replace aging water infrastructure, resolve public health problems, reduce environmental contamination, and provide current and future generations with resilient and sustainable systems. These funds could leverage local resources to amplify the impact of capital improvements, replace lead service lines, improve planning at the local level, and address issues of sustainability and resiliency related to water.
MI Water Navigator Initiative
At the MML Foundation, we’ve found through conversations with League members that there is a need to help Michigan municipalities and water utilities navigate the breadth of pre-existing state and federal funding sources for repairing water infrastructure alongside the nuances of potential incoming ARP and IIJA funding. Through a partnership with the MML and the MI Department of Environment, Great Lakes, and Energy (EGLE) we have begun developing the MI Water Navigator Helpdesk, which will be focused on connecting municipalities and utilities with state and federal funding sources to repair drinking water systems statewide. “This [Helpdesk] will help connect communities with the funding they need to improve and maintain systems that ensure safe, affordable water for all regardless of income, race, or geography,” said Liesl Clark, EGLE director. With renewed state and federal commitments to funding drinking water infrastructure, this is an invaluable tool in helping navigate the bureaucracy and putting dollars to work for the Great Lakes state.” This initiative is generously supported by the Charles S. Mott and Joyce Foundations.

Technical Assistance
The aim of the MI Water Navigator Helpdesk is to have a team of experts that offers technical assistance and support to municipalities and utilities. During an initial Zoom meeting, a rapid needs assessment will be conducted to understand the context of each utility, analyze the particular needs, and determine which state and federal funds are applicable or offer the best course of action. The MI Water Navigator will also feature free toolkits and webinars that will explain and walk-through various application processes for funding sources like the Drinking Water State Revolving Fund (DWSRF), USDA Rural Utilities Service W ater and Environmental Programs (W EP), and ARP and MI Clean W ater Plan applications that are soon to arise. The MI Water Navigator will further provide free technical assistance for disadvantaged communities to help with the DW SRF application from start to finish, to be determined on a case-by-case basis. “Every family in every community deserves access to safe drinking water,” said Governor Whitmer regarding the MI Water Navigator Helpdesk.

Thanks to this powerful toolkit, communities will be able to access funding to invest in critical water infrastructure and ensure that every parent can give their kid a glass of water with confidence, knowing that it is safe. We will continue expanding on our efforts to build up drinking water infrastructure, replace lead service lines, and create good-paying jobs by putting Michiganders first and working with key partners including the Michigan Municipal League to get the job done.”

Bootcamp
Helping our Michigan communities achieve safe, affordable, and clean drinking water is a top priority. It is our hope that the MI Water Navigator Helpdesk will help municipalities and utilities through their journey to improved drinking water infrastructure. The MI Water Navigator Helpdesk will be officially unveiled in March at the 2022 MML Capital Conference. We will be holding a mini-bootcamp/workshop where our technical assistance team will be on-site to provide rapid one-on-one advising sessions, experts from EGLE and the Environmental Policy Innovation Center (EPIC) will give informational sessions on DW SRF, and an interactive workshop will be held to foster collaborative thinking across water systems to best leverage incoming funding.

Grace A. Carey, PhD is a program officer for the Michigan Municipal League Foundation. You may contact her at 734.669.6331 or gcarey@mml.org.

“The past few years have highlighted the challenges facing our water infrastructure... the compounding impact of underfunding and disinvestment in municipalities and the unique challenges they face to maintain and modernize outdated infrastructure.”

“Municipal leaders have an incredible responsibility to provide high quality services and act as caretakers of our natural resources. This requires tools and resources be available at the local level to strategically invest in our water systems.”
“They’re always available to provide advice on most planning or zoning issues and their advice is based on 35 years of experience in numerous communities throughout Michigan.”

R. Brent Savidant, planning director, City of Troy
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COMMUNITY Excellence Award

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plante Moran
This year marks two full years since the COVID-19 pandemic upended nearly every aspect of life in Michigan and the country. Once-bustling downtowns became void of people. Vacation hot spots turned to a state of permanent offseason. Senior centers closed to visitors, and playgrounds were vacant as schools transitioned to online learning. Municipalities also bore a heavy burden as they struggled to maintain the staffing necessary to provide essential public services.

American Rescue Plan

While the pandemic is not yet behind us, Congress passed crucial funding to help communities emerge in even stronger footing than before it started. The American Rescue Plan (ARP) is a $1.9 trillion stimulus bill designed to help communities recover from the economic and health impacts of COVID-19 and the recession it caused.

Michigan's share of ARP funds totals nearly $6 billion—a figure equal to roughly half of the state's 2022 general fund budget— that the governor and lawmakers must use toward the state's recovery. This figure is in addition to the $4.4 billion in federal stimulus funding that was distributed directly to Michigan communities.

"W hile the pandemic has led to immense pain, suffering, and challenges across our state, the American Rescue Plan has also provided Michigan with a once-in-a-generation opportunity. This goes well beyond any stimulus we have seen in living memory," said Michigan Municipal League Assistant Director of State & Federal Affairs John LaMacchia.

"If our state leaders leverage these funds strategically, we can reset the entire trajectory of our state and position Michigan for prosperity for decades to come."

Coalition for a Strong and Prosperous Michigan

Once the American Rescue Plan was signed into law in March, the League's policy staff began coordinating around-the-clock with their government relations and policy counterparts at state associations and other business and community organizations around the state. Their goal was to bring as many diverse interests as possible to create a united plan that would ensure every single penny of Michigan's $6 billion stimulus provides a maximum return on investment.

The result of this work was the formation of the Coalition for a Strong and Prosperous Michigan, a nearly 60-member strong collaboration whose members range from leading state businesses like DTE Energy and Rock Central to local nonprofit organizations, mayors, and state associations like the Michigan Association of Home Builders, the Michigan Infrastructure and Transportation Association, and the Community Mental Health Association of Michigan.

"W e only have one chance to spend our ARP dollars, and we know we've got to get it right. Otherwise, Michigan risks falling further behind other states. So rather than every group working independently to advance its own individual agenda, we wanted to present a comprehensive investment strategy that will give Michigan a competitive edge for years to come," said LaMacchia.
Diverse Coalition Forms to Urge Strategic Investment of American Rescue Plan Funding

By Josh Hovey, APR

The Michigan Prosperity Roadmap

Last fall, the Coalition for a Strong and Prosperous Michigan did exactly that when it unveiled its plan, called The Michigan Prosperity Roadmap, via a statewide virtual news conference. The coalition used its news conference to lay out a bold vision for Michigan by proposing to leverage the state’s nearly $6 billion in ARP funding in ways that capitalize on the economic value of thriving communities, advance equity, build community wealth, support entrepreneurship, prioritize the need for talent, and spur business development.

Funding Recommendations

To meet these ambitious goals, the Michigan Prosperity Roadmap focuses the state’s ARP in five key areas: infrastructure, fiscal health, thriving communities, strong economy, and public health & safety. Specific funding recommendations include:

- $2.5B for resilient and sustainable water systems
- $500M to improve high speed broadband access
- $800M toward supporting smart investments that provide stability for state and local government
- $805M to increase access to attainable housing and community development
- $910M toward economic development, business assistance, building a skilled workforce, and talent attraction
- $500M to support mental health, addiction services, cyber security, and restaurant licensing

Since the rollout of the Michigan Prosperity Roadmap, coalition members have been stressing to lawmakers and Governor Whitmer’s office the urgent need to allocate these resources and start putting the funds to use.

Michigan Laborers’ International Union of North America Business Manager Geno Alessandrini, Home Builders Association of Michigan Vice President Dawn Crandall, and DTE Energy Vice President of Corporate and Government Affairs Renze Hoeksema, jointly published an opinion column arguing that the rush to strategically invest Michigan’s ARP funds is “Michigan’s space race.”

The trio told online publication Bridge that Michigan’s leaders “need to understand that other states around the country are racing to develop and approve plans to invest their ARP funding. Every day we fail to act we allow Ohio, Indiana, Florida, and 46 other states to get ahead of us. They are positioning themselves to emerge from the pandemic on the fast track for future success and growth. Michigan cannot sit back and watch others be the first to capitalize on this opportunity. We need to lead the way.”

(L-R) Macomb County Commissioner Veronica Klinefelt and Wayne County Commissioner Melissa Daub discuss Roadmap to Prosperity proposal with Rep. Ronnie Peterson (foreground right).
Other coalition members have issued similar messages of urgency in publications across the state. They also delivered the message to lawmakers via a coordinated lobby day in December.

“We are encouraging robust discussion on this plan and are willing to work with leaders across the state to ensure we invest our ARP funds to achieve maximum returns for all,” said the League’s LaMacchia. “The bottom line is that we must use the funds strategically and emerge from the pandemic a stronger and more prosperous Michigan, and our coalition is going to make sure that happens.”

Josh Hovey, APR, is partner at Martin Waymire. You may contact him at 517.485.6600 or jhovey@martinwaymire.com.
Michigan Municipal League member communities are full of good people who love their neighbors and want to make a difference. Bridge Builder grants support neighbors, artists, and small businesses to build community.

Bridge Builder microgrants support innovative work that intentionally & creatively brings people together and repairs broken relationships in the community.

Pledge your support for Bridge Builders in Michigan communities at mmlfoundation.org/donate. Building community wealth across Michigan.
YOUR PERSONAL CONCIERGE

MAKING CONNECTIONS TO RECOVERY FUNDING

There is a silver lining to the challenges of the pandemic. The federal and state funding now available to municipalities across Michigan is finally helping them gain traction and build for the future.

ServeMICity Assistance to Members

Technical Assistance
The first step in engaging with ServeMICity is through technical assistance. League members will be provided help answering questions about grant sources and application processes, accessing funding, evaluating where to invest ARP dollars, and meeting reporting requirements. Simply email servemicity@mml.org with questions or requests for help, and League staff, or contracted partners at Public Sector Consultants, will reach out directly and work with you to begin providing support.

Resource Library
Delve into the resource library for dynamic information to guide you on your funding journey. Multiple links, detailed PDFs and meaningful videos provide a robust foundation to help take the guesswork out of the federal and state funding process. You’ll find technical guidance documents, best practices, and questions answered on eligible activities.

Regional Workshops
With generous support from the Kellogg Foundation, the League will provide deeper, hands-on assistance to maximize the impact of new state and federal funding. These workshops will share tangible tools and resources to help municipalities navigate creative partnerships, community engagement, complementary funding opportunities, communications and storytelling, and the technical reporting and compliance requirements of state and federal funds. Workshops are an opportunity to work with other League members to share knowledge and build relationships that will continue to serve you and your communities for years to come.
For quite some time, Michigan municipalities have been constrained and operating from a deficit, attempting to provide services just to make ends meet. For many, the idea of finding opportunities for strategic growth and long-term planning was a non-starter.

Yet, with the implementation of the CARES Act back in March of 2020, the Michigan Municipal League saw just how much money municipalities were leaving on the table.

There was a gap. Money was available, but League members were not applying for it.

That is when the League realized there needed to be a way to connect the dots and create a better system to help communities access the federal and state funding dollars that were beginning to appear.

Federal and state recovery funds include the Coronavirus Aid, Relief, and Economic Security (CARES) Act, the American Rescue Plan (ARP), and the Infrastructure Investment and Jobs Act (IIJA).

Through these fundamental observations, the ServeMICity initiative took shape.

**What Is ServeMICity?**

ServeMICity is being touted as a “personal concierge” for new state and federal funding. It provides three services to help League members (city, village, and urban township) effectively navigate the funding process: technical assistance, a resource library, and workshops.

As staunch local government advocates, the Michigan Municipal League put its money where its mouth is, seeding the program with $100,000. As Shanna Draheim, director of policy research labs at the League says, “It’s one of the best investments we’ve made in a long time.”

The ServeMICity initiative is intrinsically tied to Community Wealth Building, the idea that strategies should be in place that balance economic prosperity, sense of place, natural assets, and cultural substance. According to Draheim, Community Wealth Building is about making great places that provide for the wellbeing of the people who live there—all the people who live there.

Not only is ServeMICity connecting municipalities to federal and state funding, but it is also helping local leaders strategize on how to best use the funding for long-term resilience and prosperity. In other words, building community wealth.
Success Stories
Tim Dempsey, vice president of Public Sector Consultants, has been fielding ServeMICity technical assistance inquiries for several months. After gaining an understanding of the different challenges local leaders are navigating, he works with them to create solutions.

For small municipalities, who don’t necessarily have a full-time staff, the reality of navigating the federal and state funding infrastructure can be overwhelming. That’s where Dempsey and ServeMICity comes in. “Working with people to break down the process helps them see that the steps aren’t as complicated as they first appear. Just introducing them to the resources they may not be aware of goes a long way,” says Dempsey.

In Muskegon Heights, City Manager Troy Bell has been leaning-in to the benefits of ServeMICity. His community has been struggling for years to recover from the setbacks that started with the great recession back in 2008. Hopelessness creates as much of a problem as a crumbling infrastructure. That’s why Bell was very intentional about enlisting grassroots participation from community stakeholders in the funding allocation process. He put a focus group together in October of 2021 that provides recommendations on how to spend the nearly $11 million Muskegon Heights received.

ServeMICity and Public Sector Consultants helped stakeholders understand the limitations on how the funds could be spent. “The Michigan Municipal League was a conduit to help us understand what other cities were doing, so that Muskegon Heights could follow suit and leverage all the different opportunities,” says Bell.

Who Have We Helped? What Does the Future Hold?
Between the CARES Act and ARP, ServeMICity has supported 120 communities to date. That’s exceptional progress, but there are many more opportunities for success. According to Draheim, this is a once-in-a-lifetime opportunity to fund the futures of local governments. It really should be all-hands-on-deck as more federal and state programs to help with recovery come online.

As for the future, Draheim says, “The long-term vision for ServeMICity is to have enough impact that we work ourselves out of a job. We want to set the stage, so that local officials are off and running helping their communities in the best way they can.”

Joel Van Kuiken, APR, is owner and principal of See Context, a Communications, Strategy, and Consulting firm. You may contact him at 616.308.3789 or seecontext@gmail.com.
ServeMI CITY
Act now. Shape the future.

Reverse the Decline. Invest in the Future.

Our communities are being offered an extraordinary opportunity to build back better, together. With additional support and resources, some of the most catalytic, transformational, and surprising opportunities may have the opportunity to be realized.

AMERICAN RESCUE PLAN
Additional funding $1 trillion
CARES ACT
20% of Michigan communities returned federal stimulus in 2020

CARES ACT
The Michigan Municipal League leveraged $100,000 for $33 million

GOAL
Help the League’s members prioritize recovery funding in ways that are catalytic, improve economic security and community well-being, and leverage additional resources and partners

HOW CAN ServeMI CITY HELP?
• Short term technical assistance—help in answering questions, accessing funding, evaluating things to invest in, meeting reporting requirements
• Deeper strategic assistance—use community data to prioritize investment options, maximize opportunity and impacts

For information on how you can partner on the ServeMI CITY effort, contact Helen D. Johnson, president, Michigan Municipal League Foundation, 734.669.6336 or hjohnson@mml.org

MICHIGAN LOCAL GOVERNMENT $4.4 BILLION
MICHIGAN LOCAL GOVERNMENT $4.4 BILLION

REVERSE
THE DECLINE.
INVEST IN THE FUTURE.

$33 MILLION
$33 MILLION
$100K
$100K

$20 BILLION
$20 BILLION

STATE OF MICHIGAN $6.4 BILLION
STATE OF MICHIGAN $6.4 BILLION

Additional funding $1 trillion
Municipalities have been calling on Congress to get to work on an infrastructure package since 2016. On November 15, 2021, the Infrastructure Investment and Jobs Act (IIJA) was signed into law by President Biden. Also known as the Bipartisan Infrastructure Law (BIL), this $1.2 trillion bill means transformative investments in transportation, broadband, and water are heading to Michigan, which can be used to create safer transportation, ensure equitable infrastructure among neighborhoods, build resilient structures, and strengthen our economy. Municipal leaders should prepare now to make the most of these new opportunities coming from the BIL.

1. Consider existing, as well as new, programs:
BIL includes $550 billion in additional new programs. Many allow communities and their partners to specifically apply for, and take advantage of, the federal resources. But it also renews many existing programs that will be just as valuable to Michigan. In the discussion of what’s new, don’t miss those existing programs which will be just as helpful to you!

2. Think about working at both the state and federal Levels:
The number of program funds that municipalities can access directly from the federal government are substantial, but most will not come to Michigan’s communities without taking the effort to apply for them— either at the state or federal level. Get ready to compete and shape your municipality’s story.

3. Prepare to support the project and show commitment:
The majority of federal grants come with the expectation of a local match— often around 20 percent for transportation, but some programs can be less especially for smaller and disadvantaged communities. Take care to understand what your contribution may be and consider how to organize the funding.

Program Overview
Surface Transportation
Congress is investing $110 billion in transportation in the five-year BIL on top of the past levels of federal transportation programs. America’s cities, towns, and villages take care of a significant portion of our nation’s expansive transportation network. The new BIL provides communities more opportunities than ever to apply directly for federal funds, work with their regional partners and states, and to continue bringing new mobility options to their areas. In addition to renewing existing programs, the Department of Transportation will have more than $124 billion in competitive funding to distribute to applicants for roads, bridges, trails, rail, transit, and more. Now is the time to consider how existing federal transportation programs and new BIL programs match up to support your community’s rebuilding.

Many of the new and expanded programs relate directly to our communities’ most pressing needs. An extensive new bridge program will allow states to pass through up to 100 percent federal funding for poor bridges that are off the highway system and locally owned. The new “Safe Streets and Roads for All” program will support $5 billion in local projects to reduce traffic fatalities, which sadly are getting worse with 20,000 lives lost in just the first half of 2021. Competitive grants of $2.5 billion are available to strategically deploy publicly accessible charging and fueling infrastructure. Transit’s Capital Investment Grant program jumps up with $3 billion authorized per year, and a new $1.75 billion “All Stations Accessibility Program”
and $250 million under the “Enhanced Mobility for Seniors and Individuals with Disabilities” program will help more seniors stay in their homes for longer. A $1 billion “Reconnecting Communities” program provides seed capital to begin to remove barriers to community connectivity and rectify harms caused by past highway investments. Rail sees a $66 billion investment with $12 billion dedicated to partnership grants for intercity rail service and a new $3 billion “Grade Crossing Elimination” grant program will help to fix rail and road crossing congestion and safety issues in communities.

Water Infrastructure
The bipartisan infrastructure bill provides financing and funding for wastewater and drinking water projects through four main buckets under the U.S. Environmental Protection Agency. In total, Michigan will receive $213,201,000 in FY22 for water infrastructure, representing the allocation for the first year of funding. The funding is broken down as shown in Fig 1. With all these funds flowing through the state revolving funds, local governments will be required to submit applications to the Michigan Department of Environment, Great Lakes, and Energy (EGLE). It is important to note that for both traditional State Revolving Funds and the lead pipe replacement funds, states are required to award the money as 49 percent principal forgiveness/grants and 51 percent loans. With both funding allocations addressing emerging contaminants, states are required to award the funds as 100 percent principal forgiveness/grants.

NLC put together two helpful fact sheets on the Clean Water and Drinking Water State Revolving Funds that provide an overview of the eligible uses and give examples of how communities have used these programs in the past. The clean water fact sheet explains how the program can be used for climate resilience projects, like green infrastructure and managing stormwater. The drinking water fact sheet explores uses pertaining to lead pipe replacement and protecting source water from other contaminants, such as PFAS. We know these are all critical issues for Michigan communities.

While the fact sheets were developed specifically as a guide for communities around the American Rescue Plan (ARP), they serve as a general overview of eligible project categories as local leaders are thinking about whether to apply for an opportunity under the bipartisan infrastructure bill.

Funded U.S. Environmental Protection Agency
Drinking & Wastewater Projects

Clean Water State Revolving Fund (traditional) $77,158,000

Drinking Water State Revolving Fund (traditional) $44,075,000

Lead pipe replacement through the Drinking Water State Revolving Fund $69,409,000

Emerging Contaminants through the Drinking Water State Revolving Fund $18,509,000

Emerging Contaminants through the Clean Water State Revolving Fund $4,050,000

Energy Efficiency and Conservation Block Grant
The BIL provides funding for the Energy Efficiency and Conservation Block Grant (EECBG) for the first time in over a decade. These flexible funds will help communities invest in energy-efficient retrofits, update building codes, adopt renewable energy technologies, provide incentives for residents to use transportation alternatives, implement energy-saving campaigns, and more.

Based on the 2020 census, there are 50 cities in Michigan with a population over 35,000 that will receive these grants directly from the U.S. Department of Energy. Smaller communities will have the opportunity to apply for grants through EGLE. Regional collaboration and projects are also encouraged with the EECBG, with a small portion set aside for competitive grants from the Department of Energy for a consortium of local governments.

Broadband Infrastructure
The BIL provides a historic federal investment in closing the digital divide—roughly $65 billion for broadband infrastructure and digital equity. Most of this funding is funneled through a series of grant programs managed by the National Telecommunications and Information Administration (NTIA). The largest of these programs is the $42 billion Broadband Equity, Access and Deployment Program. This program will provide formula grants to state governments to award subgrants for broadband planning, mapping, deployment, and adoption programs. States are required to prioritize unserved and underserved areas, and some key anchor institutions and facilities. States are also required by the law to develop broadband plans for approval by NTIA prior to spending the funds and must coordinate with local governments and other stakeholders when developing these plans.
NTIA is also responsible for the Digital Equity Act grant programs, which will provide funding for digital equity grants. Some is reserved for state formula grants, and the remainder for competitive grants, which local governments and nonprofits could access directly. These funds are to be used for digital inclusion work, such as connecting residents in need to devices, subsidized broadband subscriptions, and skills training. NTIA will also administer the Middle Mile Broadband Infrastructure grant program, which will provide competitive grants to entities, including local governments, building middle mile broadband infrastructure projects, which do not connect directly to end users.

Because the majority of the funding will flow through state governments, it is critical for local leaders to engage early and often with both the NTIA policymaking process and state broadband leadership. The guidance that NTIA places around the grant programs will determine the specifics of how state governments must engage with their localities, how much discretion they have in selecting subgrantees and project areas, and other details very important to local leaders. In addition, by building a positive relationship with the state broadband office and proactively communicating your needs now, communities can get a jump start on the jockeying for funds that will occur in state capitals in the coming years.

Other important funds for broadband and digital equity include extensions or expansions of existing programs. The law includes $14 billion for the Federal Communications Commission’s Affordable Connectivity Program, which succeeds the temporary Emergency Broadband Benefit and provides a monthly subsidy to qualifying low-income households on home broadband service. It also provides $2 billion in additional funding for the existing ReConnect rural broadband infrastructure grant and loan program administered by the U.S. Department of Agriculture.

Conclusion
Michigan’s municipalities are ready to rebuild, and NLC is excited for you to make the most of this historic opportunity in 2022. Cities, villages, and townships can do more than survive; they can thrive. ☝

Brittney Kohler is the transportation and infrastructure services legislative director for the National League of Cities.
Carolyn Berndt is the sustainability legislative director for the National League of Cities.
Angelina Panettieri is the information technology & communications legislative director for the National League of Cities.
Public Input

On a recent Michigan Municipal League Live with the League show, Commission Chair Rebecca Szetela, an independent member, discussed the redistricting process, public input, and the resulting new maps.

“We received nearly 30,000 public comments and I actually read every one of them,” Szetela said on Live with the League. “It was great, we had really good participation. Our goal was to have 10,000 public comments and we more than doubled that.”
To look at the maps, please visit www.michigan.gov/micrc and click on Final Maps. The Chestnut refers to the map for the 13 Michigan Congressional districts (average of 775,200 people per district). The Linden identifies the map for the 38 Michigan State Senate districts (average of 265,200 people per district). Finally, the Hickory delineates the map for the 110 Michigan House districts (average of 91,600 people per district).

Constitutional Criteria
Applying the seven ranked redistricting criteria as outlined in Michigan’s constitution, the commission ensured with the assistance of legal counsel and mapping consultants the following:

(a) Districts shall be of equal population as mandated by the United States constitution and shall comply with the voting rights act and other federal laws.
(b) Districts shall be geographically contiguous. Island areas are contiguous by land to the county of which they are a part.
(c) Districts shall reflect the state’s diverse population and communities of interest. Communities of interest may include, but shall not be limited to, populations that share cultural or historical characteristics or economic interests. Communities of interest do not include relationships with political parties, incumbents, or political candidates.
(d) Districts shall not provide a disproportionate advantage to any political party. A disproportionate advantage to a political party shall be determined using accepted measures of partisan fairness.
(e) Districts shall not favor or disfavor an incumbent elected official or a candidate.
(f) Districts shall reflect consideration of county, city, and township boundaries.
(g) Districts shall be reasonably compact. Unlike the APO L standards (old redistricting criteria) that placed an emphasis on maintaining county, city, and township boundaries, the commission followed the constitution in considering that ideal as the sixth ranked criteria in Michigan’s new redistricting process.
National Attention

President Barack Obama, Governor Arnold Schwarzenegger, the Brennan Center for Justice, and the Princeton Gerrymandering Project lauded the commission for its work in drawing the lines. Knowing that other states are considering independent citizens redistricting commissions, the MICRC voted to develop the lessons learned report and video to showcase the process used by the commission to draw fair maps through public outreach. In addition, the commission engaged the public to provide recommendations for improvement to include in the lessons learned report and video scheduled for release in Spring 2022.

Maps Go into Effect March 28, 2022

Pending any lawsuits, the adopted redistricting plan with new legislative boundaries for the state House, state Senate and congressional districts will become law effective Monday, March 28. These district maps impact the 2022 primary and general elections.

Adoption of Final Maps

The MICRC adopted the final maps Tuesday, December 28, 2021. The commission published the final maps Thursday, January 27. Included with the final maps were reference materials and data used in drawing the final maps and any programming information used to produce and test the plan.

Additionally, the commission is required to issue a report for the Michigan Congress, Michigan State Senate, and Michigan State House that shares the process for achieving compliance for each plan, the map for each plan, and the legal description for each district. Any commissioner who voted against any plan may provide a dissenting report. The public can access this report starting Friday, March 25.

Szetela said the process was complex because following the seven ranked redistricting criteria and balancing it with all the public comments wasn’t easy, but she was pleased with the results.

“I hope everybody is happy with the maps. We worked very hard on them, and we did try to come up with a fair product,” Szetela said. “I think that’s one of the strengths of this commission—we had people from different parties, we all worked together, and we pretty much had over majority support for every map we produced.”

The MICRC staff includes Executive Director Suann Hammersmith, General Counsel Julianne Pastula, Communications and Outreach Director Edward Woods III, and Executive Assistant Sara Martinez.

Edward Woods III is the communications and outreach director for the Michigan Independent Citizens Redistricting Commission. You may reach him at 517.335.3333 or WoodsE3@michigan.gov.
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Legal Spotlight

Sue Jeffers is a legal consultant to the League. You may contact her at sjeffers1@me.com.

Michigan Supreme Court Clarifies Factors for Retroactivity of Statute

Jennifer Buhl fell and broke her left ankle after stepping over a crack in the sidewalk, not noticing, however, that the sidewalk was uneven on the other side of the crack. She sued the City of Oak Park for damages, alleging that the city failed to maintain its sidewalks in reasonable repair under MCL 691.1402a of the Governmental Tort Liability Act (the GTLA). After she was injured, but before she filed the complaint, the Michigan Legislature in 2017 amended the GTLA by adding a provision which allows a municipality to assert any defense with respect to a premises-liability claim, including a defense that the condition was open and obvious.

The city moved to have the case dismissed on the basis that the condition of the sidewalk was open and obvious and that the amendment to the GTLA applied retroactively to Buhl’s claim. The Trial Court dismissed the case holding that the amendment did apply retroactively and that the condition of the sidewalk was open and obvious. The Court of Appeals affirmed.

Buhl appealed to the Michigan Supreme Court which reversed, holding that the amendment to the GTLA did not apply retroactively to plaintiff’s claim.

The Court began its analysis by examining the GTLA, which provides that municipalities have a duty to maintain sidewalks in reasonable repair. The amendment which was added to the GTLA permits a municipality to raise the open and obvious danger doctrine as a defense. To determine whether the amendment applies retroactively to Buhl’s claim, the Court noted that legislative intent governs the application and that the framework for such an analysis is set forth in LaFontaine Saline, Inc v Chrysler Group, 496 Mich 26 (2014).

The Court in LaFontaine set out four considerations in determining whether legislation should be applied retroactively:

1. Was there specific language in the legislation providing for retroactive application?
2. A statute cannot be regarded as operating retroactively merely because it relates to an antecedent event.
3. Applying laws retroactively impairs vested rights acquired under existing laws or creates new obligations with respect to transactions already past.
4. A remedial act not affecting vested rights may be given retroactive effect where the claim is antecedent to the enactment of the statute.

The Court initially noted that the second factor does not apply since the amendment does not pertain to a specific antecedent event and then found that there was no specific language in the legislation providing for retroactive application (first factor).

As to the third factor outlined in LaFontaine, the Court noted that it is an affirmative duty of a municipality to maintain the sidewalks in reasonable repair without regard to the openness or obviousness of any defects. Retroactive application would “effectively rewrite history” as to the duty owed Buhl by absolving the city of its duty to maintain public sidewalks in reasonable repair. Addressing the fourth factor, the Court held that a newly enacted statute should not be retroactively applied if doing so would relieve a party of a substantive duty.

The Supreme Court also dismissed the Court of Appeals’ creation and application of its so-called “Brewer restoration rule” (based on a prior Supreme Court’s ruling in Brewer v A D Transp) and held “[W]e decline to alter or abandon the LaFontaine factors in favor of the Brewer restoration rule.”

Buhl v City of Oak Park, No. 160355 (June 9, 2021)

This column highlights a recent judicial decision or Michigan Municipal League Legal Defense Fund case that impacts municipalities. The information in this column should not be considered a legal opinion or constitute legal advice.
As the former city manager of Eastpointe, Steve Duchane became increasingly angry by what he saw as the state’s failure to live up to the requirements of the Headlee Amendment—that nearly half of all state tax revenues be distributed to local governments. Duchane regularly complained about his view that the state was illegally underfunding local governments to his friend, Wayne State University law professor John Mogk.

“Eastpointe was taking considerable abuse because the state was not following Headlee,” Duchane said about his suburban Detroit community. “John said ‘let’s do something about it.’” Duchane, and more than a dozen other local officials, launched a complex lawsuit against the state in 2016 that lasted five years and resulted in the state Supreme Court deciding the case last July mostly in favor of the state. The lawsuit, filed originally in the state Court of Appeals, was known as the Taxpayers for Michigan Constitutional Government v State of Michigan. The Michigan Municipal League, the Michigan Townships Association, and the Michigan Association of Counties supported the plaintiffs throughout the litigation with amicus (friend of the court) briefs.

But two important issues in the case—whether the state can include certain charter school funding as state government spending in the Headlee local funding formula, and whether state officials are adhering to annual reporting requirements of Headlee’s impacts on local governments—are still to be decided this year. Lawyers representing the plaintiffs say the case also has spotlighted serious deficiencies in state funding of municipalities and other local governments.

“Whatever you think of the Headlee Amendment, it was there to protect local government,” said John Philo, lead attorney for the plaintiffs. Philo is executive and legal director of the nonprofit Sugar Law Center for Economic and Social Justice in Detroit. “It has absolutely not been used to do that. That component of it has utterly been disregarded.”

But two important issues in the case—whether the state can include certain charter school funding as state government spending in the Headlee local funding formula, and whether state officials are adhering to annual reporting requirements of Headlee’s impacts on local governments—are still to be decided this year. Lawyers representing the plaintiffs say the case also has spotlighted serious deficiencies in state funding of municipalities and other local governments.

“The 1978 constitutional amendment requiring the sharing of state revenues with local governments."

“...including school funding as local government spending has merely shifted the financial burden to cities, villages, townships, and counties.”

THOMAS SCHULTZ, AMICUS COUNSEL

Shorting Local Governments by Billions

Under Section 30 of the Headlee Amendment to the state constitution, annual payments to local governments cannot dip below their level in 1979, which was 48.97 percent of state tax revenues. The problem occurred in 1994, when Proposal A of the state constitution shifted the responsibility for financing K-12 schools to the state from local taxes. The plaintiffs argued that the state illegally included new state spending on schools in the 48.97 percent calculation, shorting local governments by billions of dollars. “When the state used that chunk of money for schools, the distribution to the rest of the local units just dipped dramatically,” said Thomas Schultz, an attorney representing the amicus parties. The plaintiffs also argued that money the state was paying to cover new mandates on local governments was improperly included in the 48.97 percent distribution calculation.

A 2018 study by Great Lakes Economic Consulting, commissioned by the League, found that the state’s actions cost local governments $65 billion since 1994. The loss of that revenue and a weak state economy have created fiscal stress in many communities, “arguably placing the health and safety of Michigan citizens at risk,” the study said. The principals in the consulting firm are former state treasurer Robert Kleine and Mitch Bean, the retired director of the House Fiscal Agency.

Supreme Court Ruling on Schools

But the Supreme Court didn’t see it that way. Last July it upheld the Court of Appeals ruling that Proposal A school funding is properly included in the 48.97 percent local government payment formula. The Court also agreed with the state that any new state mandates—things it requires
local government to do—are properly included in the local government funding formula. But it sent back to the appeals court the issue of whether many charter schools can be considered state spending in the local spending formula.

**Charter Schools Created by State Universities**
The Supreme Court ruled that charter schools established by state universities are not political subdivisions of the state and can't be included in state aid to local governments. The Court sent back to the appeals court the question of whether state support for charter schools created by school districts, intermediate school districts, and community colleges should count in the local government funding formula. The ruling on that issue could be significant because the state spends $1.3 billion a year on charter schools, according to the Citizens Research Council of Michigan.

**State Annual Compliance Report**
Many local officials also are anxiously awaiting a ruling by the courts on whether the state will be required to produce an annual report on how the state is complying with Headlee requirements and who should produce it, something that the lawsuit plaintiffs and others say has never been done since the Headlee Amendment was approved by voters in 1978. “It perturbed me for my whole career,” said Duchane, who also served as city manager of Sterling Heights and Lincoln Park. The Citizens Research Council recently noted that two major state studies over the past 30 years found compliance with the amendment's provisions lacking.

**A Case Too Big to Lose**
Attorneys Philo and Schultz said they viewed the half-decade-long litigation as too big for the state to lose, noting that a complete victory for local governments could have cost the state billions of dollars. “It would have taken a very determined court (to rule against the state) because the numbers are so big,” Philo said. State Attorney General Nessel said in a press release that the case was properly decided but acknowledged that billions of dollars were at stake.

Michigan spends about $13 billion annually on K-12 schools, an amount representing about 25 percent of the state's budget. “A significant portion of that annual funding was in question in this case and could have resulted in higher taxes and/or fewer state-level services for Michigan’s residents if the court had determined the

“Lawyers representing the plaintiffs say the case also has spotlighted serious deficiencies in state funding of municipalities and other local governments.”

state was not providing enough money to local governments,” Nessel said. But Schultz countered that including school funding as local government spending has merely shifted the financial burden to cities, villages, townships, and counties. “Local governments either had to eat the loss or badger the voters for more money,” he said. And their ability to raise new revenue has been constrained by local tax limits imposed by Headlee and Proposal A.

Booming state revenues, much of it a result of federal COVID relief money, has resulted in the state sending more money to local governments than required during the past several years. But the influx of cash is temporary, and local officials fear their jurisdictions will face overwhelming financial pressures unless sweeping changes are made in how local governments are funded in Michigan.

“We'll be back to emergency financial managers,” said Duchane, who is deputy supervisor and human resources director in Macomb County’s Chesterfield Township. “We have a poorly functioning system. When the milk from the federal government dries up, we'll be back to starving.”

Rick Haglund is a freelance writer. You may contact him at 248.761.4594 or haglund.rick@gmail.com.
Northern Field Report

FREE Ice Skate Check Out at Benzonia’s Public Library

By Liz Foley

BENZONIA
pop. 551

"More people were calling the office about skates than appointments."

DR. LISA MUSGRAVE

The key to building community wealth lies at the heart of every community if you just know where to look. In Benzie County, it’s a heart made of ice.

For more years than anyone can remember, the Village of Benzonia’s free outdoor ice rink has been a beloved local winter institution for adults and children alike. Although the rink has changed locations and caretakers over the years, generations of Benzonians have forged lifelong community connections on its ice.

Socially connected communities are more likely to thrive. But public gathering spaces can’t fully do their job unless they are built on a foundation of equity and inclusion.

The key to building community wealth lies at the heart of every community if you just know where to look. In Benzie County, it’s a heart made of ice.

"More people were calling the office about skates than appointments."

DR. LISA MUSGRAVE

Local Dentist Sees a Need

Beulah dentist Dr. Lisa Musgrave realized one thing was missing to make their local rink truly welcoming and accessible to all. “It started with two or three patients in a row one day, having the same conversation,” said Musgrave. Since her own three children loved skating at the rink, she naturally imagined all the local kids enjoyed it too.

“That first little kid looked up with those eyes and said, ‘I’d love to go but I don’t have skates.’ So, I said, ‘Maybe you can get used ones.’ And there’s Mom behind them shaking her head, saying ‘their feet grow so fast, skates are so expensive, we just do other winter sports.’ After the second or third time having that conversation that same day, it hit me. We grow up in paradise here. For a child to grow up here and not have access to that, it breaks my heart.”

There’s always a way, she thought. She began to ask around. “A lot of people heard what I was thinking about, saying they had a pair in the garage, could they bring them in? More people were calling the office about skates than appointments.”

BENZONIA PUBLIC LIBRARY
SPONSORED BY | LISA MUSGRAVE, DDS
The Initial Ask
Skate swaps were do-able but more work than she could manage. That’s when it occurred to her: her own kids were placing their annual orders with a major skate manufacturer. Why not try the “power of ask”—something she strongly believes in.

“So, I called and said, ‘we’ve got this gorgeous rink here. The kids just need skates. Is there anything you can do to give us a discount on seconds, older models, something?’ It turned out they could. She bought 40 pairs in various sizes, all sharpened and cleaned and ready to go.

Partnering with the Library
She partnered with local librarian Amanda McLaren to start a free skate check-out program at the Benzonia Public Library, located next door to the rink at Academy Park. They got advice on liability waivers and other issues from a similar program in Ludington. Then they came up with a logo and tagged all the skates with bar codes. Local newspapers picked up the story and the news quickly spread. Now in its second year, “Check Me Out” has become a full-fledged community-wide project. “Community movements are really like dominoes—not falling down but standing each other up. Once one stands up, the rest follow,” said Musgrave.

Once it’s cold enough for ice, the lending program is available Monday-Friday from 10 a.m. to 6 p.m., and Saturdays from 10 a.m. to 2 p.m. Curbside services are also available from noon to 4 p.m. on weekdays. Skates must be returned to a staff member in the library or through the curbside service.

Other Local Businesses Pitch In
Local business owner Chris Howard makes sure there’s always good ice. Howard’s 35 year-round employees at The Cottage Pros do everything, from building houses and decks to dock and lawn maintenance. Since December 2020, a team of them have also been taking turns doing the daily winter maintenance at the rink, arriving at 5 a.m. each morning to plow or flood the rink as needed, to make sure it’s ready before the kids start showing up to skate.

Other local business owners play a part too, like the free cookies and cocoa supplied every weekend by Rachele Sargent Boylan, whose husband owns Xpert Fulfillment Services, a Benzonia-based warehouse and shipping company. “This rink is done by local business owners, and it wouldn’t be possible without the kindness of this community coming together to make this so wonderful for kids,” said Boylan, who estimates at least 50-75 skaters on the ice every weekend it’s available. “I remember using the first rink in Beulah years ago as a child...It gives these kids something to do and keeps them from getting into trouble.”

The outdoor rink is among a handful of seasonal rinks scattered around Northern Michigan communities, including ones in Almira Township, Traverse City, Suttons Bay, Ludington, and Petoskey. Several winter resorts and recreation areas also offer free or low-cost rinks and rentals.

The Community Meeting Spot
“In Greece they had the agora, a central town meeting spot where people can gather,” said Musgrave. “When we moved here six years ago it looked like this rink was that place. I think it’s becoming that again.” Similar projects can happen anywhere, she said. All it takes is an idea.

“Being part of a community means everyone is included. Look around you, there are opportunities everywhere. Don’t let anything hold you back. If you have a great idea but can’t do it yourself, maybe someone else can,” said Musgrave. “We’re all integral parts of the wheel. No idea is too crazy. A wildfire takes one spark and look at all the damage it does. What is the opposite of that? Your idea could be the one spark that starts something new in your community.”

Liz Foley is a freelance writer. You may contact her at 810.287.8549 or lizfoley2@gmail.com.
Now Is the Time to Think Green

By Shanna Draheim

Last fall the Labs team wrote about communities that are ramping up their environmental actions to reduce costs, improve health, and strengthen community resilience. Preparing for, and adapting to, changes in our climate and natural systems can seem daunting. But there are many straightforward solutions and strategies that communities can adopt that not only help mitigate risk but improve the lives of residents and help grow our local economies. Since that column ran, the American Rescue Plan (ARP) disbursements have been made and the Infrastructure Investment and Jobs Act (IIJA) has passed. For the first time in decades, federal and state funding is flowing, and communities have a real opportunity to address long overdue and future needs for their residents and businesses. This is going to be a long journey, and making investments in things like clean energy, water infrastructure, parks and greenspaces, and street trees can pay long-term dividends for both the health of your community and your municipal budgets.

This is the time to think about how to leverage your ARP dollars and other planned infrastructure investments to really make an impact. How can we help?

First, the ServeMICity program featured on the cover this month is a great place to start! Think of the program as your “concierge” to navigating current and future recovery and infrastructure resources, including opportunities for green infrastructure.

Second, the League is a partner in the Michigan Green Communities (MGC) network, a statewide network of nonprofits, state and local governments, and university staff that collaborate with one another, through peer learning and information sharing, to promote innovative sustainability solutions at the local, regional, and state level. The annual Michigan Green Communities Challenge is a key part of the program and allows participants to track and benchmark their sustainability progress. Communities can log their sustainability actions using the MGC Challenge to achieve bronze, silver, or gold recognition. There is still time to participate in this year’s Challenge! Create your account and take the Challenge now at www.migreencommunities.com/challenge. If you have questions or need help getting started email us at info@migreencommunities.com.

If you already have identified projects that make your community more sustainable and are looking for funding and other technical resources, the Michigan Green Communities website regularly shares funding and grant announcements. Below are a few current programs that could provide some important resources and help for communities:

Energy Efficiency and Conservation Block Grant
The IIJA provides funding for the Energy Efficiency and Conservation Block Grant (EECBG) for the first time in over a decade. One of several climate-related funding programs under the bill, the EECBG will help communities invest in energy-efficient retrofits, update building codes, adopt renewable energy technologies, provide incentives for residents to use transportation alternatives, implement energy-saving campaigns, and more.

Cities in Michigan with a population over 35,000 will receive these grants directly from the U.S. Department of Energy and smaller communities will have the opportunity to apply for grants through the Department of Environment, Great Lakes and Energy. Many communities used this program to make significant investments in clean energy when it was previously made available in 2009.
Ready to Fund Resilience

The American Society of Adaptation Professionals (ASAP) is partnering with Climate Resilience Consulting to help U.S. communities design climate resilience projects that are ready to receive funding and finance. They are moving beyond lists of funding resources and market mechanisms to get more projects implemented and increase the climate resilience of communities across the U.S. If you’re interested, check out ASAP’s Ready-to-Fund Resilience Guidebook and Training.

Communities across Michigan have been making significant strides in advancing sustainability over the last decade. And we have learned a lot about adaptation and resilience during the COVID-19 pandemic. Now we need to seize this moment of additional federal resources and carry those lessons into our ongoing and future community development work!

The League is committed to helping our members cut through any confusion and help you utilize all these new resources in ways that truly help your communities—so reach out through our ServeMICity or Michigan Green Communities program for help.

Shanna Draheim is the director of policy research labs for the League. You may contact her at 517.908.0307 or sdraheim@mml.org.
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These handbooks are essential reading material for both new and veteran elected and appointed officials in cities, general law, and home rule villages.

**Topics covered include:**
- Structure and Function of Local Government in Michigan
- Roles and Responsibilities of Municipal Officials
- How to Select and Work with Consultants
- Running Meetings
- Personnel and Human Resources Issues
- Special Assessments and User Charges
- Planning and Zoning Basics

**Numerous appendices include:**
- Open Meetings Act
- Freedom of Information Act
- Sample Council Rules of Procedure
- A Glossary
- Frequently Asked Questions
- A Sample Budget Ordinance
Q. One of our village trustees submitted a resignation letter to the village president last night. When does the resignation become effective? And does the council have to accept it?

A. Section 62.10 of the General Law Village Act was amended in 2020 to provide that a trustee resignation becomes effective when it is submitted to the village president. If a village president resigns, the resignation letter is submitted to the village clerk and becomes effective at that time.

Q. At the recent Michigan Association of Mayors conference, one of the speakers recommended having a written policy on board and commission appointments. I plan to develop one, but I wondered if the League had any example policies from other communities. I figured if we put together a policy on how to remove people from boards and commissions. If you have any removal examples, this would also be helpful.

A. Many cities and villages have multiple boards and committees. Our inquiry service receives lots of questions about them. The trick is in setting them up—anticipating all the things that could be problematic down the road. Regarding removing citizens from boards or committees, you hit the proverbial nail on the head. Someone is appointed, and the ordinance or policy setting up the committee does not address the term of office. So, committee members stay—until they themselves decide not to serve any longer. We suggest setting rules for these things: the purpose of the committee; how members are appointed; terms of office; duties and responsibilities of members; etc. We have sample ordinances for specific boards/committees that include these criteria, and we also have sample board/commission handbooks from a few cities containing overarching guidelines (i.e., applications, decorum, Open Meetings Act (OMA), staff liaison, etc.). Note: Boards and committees must follow the requirements of the OMA.

Q. I saw in the League’s Directory of Municipal Officials that you have a Resource Library. Do you have food truck ordinances or policies from other municipalities? If so, how do I obtain them?

A. Yes, we have sample food truck ordinances in our Resource Library. You can obtain these, and other sample documents (ordinances, policies, fee schedules, charter provisions, to name a few), by emailing info@mml.org.

The League’s Information Service provides member officials with answers to questions on a vast array of municipal topics. Call 800.653.2483 or email info@mml.org.

MI Bureau of Elections (BOE) candidate filing questions:

The BOE has received the question of whether there must be a 60-day delay in circulating petitions after the new district maps are drawn by the Independent Citizens Redistricting Commission. The Michigan Constitution states that the maps do not become law until 60 days following publication, which has led some to ask whether they could circulate petitions before that day. The Bureau's position is that nothing prevents candidates from currently circulating petitions. We have updated our 2022 Candidate Filing Requirements document to include the following:

Under Michigan’s Constitution, the approved maps become law 60 days after publication, but there is no provision preventing candidates from circulating petitions during that time. When reviewing petitions, the Bureau looks at each individual signer to determine validity. The Bureau will look to the date of the signature and determine whether the signer was, on the date they signed the petition, a registered voter at an address that is within the boundaries of the district as they are defined on the date of the filing deadline.

BOE has also received several questions regarding whether the Affidavit of Identity form will change with the passage of 2021 PA 158. At the end of December, the governor signed into law SB 212, which made changes to MCL 168.558 (the Affidavit of Identity provisions). The law did not add any new elements, but rather made already-existing elements on the Affidavit of Identity mandatory. Therefore, we do not intend to make any changes to the Affidavit of Identity form this cycle.

Michigan Bureau of Elections News Update, January 25, 2022
Four years into the League’s 16/50 Project, we’ve surpassed a notable milestone: over 100 women trained through the Women’s Municipal Leadership Program (WMLP).

While we’ve seen great strides for women in the workplace following the women’s rights movement in the 1960s and 70s, women have continued to face significant career obstacles. This is evident in the municipal management field, where women continue to be grossly underrepresented. Our internal data at the League showed that while women in our state have seen representation in local elected office soar to nearly 40 percent, the number of women serving in the top administrative spot in city and village halls had remained stagnant at 16 percent.

**More Women Local Government Leaders**

We launched the 16/50 Project to flip the script and empower more women to lead local government. The project name itself is intended to emphasize and bridge the gap between the percentage of women residents in the state of Michigan (50.8 percent) and the percentage of women that hold positions as municipal managers (16 percent when the program launched in 2018).

Michigan municipalities deserve exceptional leaders and municipalities need to be run and designed to meet the needs of all residents. Women bring their own unique set of experiences and skillsets to the local government table. With diverse workstyles, perspectives, and solutions, better outcomes can be achieved. Women in a board room, in Congress, in Fortune 500 C-suites, or in local government, women’s influence in positions of power matters.

The International City/County Management Association (ICMA), through task forces and data research, has done some great work studying and highlighting this issue over the last several decades. In a 1976 report, despite the fact that women made up half of the municipal government workforce, only 1.3 percent worked in chief administrative offices. Fast forward 36 years later to 2012, when a new task force was convened. They found that by 2003, only 12 percent of the nation’s city and county managers were women. In 2013, the numbers had increased to 19.8 percent, but then decreased to 14.4 percent in 2014. They concluded in their final report, entitled “Task Force on Women in the Profession,” that the demographics of an organization influence individual behavior, culture, employee health, and organizational performance.

Additionally, lack of gender diversity in organizations can reduce productivity and impair financial success.

**The League’s Initiative**

Enter the League’s 16/50 Project—powered by the belief in a society where people of every gender can pursue their dreams without bias or barriers holding them back; where young leaders are catalyzed early to use their skills at a local level; and where local government offices reflect the diversity of the communities they serve. We believe in the positive influence of women leaders for our communities, and we’re working to make gender balance a reality for local governments in Michigan.

We get it done by running programs and campaigns to combat implicit bias (a major factor holding women back from the top municipal role); equipping aspiring women with the tools and skills they need to make bold moves toward the top municipal spot; and bringing young leaders together to build the leadership pipeline of the next generation.
Women’s potential is worth investing in. That’s why the 16/50 Project empowers women leaders with access to critical topic education and executive development through our signature training opportunity—the Women’s Municipal Leadership Program.

16/50 Curriculum
Tapping into municipal and leadership experts, the Women’s Municipal Leadership Program brings together lectures, panels, and interactive experiences—and offers a five-month comprehensive curriculum that prepares women to make bold moves forward in their careers. Participants explore topics including municipal budgeting and finance, economic development, council-manager relations, and interviewing and negotiating; dialogue with experts and veterans in the field of municipal management; build leadership expertise through executive coaching; and participate in a mock interview experience with immediate feedback from seasoned managers.

Testimonials from some of our participants:
“I haven’t left one day and questioned if participating in this was worthwhile. It has been fantastic and incredibly useful in my role today and absolutely for future roles and networking.”

“This was a really great experience and best of all, it gave me the courage to pursue a city manager position. I’m not sure I would have done that without this course.”

“I feel so very EMPOWERED after having participated in the Women’s Municipal Leadership Program! I would not have applied for the Assistant City Manager position that I am currently vying for, had I not participated in this program. I have been educated, informed, empowered, and uplifted by the program presenters, participants, and MML Team. THANK YOU again for this program.”

“W MLP provided me with the boost of confidence that I needed to really value what I have to bring to the table. Because of W MLP, I feel ready and well-equipped for future opportunities.”

As we prepare to bring in our fifth year of the 16/50 Project and Women’s Municipal Leadership Program, we’re already celebrating: to date, we’ve trained over 100 women through the W MLP, seen over 10 of our participants go on to land manager positions, and helped increase the percentage of women serving as municipal managers in Michigan to nearly 20 percent. Previously overlooked, we’re demonstrating that with the right tools and attention, we can change the representation landscape in city and village halls across the state.

Emily Kieliszewski is the member programs manager at the League. You may contact her at 517.908.0302 or emilyk@mml.org.
2021 CEA FINALIST—WAVERLY PATHWAY
Delta Charter Township

The 10-foot Waverly Road shared-use pathway was a project completed after efforts by Delta Charter Township to bring together regional partners to coordinate the non-motorized need of two townships, reconstruction of a county road, and a $60 million freeway project. Together, Delta Charter Township and Lansing Charter Township were active in planning discussions with multiple agencies to plan the addition of the shared-use pathway through the project area to address a lack of facilities and associated hazards to pedestrians in the area. The project included connections to the west side of Waverly at St. Joe and Old Lansing Road to make the path available to all residents. The project was financed with three different grants totaling $874,000, which was necessary given that neither community had funding available for the project. The project was made possible through extraordinary multi-agency collaboration which resulted in a regional non-motorized pathway.