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HCPC NEWSLETTER

Hancock County Planning Commission

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HCPC Executive Board Fiscal Year 2010-2011

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PLANNING BOARD NEWS

By Tom Martin

COMPREHENSIVE PLAN DECEMBER 31, 2012 DEADLINE:

WILL YOUR PLAN REMAIN CONSISTENT AND SHOULD YOU CARE?

What Does the Law Presently Say?

In 2008 the Legislature amended the Growth Management Act to read that the State Planning Office finding that a comprehensive plan is “consistent with the law” will expire after 12 years. For plans adopted prior to 2001, the grace period was extended to December 31, 2012. (Refer to 30A M.R.S.A. §4347-A.sub-§3-A (F))

The way the law is written, it is not the plan itself that expires; the State Planning Office finding that the plan is consistent with the law expires. An expired consistency finding does not invalidate a locally adopted plan, nor any of the recommendations that the plan carries.

Why should we care if the state no longer finds the plan consistent?

The SPO finding of consistency triggers a number of state actions and benefits. Since passage of the Growth Management Act, various state agencies

have tied their growth-related programs to it. The most well-known is the CDBG program, which will not in most cases, award grant funding for growth-related capital investments to a town without a consistent plan. Other grant programs award point priorities to towns with consistent plans. Some state agencies, such as the MaineDOT, give priority in funding their own projects to towns with consistent plans.

Must a zoning ordinance be based on a consistent plan?

The law says that zoning ordinances (as defined), impact fees and rate-of-growth ordinances (building permit caps) must conform to a consistent plan (Refer to 30A M.R.S.A. §4314, sub-§3). An expired finding does not invalidate these ordinances. It does, however, provide an opening for a party affected by the ordinance to challenge it in court. Consultation with legal counsel is recommended.

Can't the State Planning Office just "re-affirm" our old plan?

No. Should a community choose to submit a plan to the SPO, it would have to be reviewed for consistency with the current standards. Among other things, data have to be updated, conclusions based on those data re-examined, and implementation strategies revised.

What about plans that have been fixed after a SPO finding of inconsistency? Can these still be found consistent?

Issues identified in a finding or inconsistency must be addressed within two years of the date of the finding. After that period of time, the plan must be resubmitted to SPO under the new rule (Chapter 208). *Please note that as we go to press the comprehensive plan review rules are being revised. Contact Tom Martin for the latest information.*

What do we do if we are facing an expiring plan?

Contact Tom Martin at the HCPC. We are available to help towns prepare comprehensive plan updates. *Even if you are not planning to use HCPC services in your*

update, please contact us. We can request a data package from the State Planning Office that is tailored to your town. Use of these data is essential if your plan is to be deemed consistent by the State Planning Office. We will also be monitoring changes in the Growth Management Act during the current legislative session.

Building Code Implementation: Frequently Asked Questions

Adapted from the Maine State Planning Office Web Site:

Certification requirement for code officers:

- o Code officers in towns that have more than 2,000 in population that had a building code prior to Aug 1, 2008 have until Dec. 1, 2011 to be certified in the new code.
- o Code officers in towns that have more than 2,000 in population but did not have a code prior to Aug. 1, 2008 have until July 1, 2013 to be certified in the new code.
- o If there are any code officers in towns with less than 2,000 in population, they may be certified in the new code as part of their regular six-year recertification cycle.
- o If a town with less than 2,000 population chooses to enforce the new code, the building official has 12 months to become certified after enforcement begins.

Status of training for code officers:

- o Training, certification exams and materials are free of charge to code officers and available to non code officers at a reasonable fee.
- o Training content is basic and introductory. It is geared towards code officers that have not administered an ICC-type code before.

Code books:

- o A CD version on that contains the four I-codes is provided free of charge to each municipality over 2,000 population whose code officer attends the training. Paper copies of the ventilation and radon codes are provided.
- o Code books and pocket guides to the code are available for purchase. Google International Code Council to order books and Amazon.com for pocket guides.

Certification exams:

- o The State Planning Office administers the certification exams for the new code including exam registration, proctoring exams, scoring exams, and tracking code officers' certification and recertification.
- o The purpose of the code training is not for anyone to memorize the content of the code, but to ensure that code officers know how to use the code. For this reason, the certification exam is an open book test.
- o As of December 31, 2010, 79 code officers will have taken one or more of the exams to become certified in Maine's new code. Based on early results, the Office anticipates an 85-90% success rate of code officers and third-party inspectors taking the exams.

Not an "unfunded mandate:"

- o Existing law prior to the new code required a certificate of occupancy be issued by towns with more than 2,000 people for any new construction.
- o Towns with more than 2,000 in population may opt out of having a code enforcement program, and instead accept a third-party inspection report paid for by the property owner.
- o Towns that opt for a third-party inspector are not obligated to incur any cost (for analyzing or reviewing the report) in accepting the third-party report, but they must receive the report prior to issuing a certificate of occupancy.

- o Because the third-party inspection option does not carry a cost to the town, the new code law was determined by legal experts (including the Attorney General's Office) not to be an "unfunded mandate".

Third-party inspectors:

- o There are approximately 93 towns with more than 2,000 in population that did not have a code prior to August 1, 2008. Some of these towns may opt for third-party inspection.
- o Few towns that had a code prior to August 1, 2008 are expected to drop their current code enforcement program and opt for third-party inspection.
- o Code officers are not permitted by current law to be third-party inspectors. This was not intended by the original drafters of the law, and was added during the legislative process.
- o To assist third-party inspectors who would like to be trained, the State Planning Office has obtained federal grant funds to reimburse TPIs for training. As of December 31, 2010, 163 third-party inspectors will have been trained in the new codes.

Cost of third-party inspection:

- o The cost of third-party inspection to the homeowner is expected to be determined by the market—that is, inspectors that charge high prices will not be selected by building owners.
- o If the cost of third-party inspection is determined to be too high due to the number of required visits to the property or any other factor, an amendment to the code could be submitted to the code board to address this.
- o Anyone may submit a code amendment to the state board and the board is obligated to give them full consideration and vote.

BROWNFIELDS NEWS

by Tom Martin

A Look Back

HCPC is entering the final six months of its first three-year brownfields assessment grant. As a result of this grant five environmental site assessments will have been conducted by our consultant as well as three site clean-up plans. In addition to identifying potential environmental hazards or simply giving a property a “clean bill of health,” the brownfields grant has had many secondary benefits. These include facilitating the acquisition of the Gordon’s Wharf property as a public access point to salt water in Sullivan. Other success stories include recommended clean-up measures for both a high-value commercial property and a site that could become part of the STAR facility in Ellsworth (*see related article under Transportation News*). Investigations are also underway at a site on the Route 1/186 Scenic Byway.

A Look Ahead

HCPC is planning to apply for another round of brownfields assessment funding during the upcoming fiscal year. While we have a list of potential sites, we would welcome more. *Remember that our consultant cannot investigate a site without a landowner’s permission. Any help that local residents can give in land owner outreach would be appreciated.* If there is a site in your town that you suspect is contaminated, please contact Tom Martin at the HCPC.

CDBG NEWS

by Tom Martin

As we go to press, the deadlines for most Community Development Block Grants for the current fiscal year have passed. There is, however, still time to apply for the second and third round of Economic Development grants. Letters of Intent are due on May 20 and August 12 respectively. These grants are used for the creation or retention of jobs for primarily low to moderate income people. The Development Fund loan applications, also used for job creation and retention, are normally due the first Friday of the month. If you have a potential economic development project in your

town, contact Tom Martin for details on program requirements.

Community Planning Grants are due May 13. This program is designed for towns that have a clearly identified local community or economic development problem and lack the resources to develop a strategy to solve that problem. Grants are for studies, analysis, data gathering, preparation of plans and maps and identification of actions that will implement plans. Engineering, architectural and design costs related to specific projects are **not** eligible. The maximum grant amount is \$10,000. A cash match of 25 percent is required.

As always, if you expect to seek CDBG funds in the upcoming fiscal year, the time to begin planning is now. Competitive applications require evidence of ample citizen participation and secure sources of matching funds. Many projects will require preliminary engineering studies.

Household income surveys of the area the project will serve may also be needed. In order to be accepted by the Maine Office of Community Development, the surveys must follow a certain methodology. Contact Tom Martin or Sheri Walsh at the HCPC for details on income survey requirements.

SOLID WASTE NEWS

by Tom Martin

The Future of PERC and What It Will Mean For Solid Waste Management

Most municipal solid waste in Hancock County that is not recycled, composted or otherwise removed from the waste stream is incinerated at the Penobscot Energy Recovery Company (PERC) plant in Orrington. In the absence of an extension agreement implemented by the PERC charter communities, the current operating agreement for this facility terminates in 2018. The charter communities are, through the Municipal Review Committee (MRC), exploring options for what happens after 2018.

One option is to continue operating the plant, which would require considerable capital investment and increased maintenance costs at a facility that will have operated for 30 years by 2018. Preliminary estimates are that tipping fees for charter communities could cost \$90 a ton after 2018 compared to \$46 a ton for 2011. If the PERC operation continues on a reduced basis, is retrofitted to implement a new waste processing or energy extraction technology or the plant must be closed, plans for alternative waste management options must be made. All these options are likely to be more expensive than current arrangements and require substantial capital investments. To accumulate some capital reserves for these expenses, the MRC has authorized a gradual increase in charter member tipping fees from \$46 a ton in 2011 to \$67 a ton in 2017. Non-charter communities will pay more.

These increased costs mean that waste reduction and diversion through recycling, composting and reuse will become more cost competitive. HCPC is available to help towns develop waste management alternatives. Contact Tom Martin for more information.

What is Zero Sort Recycling and Will it Work for Your Town?

Many towns across the state have implemented or are considering zero sort recycling. Instead of separating recyclables by type, all glass, metal, paper, cardboard, and plastics #1-7 are combined into one recycling container. They are later separated on a series conveyor belts at a commercial recycling plant. For a video clip of how it works, see: <http://zero-sort.com/>. HCPC will be happy to arrange a presentation by a commercial vendor of this service for your community. In many cases, zero sort recycling has proven to be an effective way to boost recycling rates by allowing a greater range of material to be recycled and making the process more user friendly for residents.

How Do We Know if It Will Work for Our Community?

The Maine Resource Recovery Association has developed a series of questions to help communities decide if single stream recycling is the best way to

recycle. Here are some of the advantages, especially for towns with curbside recycling:

- Hauler maintains less equipment – no sorter truck is needed as a garbage packer truck can collect both trash and recyclables
- Reduced idling at the curb and fewer trips to the transfer point or MRF (Material Recovery Facility) means lower fuel consumption.
- Faster, more efficient collection means more households in a given day perhaps improving schedules or frequency.

Recycling materials collected in a single, non-sorted stream, require processing in MRF's. The only Maine-based MRF is in Portland and there are several others in Massachusetts. Hauling your recycling materials longer distances for processing may increase your freight costs

When Single Stream Recycling is Proposed in Your Community, Ask These Questions:

- How much money will the town save over current collection practices? If an increase, why?
- Where will the recycling materials be taken and at what cost?
- How will changes in fuel prices influence those freight costs?
- How much more recycling tonnage will be collected?
- Can you supply our town with data from other cities and towns that share our population density and recycling program make up?
- Are these facts available online and can they be substantiated by a third party?
- Where will the recycling materials be taken?
- When the materials are sorted at the MRF, what percentage ends up as garbage? Where does that go and is there a disposal cost?
- To whom will you sell the sorted recycling materials? Do you have long term agreements with them? Have they ever

been shut out of a mill and why? How often is material not suitable for the mill or downgraded in price?

- What if the system does not increase recycling tonnage or provide the desired results? What is the cost to change back and is that even possible? Are there any guaranteed levels of participation?

Material Revenue

With a sort-based system, your town may be realizing a revenue stream from the sale of the recycling materials. To do this your town must process the recycling materials into bales for shipment. This means that your town owns and operates its own transfer station or contracts with another town or company to perform this service. There are costs to do this work. Compare those costs and revenues with the costs and revenues under a single stream program.

Pay As You Throw

Your town could see an increase in recycling tonnage with single stream recycling. Implementing a Pay-As-You-Throw (PAYT) system could also increase recycling rates. Single stream recycling offers a positive incentive for residents to recycle more or just plain recycle, by eliminating the sorting. PAYT works well as a disincentive – residents pay for trash disposal while recycling is free. The two systems complement each other and municipalities that have done both have seen much greater increases in recycling tonnages

Here are some additional questions to ask:

- Should a PAYT system be implemented at the same time?
- Is there political support to get past the initial hurdle of resident apprehension?
- Can PAYT revenue be used to replace lost recycling revenue to support the services offered?
- How can curbside collection or transfer station drop-off of PAYT trash work with a single stream recycling system?

HCPC would be happy to assist you in assessing if zero-sort recycling could work in your community.

SOLID WASTE WORKSHOP SCHEDULED FOR MAY 26, 2011 FROM 4:00 PM – 6:00 PM, ELLSWORTH CITY HALL AUDITORIUM (upper level)

This workshop will address the future of the PERC solid waste incinerator and discuss options that Hancock County towns can take. The speakers include:

- 1. *Greg Louder, Executive Director, Municipal Review Committee* topic: the future of the PERC facilities and options being explored by the PERC charter communities**
- 2. *Victor Horton, Maine Resource Recovery Association* topic: recycling options for towns and other waste diversion strategies;**
- 3. *Sam Morris, Maine State Planning Office, Solid Waste Division,* topic: the state perspective on solid waste management.**

TRANSPORTATION NEWS

by Jim Fisher

Livable Communities Umbrella proposed for Sidewalks, Bikeways, Byways and Environmental Health

The state of Maine, apparently leading the nation, created a Quality Communities umbrella to include a number of transportation programs including bicycle pedestrian investments, community gateways, byways and other transportation enhancements. Towns including Ellsworth, Bar Harbor, Sullivan, Southwest Harbor, Surry and Blue Hill have participated in these programs. Several more are waiting to hear whether last year's proposals may be funded.

In a recent policy document and proposed budget, the Obama administration proposes to streamline the Federal Highway Administration, the primary

source for federal transportation assistance in Maine, into six large categories. The Livable Communities category very closely reflects Maine's Quality Communities. The proposed Livable Communities program would include initiatives to add sidewalks, bikeways and other infrastructure for village and city centers.

FHWA notes, "The new Livability Program addresses the critical need to enhance the relationship between transportation and land use while protecting the environment and promoting multi-modal choices in communities, from rural to urban, across the country."

Eligible activities will include planning, design, and/or development of:

- Activities for safety and education of pedestrians and bicyclists and to encourage walking and bicycling;
- Activities that maintain and improve scenic byways;
- Projects that improve access to jobs and services in rural areas;
- Projects that improve air quality and reduce emissions, including greenhouse gases;
- Projects that relieve traffic congestion;
- Projects that improve the human environment through community preservation, environmental mitigation, control of outdoor advertising, and historic and archeological preservation, planning, and research; and
- Funding for full-time coordinators to facilitate livability related transportation activities.

HCPC has assisted a number of towns to make their villages more livable, including creating community gateways, parks, rest areas and scenic turnouts, safe routes to schools, bicycle and pedestrian plans and other transportation enhancements. A close alignment of Maine and National organization of quality – livable communities program will help us to compete for scarce financial resources to these ends. If your community would like to work on initiatives that contribute to local health, transportation choices and economic vitality, we are ready to help.

The Last Two Miles

The 85 mile Down East Sunrise Trail was formally inaugurated in October, 2010 and has proven its worth this long and snowy winter. Snowmobiles and cross country skiers have been out every day, using the trail and local services such as gas stations and restaurants. This trail is to become one of the longest off-road segments of the East Coast Greenway, a route that connects Key West, Florida to Calais, Maine. This summer will be our first "season" with the trail open. We maintain www.sunrisetrail.org with all kinds of information for visitors and community supporters.

Construction of the 1.5 mile Ellsworth Trail began in February of this year. This paved trail will run parallel to the railroad tracks from the intersection of Route 179 and Route 3 in Ellsworth Falls to the intersection of Birch Avenue with Spring Street. From this point Spring Street will serve as the bicycle-pedestrian connection to Main Street. This trail will be paved and available for walking, biking, inline skating, skiing and other non-motorized uses. Construction should be complete by autumn. Information is available at www.cityofellsworthme.org.

The last two miles are critical. Transportation planning in general and trail planning in particular are all about making connections. We have a spectacular long distance trail starting in Washington Junction in Hancock and what will be a tremendously popular local trail in Ellsworth separated by a two mile gap. This section joins many others along the East Coast Greenway in a "Close the Gap" campaign. HCPC will be working with the City of Ellsworth, MaineDOT, Downeast Heritage Rail and the Sunrise Trail Coalition to close this gap and connect Ellsworth to the bigger network. As the gap closes, we are working on creating facilities for trail, rail and transit users in Ellsworth. Learn more about the STAR Center concept at www.hcpcme.org/ellsworth. Help us to identify and close other gaps in the transportation network. How about a safe route from your

neighborhood to the primary school, or a trail that provides residents a healthy place to exercise? Contact HCPC with your ideas.

GIS NEWS

by Jim Fisher

Elevations and Valuations

HCPC recently upgraded our mapping capacity with a more advanced version of geographic information software. Several projects have motivated this upgrade, two of which merit a quick mention. Many towns in Hancock County are wrestling with increasing applications for cell towers and wind generating towers and the impact these would have on livability and future development prospects. To be effective towers need to have good line of site or good prospects for wind. Elevation maps, a sort of colored topographic image, have provided local committees with a quick impression of likely



places for future tower applications. These maps are only a starting point, but they are quick to prepare, and in many cases we've already created them.

Our second initiative is collaboration with the University of Maine - Machias to complete the process of digitizing all of the tax maps in Hancock County. This is a challenging process, made possible by the faculty and students at the University with some logistical support from the Hancock County Planning Commission. The process is nearing completion, though we're learning that some town tax maps apparently do not share a common border with other towns. Some towns would appear to be in other towns. These discrepancies point to one of many challenges when towns work in isolation. As differences are resolved, we are preparing digital maps for interested towns. These maps give each town the ability to view tax maps along with environmental features like wetlands, topography and zoning, zoom in on specific locations of interest, label the parcels, and print maps for specific proposals or development reviews. Contact HCPC for your digital maps.

Hancock County Planning Commission is a partner with local and county government to: protect our heritage and resources, plan for the future and promote a sound economy for the people of Hancock County.

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