

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
123<sup>rd</sup> LEGISLATURE  
SECOND REGULAR SESSION

Third Annual Report

of the

COMMUNITY PRESERVATION  
ADVISORY COMMITTEE

April 2008

**Members:**

Sen. Elizabeth Schneider (Chair)  
Rep. Theodore Koffman (Chair)  
Sen. Dana Dow  
Gail Chase, Unity  
David Holt, Town Manager, Norway  
Peter Merrill, Maine State Housing Authority  
Sue Inches, Deputy Director, State Planning Office

Rep. Chris Rector  
Rep. Robert Duchesne  
Rep. James Schatz  
Ed Suslovic, ABR, CRB, CRS, GRI  
Jenn Burns, Maine Audubon Society  
Earle Shettleworth, Jr., Maine  
Historic Preservation

**Staff:**

Linda LaPlante, State Planning Office  
John Weber, State Planning Office  
State Planning Office  
184 State Street  
38 State House Station  
Augusta, Maine 04333  
(207) 287-4818

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STATE OF MAINE  
EXECUTIVE DEPARTMENT  
MAINE STATE PLANNING OFFICE  
38 STATE HOUSE STATION  
AUGUSTA, ME 04333

JOHN ELIAS BALDACCI  
GOVERNOR

MARTHA E. FREEMAN  
DIRECTOR

April 4, 2008

Senator John L. Martin, Chair  
Representative Theodore S. Koffman, Chair  
Members, Joint Standing Committee on Natural Resources  
100 State House Station  
Augusta, ME 04333-0100

Dear Senator Martin and Representative Koffman,

The State Planning Office is pleased to provide copies of the report titled, *Third Annual Report of the Community Preservation Advisory Committee*, in accordance with 30-A MRSA §4350 of the Growth Management Act.

We are most willing to present the report to you and happy to answer any questions that you may have.

Sincerely,

  
Martha E. Freeman  
Director

cc: Members, Community Preservation Advisory Committee



## Community Preservation Advisory Committee

# Highlights 2007

## I. Recent Changes at the Community Preservation Advisory Committee (CPAC)

*CPAC offers its sincere appreciation and thanks to the following people, who left us in 2007:*  
Sen. Scott Cowger (CPAC Co-Chair 2004-2006)

*CPAC welcomed the following new faces in 2007:*  
Sen. Elizabeth Schneider (Senate Chair until 12/31/08)  
John Weber (CPAC staff)

## II. Major Issues, 2007:

### 1. Building Codes

P.L. 2007 Resolve 46, Directing the Development of a Building Code and Building Rehabilitation Code Implementation Plan, was passed in response to a recognition by the 123rd Maine State Legislature that more work needs to be done to achieve uniformity of building related codes across the state. The stated purpose is to “develop a plan for the implementation of an efficient, effective and appropriately scaled process for building codes administration in Maine.” To achieve this purpose, three objectives will be accomplished:

1. Improve the efficiency of building codes administration in Maine to reduce the cost of designing and permitting projects for new construction and the rehabilitation of existing and historic buildings.
2. Establish effective building codes administration to achieve improved public safety and accessibility, quality construction and reduced financial risk for lenders, consumers and insurers.
3. Identify a process of building codes administration that provides the appropriate scale and scope of building regulation for Maine.

The Resolve 46 Committee is made up of representatives from the State Planning Office, Office of the State Fire Marshal, the Department of Economic and Community Development, the Department of Professional and Financial Regulation, and the Maine Historic Preservation Commission. The consensus of the Resolve 46 Committee was that the development of the implementation plan for the Maine Model Building Code and International Existing Building Code must consider how all of the existing building related codes are administered so that the implementation of these two codes can be integrated into a

code administration system that functions in the long term best interest of the people of Maine. Resolve 46 Recommendations are due to the BRED Committee January 15, 2008.

## **2. Historic Tax Credit**

LD 262—"An Act to Amend the Credit for Rehabilitation of Historic Properties" was discussed several times throughout the year. The bill would increase the tax credit to an amount equal to 25% of the expenditures incurred after December 31, 1999 for a certified historic structure. This bill also allows a historic rehabilitation tax credit for a taxpayer who did not receive a credit under the United States Internal Revenue Code of 25% of expenditures if the taxpayer expended from \$50,000 to \$250,000 on a certified historic structure. This bill makes the credit fully refundable and authorizes the State Historic Preservation Officer to establish a schedule of fees for the historic rehabilitation tax credit program, the proceeds of which will go to administering the program. While there was much agreement about the bill's benefits to Maine and its economy, and the Taxation Committee voted unanimous "ought to pass", the bill's fiscal note was an issue. The bill was carried over so that sponsors could find a funding mechanism for the fiscal note.

## **3. Growth Management Act Rule**

The 2005 evaluation of the Growth Management program included a recommendation to make revisions to the Comprehensive Plan Review Criteria Rule (the regulations governing the State's review of local comprehensive plans for consistency with the Growth Management Act) in order to streamline the review process and enhance the ability of the State Planning Office to provide technical assistance to communities in the planning process. The new rule provides clearer guidance as to what constitutes consistency; streamlines the criteria for achieving consistency; and expedites the State's review process in order to increase the number of local plans that are consistent and reduce the time it takes to bring a plan to consistency. The new rule is also intended to coordinate with Department of Transportation rules pursuant to the Sensible Transportation Policy Act (which are in the rule-making process).

Legislation implementing certain statutory changes (LD 1803) was enacted in conjunction with the proposed rule. The statutory changes included: enabling an appeals process for consistency decisions; setting a date when a finding of consistency for a comprehensive plan expires; shortening the timeline for state reviews of comprehensive plans; exempting towns with no village or densely settled area from having to designate a growth area; clarifying that certain land use ordinances may be adopted without a consistent comprehensive plan; and clarifying that the portion of a rate of growth, zoning or impact fee ordinance not directly related to an inconsistency identified during a comprehensive plan review by the State Planning Office remains in effect after the inconsistency is identified.

## **4. Governor's Council on Quality of Place**

Following the 2006 publication of the Brookings Institute study of Maine titled "Charting Maine's Future: An Action Plan for Promoting Sustainable Prosperity and Quality Places", Governor Baldacci created a Council on Quality of Place (Council) on March 13, 2007. The Governor charged the Council with four main tasks:

1. Examine the State's public programs, decision-making processes, investment practices, private market incentives, institutional capacities, and research efforts to assess their readiness to maintain Maine's distinctiveness as a desirable place to live, to work, to raise a family, and to build a useful and productive life;

2. Develop a recommended action plan or plans for protecting, investing in, and enhancing Maine's distinctive quality of place, including creative ways and means to finance such plans;
3. Propose structures, institutions, processes, programs, activities, and investments that will ensure the long-term protection and enhancement of Maine's quality places; and
4. Propose coordination with and among the actions of existing and recommended public, private, and nonprofit "quality of place" efforts in Maine.

The Council met throughout the spring, summer, and fall and held discussions on various topics, with input from many stakeholders. In December 2007, the Council submitted its first report, summarizing its findings and recommendations, to the Governor. This report contained recommendations in three main topic areas: regional landscape conservation, community and downtown revitalization, and asset-based development strategies. For more information on the Council, including a copy of the report, see the Council's web page at: <http://www.maine.gov/spo/qualityofplace/index.php>

### III. Bills Taken Up by CPAC:

Bill	Description	Status
LD 336	Reauthorizes CPAC through 2012	Passed
LD 1803	Implements Growth Management Act evaluation recommendations	Passed
LD 677	Implements Building Codes	Resolve 46 adopted in its stead
Resolve 46	Directs the Development of a Building Code and Building Rehabilitation Code Implementation Plan.	Passed, recommendations due to BRED Committee January 15, 2008.
LD 1810	Informed Growth Act which requires an economic impact study for all proposed retail stores 75,000 square feet and over.	Passed
LD 262	Historic tax credit	Held over until January, 2008



#### **IV. Other Topics Addressed in 2007:**

- An update of school siting procedures and progress (*presentation from Jim Rier4, Department of Education, December 2007*)
- Maine Housing tax increment financing program (*presentation from Peter Merrill, December 2007*)
- Contractor licensing (*CPAC discussion, several meetings*)
- Overview of Maine Rural Partners “Harness the Wealth” program, which enables and encourages landowners to leave a percentage of their estate to their community or community projects (*presentation from Mary Ann Hayes, Maine Rural Partners, January 2007*)

#### **V. Upcoming Issues for CPAC Consideration:**

- Building Codes and Historic Tax Credit Legislation
- Gateway 1 Project and Regional Land Use Planning
- Affordable Housing
- Downtown Reinvestment and Rehabilitation
- Community Preservation Bond
- Coordination of Site Law, Informed Growth Act, STPA and Growth Management
- Tools Beyond Zoning: Design ordinances, Mitigation fees, Landowner conservation incentives etc.
- Smart Growth and Climate Change
- Asset Based Development Strategies: Regional Planning Based on Economic Assets
- Trail Planning and Development

## Appendix A: Authorizing Legislation

An Act to Establish the Community Preservation Advisory Committee

PUBLIC LAWS OF MAINE  
Second Regular Session of the 120th

CHAPTER 648  
H.P. 1565 - L.D. 2070

An Act to Establish the Community Preservation Advisory Committee

Be it enacted by the People of the State of Maine as follows:

Sec. 2. 30-A MRSA c. 187, sub-c. II, art. 3-B is enacted to read:

Article 3-B

COMMUNITY PRESERVATION ADVISORY COMMITTEE

§4350. Community Preservation Advisory Committee

1. Establishment; purpose. The Community Preservation Advisory Committee, established by Title 5, section 12004-I, subsection 24-F and referred to in this article as the "committee," shall advise the Governor, the Legislature, the office and other pertinent state agencies and entities on matters relating to community preservation.

2. Membership; appointment. The committee consists of the following 13 members:

- A. The Director of the State Planning Office or the director's designee;
- B. Two members from the Senate appointed by the President of the Senate, at least one belonging to the political party holding the largest number of seats in the Senate and at least one belonging to the political party holding the 2nd largest number of seats in the Senate. When making the appointments, the President of the Senate shall give preference to members from the joint standing committees of the Legislature having jurisdiction over natural resources matters, state and local government matters, education matters, transportation matters, taxation matters and business and economic development matters. When making the appointments, the President of the Senate also shall consider appointing members who represent a rural community, a fast-growing community or a service center community;
- C. Four members from the House of Representatives appointed by the Speaker of the House, at least one belonging to the political party holding the largest number of seats in the House of Representatives and at least one belonging to the political party holding the 2nd largest number of seats in the House of Representatives. When making the appointments, the Speaker of the House shall give preference to members from the joint standing committees of the Legislature having jurisdiction over natural resources matters, state and local government matters, education matters, transportation matters, taxation matters and business and economic development matters. When making the appointments, the Speaker of the House also shall consider

- appointing a member who represents a rural community, a member who represents a fast-growing community and a member who represents a service center community;
- D. One member representing a statewide housing authority, appointed by the President of the Senate;
  - E. One member representing an environmental organization, appointed by the Speaker of the House;
  - F. Two members representing municipal interests, one who represents rural municipal interests and one who represents service center municipal interests, appointed by the President of the Senate;
  - G. One member representing the real estate or development industry, appointed by the Speaker of the House; and
  - H. The Director of the Maine Historic Preservation Commission or the director's designee.

3. Terms. Except for Legislators, who serve terms coincident with their legislative terms, all members are appointed for 3-year terms. A vacancy must be filled by the same appointing authority that made the original appointment. Appointed members may not serve more than 2 terms. Members may continue to serve until their replacements are designated.

4. Compensation. Legislative members are entitled to receive the legislative per diem, as defined in Title 3, section 2, and to reimbursement for expenses according to Title 5, section 12004-I, subsection 24-F. Public members not otherwise compensated by their employers or other entities that they represent are entitled to reimbursement of necessary expenses incurred for their attendance at authorized meetings of the committee.

5. Quorum; actions. A quorum is a majority of the members of the committee. An affirmative vote of the majority of the members present at a meeting is required for any action. Action may not be considered unless a quorum is present.

6. Chairs. The first appointed Senate member is the Senate chair of the committee and the first appointed House of Representatives member is the House chair of the committee.

7. Meetings. The committee may not meet more than 4 times per year.

8. Drafting assistance. The office shall provide the committee with staff assistance. Upon the approval of the Legislative Council, the Office of Policy and Legal Analysis may provide drafting assistance with the preparation of recommended legislation as requested by the chairs of the committee. The drafting assistance provided by the Office of Policy and Legal Analysis may be provided only when the Legislature is not in session.

9. Duties. The committee shall:

- A. Submit an annual report of the committee's activities to the Legislature and the joint standing committee of the Legislature having jurisdiction over natural resources matters by December 1st of each year;
- B. Provide assessment, advice and recommendations on emerging policy concerns or on adjustments to existing programs related to growth management;
- C. Review and make recommendations on the State's fiscal, transportation, education funding, school-siting and land use policies that affect service center communities, rural lands and development sprawl;
- D. Review tax policy as it affects land use decisions;

- E. Provide assessment, advice and recommendations on the role of state office buildings in the continued viability of downtown service centers within the State and the impact of growth-related capital investments and location decisions by the State;
- F. Provide assessment, advice and recommendations on the coordination of state and local urban transportation planning and streamlining of local and state land use rules and regulations to permit and encourage efficient neighborhood and economic development in growth areas; and
- G. Review and make recommendations regarding options for establishing a state transferable development rights bank.

§4350-A. Repeal date

This article is repealed June 1, 2008.

Sec. 3. Funding for public members not otherwise reimbursed for service on committee. The Maine State Housing Authority, with existing budgeted resources, shall provide compensation for public members of the Community Preservation Advisory Committee who are not otherwise reimbursed for their service on the committee.

Effective July 25, 2002, unless otherwise indicated.

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PUBLIC LAWS OF MAINE

First Regular Session of the 123rd Legislature

CHAPTER 458

S.P. 108 - L.D. 336

An Act To Reauthorize the Community Preservation Advisory Committee

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 30-A MRSA §4350-A, as enacted by PL 2001, c. 648, §2, is amended to read:

§ 4350-A. Repeal date

This article is repealed June 1, ~~2008~~2012.

Effective September 20, 2007

## Appendix B: CPAC Membership

### COMMUNITY PRESERVATION ADVISORY COMMITTEE

P.L. 2001, Ch. 648

As Of December 2007

#### Appointment(s) by the President

Sen. Elizabeth Schneider                      Chair  
55 Bennoch Road  
Orono, ME 04473  
(207)-866-7359

Sen. Dana Dow  
30 Kalers Pond Road  
Waldoboro, ME 04572

Gail Chase  
Unity, ME 04988

Representing Rural Municipal Interests

David Holt  
Town Manager – Norway  
19 Danforth Street  
Norway, ME 04268-1333

Representing Service Center Municipal Interests

Peter Merrill  
Maine State Housing Authority  
353 Water Street  
Augusta, ME 04330  
(207)-626-4600

Representing a Statewide Housing Authority

#### Appointment(s) by the Speaker

Rep. Theodore Koffman                      Chair  
8 Mill Brook Road  
Bar Harbor, ME. 04609  
(207)-288-8930

Rep. Chris Rector  
30 Knox Street  
Thomaston, ME 04861  
(207)-354-6571

Rep. Robert Duchesne  
478 Beechwood Avenue  
Old Town, ME 04468  
(207)-827-3782

Rep. James Schatz  
P.O. Box 437  
Blue Hill, ME 04614  
(207) 374-5204

Ed Suslovic, ABR, CRB, CRS, GRI  
Ed Suslovic Real Estate  
P.O. Box 8493  
Portland, ME 04104-8493

Representing the Real Estate Industry

Jenn Burns  
Maine Audubon Society  
20 Gilsland Farm Road  
Falmouth, ME 04105-5009

Representing a Statewide Environmental Organization

**Director, Maine Historic Preservation Commission**

Earle G. Shettleworth, Jr.  
Historic Preservation  
65 State House Station  
Augusta, Maine 04333  
(207)-289-2132

Representing the Maine Historic Preservation Commission

**Director, State Planning Office**

Sue Inches, Deputy Director  
State Planning Office  
38 State House Station  
Augusta, ME 04333  
(207)-287-1491

Representing the State Planning Office

Staff: John Weber, SPO, 287-4818

2. Membership; appointment. The committee consists of the following 13 members:

- A. The Director of the State Planning Office or the director's designee;
- B. Two members from the Senate appointed by the President of the Senate, at least one belonging to the political party holding the largest number of seats in the Senate and at least one belonging to the political party holding the 2nd largest number of seats in the Senate. When making the appointments, the President of the Senate shall give preference to members from the joint standing committees of the Legislature having jurisdiction over natural resources matters, state and local government matters, education matters, transportation matters, taxation matters and business and economic development matters. When making the appointments, the President of the Senate also shall consider appointing members who represent a rural community, a fast-growing community or a service center community;
- C. Four members from the House of Representatives appointed by the Speaker of the House, at least one belonging to the political party holding the largest number of seats in the House of Representatives and at least one belonging to the political party holding the 2nd largest number of seats in the House of Representatives. When making the appointments, the Speaker of the House shall give preference to members from the joint standing committees of the Legislature having jurisdiction over natural resources matters, state and local government matters, education matters, transportation matters, taxation matters and business and economic development matters. When making the appointments, the Speaker of the House also shall consider appointing a member who represents a rural community, a member who represents a fast-growing community and a member who represents a service center community;
- D. One member representing a statewide housing authority, appointed by the President of the Senate;
- E. One member representing an environmental organization, appointed by the Speaker of the House;
- F. Two members representing municipal interests, one who represents rural municipal interests and one who represents service center municipal interests, appointed by the President of the Senate;
- G. One member representing the real estate or development industry, appointed by the Speaker of the House; and
- H. The Director of the Maine Historic Preservation Commission or the director's designee.

3. Terms. Except for Legislators, who serve terms coincident with their legislative terms, all members are appointed for 3-year terms. A vacancy must be filled by the same appointing authority that made the original appointment. Appointed members may not serve more than 2 terms. Members may continue to serve until their replacements are designated.

## Appendix C: Agendas

### Community Preservation Advisory Committee

January 9, 2007

1:00pm to 4:00pm

Room 214, Cross Office Building, Augusta

#### Agenda

1. Opening Remarks – Rep. Ted Koffman, Chair
2. Review draft language on bills
3. Mary Ann Hayes, Maine Rural Partners—presentation on wealth transfer for rural communities (3:30pm)
4. John DeVecchio, Fire Marshalls staff and PFR staff---more on harmonizing the building codes, John is trying to line up other agency staff to co-present with him
5. Schedule next meeting
6. Adjourn

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### Community Preservation Advisory Committee

June 18, 2007

12:30pm to 2:30pm

Room 600, Cross Office Building, Augusta

#### Agenda

1. Opening Remarks – Rep. Ted Koffman, Chair
2. Update on Quality of Place Council – Dick Barringer, Chair of Q of P
3. Legislative Update:
  - LD 336 Reauthorizes CPAC
  - LD 1803 and Growth Management Rule (implements GM recommendations)
  - LD 677 Implements Building Codes
  - LD 1810 Informed Growth Act
  - LD 262 Historic Tax Credit
  - Other?
4. CPAC Summer and Fall agenda

**Community Preservation Advisory Committee**

October 23, 2007

1-4 PM

Natural Resources Committee Room

1. Introductions
  2. Historic Tax Credit
  3. Building Codes
  4. Quality of Place Council
  5. Other Business
- 

**Community Preservation Advisory Committee**

December 6, 2007

1:00pm to 4:00pm

Natural Resources Committee Room, Augusta

Agenda

1. Building Codes, including elevator, Maine human rights act, etc.  
(Sue Inches, Amy Cole-Ives)
2. Affordable Housing (Peter Merrill)
3. School Siting (Jim Rier coming at 2:45 PM)
4. Quality of Place recommendations (Sue Inches)
5. Historic Tax Credit Update (Ted)
6. Other bills—energy code, contractor licensing, others?



