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**STATE OF MAINE
121ST LEGISLATURE
SECOND REGULAR SESSION**

**Second Annual Report
of the
COMMUNITY PRESERVATION
ADVISORY COMMITTEE**

January 2004

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Acknowledgements

The Community Preservation Advisory Committee (CPAC) would like to thank its members who served during its first year, who have since stepped down or left the Legislature. Representative Susan Hawes, of Standish, participated in the Committee through its first meetings. Mr. Jim Brown, the Director of Economic and Community Development of the City of Presque Isle, was a strong representative of the interests of rural municipalities. Mr. Jeffrey Sosnaud represented environmental interests, and brought a welcome perspective to the Committee. Beth Della Valle of the Maine State Planning Office brought the voice of planning experience and a vision of the future to every discussion. Finally, Liz Rettenmaier, Senior Planner at the State Planning Office, staffed the Committee from its inception through this report and very ably managed the process and kept us moving forward.

Executive Summary

The Community Preservation Advisory Committee (CPAC) was established in 2002 and charged with advising the Governor, the Legislature, state agencies, and entities on matters relating to community preservation. During its second year, the Committee was co-chaired by Senator Lynn Bromley and Representative Ted Koffman. The Committee members include six legislators, five representatives of key interests, the Director of the State Planning Office and the Commissioner of the Maine Historic Preservation Commission, or their designees. The Community Preservation Advisory Committee is authorized for a five-year lifecycle, through June 2008.

During its second year, the Committee met four times, and held a strategic planning retreat. In the First Session of the 121st Legislature, two legislative mandates were assigned to CPAC with reports due concurrent with this report. Chapter 73, "Resolve, Directing the CPAC to Study Issues Pertaining to Barriers to Affordable Housing in the State" directed a comprehensive study to identify regulatory or other barriers to the creation of affordable housing in the State. For each barrier identified, the committee was directed to make recommendations on ways to reduce that barrier and to provide incentives for the creation of affordable housing. Chapter 34, "Resolve, Directing the CPAC to Study the State Planning Office's Review of Municipal Comprehensive Plans and Growth Management Programs" directed a study of the State Planning Office's review of municipal comprehensive plans, growth management programs and local ordinances for consistency with state goals. The study was directed to include a review of the rules governing the State Planning Office's review and the time frames for the State Planning Office's review.

The Committee's first meeting in 2003 was a "Regionalism Forum", bringing over 100 people together for a day-long examination of the trends and future of regionalism in Maine. During its Fall meetings, the members were presented with additional information from several state agencies on current activities and initiatives impacting community livability and preservation, as well as proposals for future committee consideration. Faced with a broad legislative mandate and the array of interests of the members, the Committee held a full-day retreat to reflect on its key interests and priorities in the short- and long-term.

By the end of their final meeting of the year, the Committee agreed to forward eight legislative proposals to the 121st Legislature (Second Session) permitted under the two Study Resolves, and recommends a number of administrative actions. The legislative proposals focused on overcoming barriers to affordable housing and providing additional streamlining and clarity within the Planning and Land Use Regulation Act:

1. Encouraging local development of affordable housing:
 - a. Affordable housing should be made exempt from any local rate of growth ("growth cap") ordinances (Title 30-A, §4360);
 - b. The law governing the municipal use of impact fees (Chapter 30-A, §4354) should be extended to apply to utility districts as well in order to prevent utility districts from charging fees for plans that are already built;
 - c. Draft a "sense of the state" resolve urging veterans' organizations to create a nonprofit housing corporation to develop assisted living housing for veterans at Togus campus and other locations around Maine.
2. Amend the Planning and Land Use Regulation Act to increase efficiency and timeliness of SPO plan reviews:
 - a. Amend the Act to clarify who and how consistency of plans and ordinances is determined with respect to state investments and compliance with local land use ordinances (Title 30-A, §4352).
 - b. Adjust wording throughout the statute to clarify that the term "under this subchapter" means consistency with the procedures, goals and guidelines of the subchapter (an alternative to defining the term).

- c. Provide a sunset provision on consistency findings if a plan is not amended or updated (Title 30-A, §4347-A).
- d. Clarify that floodplain ordinances that meet the state model are exempt from consistency requirements under the Transition; Savings Clause (Title 30-A, §4314).
- e. Reaffirm that financial aid contracts are allowed to extend beyond a single fiscal year. (This is recommended as emergency legislation to allow for rollover of grants to municipalities that will otherwise expire on June 30th).

At their strategic planning retreat, the Committee focused on a goal for their activities and engagement in the myriad topics related to community preservation:

To preserve and support the uniqueness of our communities by encouraging coordinated state policies that achieve orderly development and discourage sprawl.

This theme is evident in the eleven priority areas that the Committee has set as its priorities in 2004:

- *Address Impacts of State Tax Policy on Community Preservation.* The Committee intends to focus on the impact of tax policy on Service Centers and land use, and examine how a "sprawl tax" or "smart growth tax credit" might be incorporated into the state's tax reform discussions.
- *Coordinate State Fiscal Planning / Create a 5-year Statewide Capital Improvement Program.* State smart growth and community preservation policies for the last several years have included a focus on "getting the State's house in order." That effort should continue with concentrated effort to develop a coordinated state fiscal planning tool and five-year statewide capital improvement program (CIP).
- *Integrate Regulatory Policies.* It is clear that state education, transportation, economic development and environmental policies have impacts on tax policies, land use and investment decisions, and community character. The CPAC wishes to draw attention to state regulatory policies that may have unintended consequences, and serve as a group to hear and address identified regulatory and policy conflicts.
- *Address Local / Regional Efficiencies through Effective Regionalism.* The Committee has placed a high priority on the creation of a regional strategy that: reduces redundancy, increases efficiency, and increases quality (not regionalism for the sake of regionalism); ties into community preservation; and recognizes that communities extend beyond municipal borders.
- *Address Growing Affordable Housing Gap.* The lack of availability of safe, affordable housing for all of Maine's residents, including both workforce housing and low- and moderate-income housing, is a social, economic, environmental, and land use issue. No single municipality can adequately address the issue of affordability in Maine's housing markets; it is a regional problem that must be solved on a regional scale. The Committee will forward three statutory recommendations to the Business, Research, and Economic Development Committee and continue to move forward on administrative suggestions to overcome barriers to affordable housing.
- *Shift Paradigm of School Construction and Rehabilitation: School Administration, Siting, and Construction.* The Committee is committed to working closely with the Department and Board of Education and the Legislature's Joint Standing Committee on Education, to pursue the administrative and legislative changes necessary to ensure the

implementation of policies and funding practices that support, rather than undermine, the Committee's community preservation goals.

- *Support the Integration of Transportation Investments and Land Use.* As with education, the Committee is committed to working closely with the Department of Transportation, the State Planning Office, the Legislature's Joint Standing Committee on Transportation and the Natural Resources Committee, to pursue the administrative and legislative changes necessary to ensure the implementation of policies and funding practices that support the Committee's community preservation goals.
- *Implement Sustained Campaign to Increase Awareness of Community Preservation and Smart Growth.* The Committee strongly supports and encourages the State Planning Office and the network of Maine's nonprofit organizations and interest groups that are engaged in education and outreach around community preservation and smart growth topics.
- *Support Maine's Downtowns and "Great American Neighborhoods."* Retaining the integrity and spirit of Maine's downtowns and the supporting concepts behind "Great America Neighborhoods" (GAN) tie together many of the aspects of community preservation this Committee strongly supports.
- *Create Meaningful Strategies to Protect Rural Industries and Landscapes.* The Committee recognizes that the protection of Maine's rural industries and landscapes is a critical component in ensuring that local economies and community spirits remain healthy and intact. Among other suggestions, the Committee supports a significant bond package to continue and expand the Land for Maine's Future program. The Committee also recognizes the importance of – and need for – additional tools to assist in natural resource planning and protection.
- *Improve SPO / Municipal Relationships.* The Committee recognizes that tight budgets and perceptions of increased unfunded mandates contribute to a strained relationship between municipalities and the State Planning Office, which is charged with implementing the programs and policies of the Planning and Land Use Regulation Act. The Committee will forward several legislative recommendations to the Joint Standing Committee on Natural Resources in response to Chapter 34, "Resolve, Directing the CPAC to Study the State Planning Office's Review of Municipal Comprehensive Plans and Growth Management Programs." The Committee also supports several administrative and regulatory changes by the State Planning Office.

Introduction

The Community Preservation Advisory Committee (CPAC) was established by the 120th Legislature in PL 2001, Chapter 648 (Title 30-A, §4350). The Committee is charged with advising the Governor, the Legislature, state agencies, and other entities on matters relating to community preservation. Specifically, the Committee is directed to:

- Provide assessment, advice and recommendations on emerging policy concerns or on adjustments to existing programs related to growth management;
- 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;
- Review tax policy as it affects land use decisions;
- 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;
- 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
- Review and make recommendations regarding options for establishing a state transferable development rights bank.

In addition to this mandate, in 2003 two Study Resolves directed the Committee to address barriers to affordable housing and State Planning Office reviews of comprehensive plans for consistency with the Planning and Land Use Regulation Act.

This year, the Committee was co-chaired by Senator Lynn Bromley and Representative Ted Koffman. The Senate President and Speaker of the House appointed eleven members to the Committee, including six legislators and five representatives of key interests. The Director of the State Planning Office and the Commissioner of the Maine Historic Preservation Commission (or their designees) are also designated members of the Committee. Members retained their positions on the committee from the first year except for Barbara Charry, who was appointed by the Speaker of the House as the representative of the environmental community, and Peter Merrill, who was appointed by the Senate President as the representative of a statewide housing authority. Senator Tom Sawyer joined the Committee to fill an empty Senate position; the Speaker appointed Representative Peter Mills after he was elected to the House to replace Representative Susan Hawes, who was not reelected. David Keeley joined the committee as the designee of the Director of the State Planning Office. The Committee currently has one vacant position, the representative of rural municipal interests (appointed by the President of the Senate). A complete list of current committee members is included as Appendix B.

The Committee met four times in 2003 since their First Annual Report: March 21, September 24, November 5, and December 17. In addition, the Committee held a full-day planning retreat on December 2. Subcommittees met through the fall and early winter to address the mandate of the two study resolves. Committee meeting summaries are included as Appendix C, and the work plan developed as a result of the planning retreat is included as Appendix E.

In addition to the 13 members of the Community Preservation Advisory Committee, 166 individuals are currently included in an email distribution list of "interested parties," receiving regular updates on meetings and Committee activities. Several state agencies and public groups have been closely involved in the CPAC's activities, and regular participation in Committee dialogue by the Department of Transportation, Department of Economic and Community Development, Department of Education, Maine State Housing Authority, Bureau of General Services, Maine Revenue Services, and State Planning Office has encouraged collaboration

across agencies and with the Committee. The participation of the Maine Chamber of Commerce, Maine Municipal Association, Maine Real Estate and Development Association, Maine Association of Realtors, GrowSmart Maine, Friends of Midcoast Maine, and Maine Audubon Society has brought additional perspective to the Committee.

To facilitate communication, a website developed for the Committee is hosted on the State Planning Office's website, <http://www.maine.gov/spo/landuse/tfandcomm/cpac>. The website includes meeting agendas, meeting summaries, electronic copies of many of the handouts, as well as additional background information on priority topics.

The Community Preservation Advisory Committee is charged with submitting an annual report of the Committee's activities to the Legislature and the joint standing committee of the Legislature having jurisdiction over natural resource matters by December 1st of each year. The Committee requested and received authorization from the Legislative Council to extend the reporting date to February 2, 2003. This annual report also includes the reports to the legislature directed by the two Legislative Study Resolves.

Overview of Topics Addressed in 2003

2003 Legislative Priorities

Based on the priorities included in the First Annual Report, the Committee put forward eight legislative proposals in the First Session of the 121st Legislature. Three of these bills passed and were signed into law:

- An Act to Enhance Integration of Transportation and Land Use Planning, Chapter 22, directs the Department of Transportation to adopt "major substantive" rules that establish a planning process link between the Sensible Transportation Policy Act and Maine's Planning and Land Use Regulation Act and promote investment incentives for communities that adopt and implement land use plans that "minimize over-reliance" on the state highway network. The Department of Transportation is beginning to develop these rules, in close conjunction with the State Planning Office.
- An Act To Establish a Municipal Affordable Housing Development District Tax Increment Financing Program (TIF), Chapter 426, establishes a separate sub-chapter of Tax Increment Financing law to create a municipal authority to subsidize affordable housing development through the TIF mechanism. The Maine State Housing Authority will be developing rules to administer this program.
- An Act to Clarify the Use of Municipal Rate-of-growth Ordinances, Chapter 127, mandates that a municipality that enacts a rate of growth ordinance shall review and update the ordinance at least every 3 years to determine whether the rate of growth ordinance is still necessary and how the rate of growth ordinance may be adjusted to meet current conditions. It also creates permissive language for municipalities to set different limits on the number of building or development permits that are permitted in designated rural areas and designated growth areas.

In addition, the Committee continues to support the carried-over LD 1551, An Act To License Home Building and Improvement Contractors, and other bills which address the Committee's interest in a clear statewide building and rehabilitation code in the 2nd Session of the 121st Legislature. Although they did not originate in the CPAC, these bills align closely with the mandate and priorities of the Committee.

Regionalism

With the issues surrounding regionalism in Maine, a priority for CPAC, a day-long Regionalism Forum was organized in March. With the financial support of the Maine State Housing Authority, the Maine Association of Realtors, the Maine Real Estate and Development Association, the Maine Homebuilders & Remodelers Association, the Maine Chamber of Commerce, the Maine Sheriffs' Association, and the Maine County Commissioners' Association, more than 100 state, regional, and local officials, agency representatives, and residents from across the state gathered at the Augusta Civic Center for presentations and discussions on Regionalism as it is – and could be – in the state.

The Regionalism Forum focused its discussion by topic, with presentations on:

- Education policy – Senator John Martin and Jim Rier of the Maine Board of Education
- Current regional structures in Maine
 - Interlocal Agreements and Consolidated Activities – Jim Brown, Presque Isle
 - County Government – Senator Dennis Damon
 - Regional Planning Commissions – Ken Young, Kennebec Valley Council of Governments
- Incentives and New Visions for Governance and Intergovernmental Coordination – Evan Richert, University of Southern Maine Muskie School
- Regional Open Space Planning – Paul Schumacher, Southern Maine Regional Planning Commission

- Regionalism and Housing Markets – Mike Finnegan, Maine State Housing Authority
- Multi-municipal Economic Development – Mark Scarano, Piscataquis County Economic Development Commission
- Integrating Regional Transportation Policies and Programs – Kathy Fuller, Maine Department of Transportation
- New Examples of Efficiencies and Intergovernmental Coordination
 - Multi-municipal Efforts and Planning – John Edgecomb, Town Manager of Mapleton, Chapman, and Castle Hill and Bill Stiles, Cumberland Town Councilor
 - Maine Municipal Association's 2% of Revenue Sharing Proposal – Geoff Herman, Maine Municipal Association

The day brought many interesting ideas forward, and the Committee continues to discuss and support ideas such as Regional Service Districts, consolidated education administration, addressing affordability of housing on a regional scale, and planning transportation and other key infrastructure across municipal boundaries. This session was videotaped, and copies of the tapes are available as part of the Smart Growth Toolbox at eleven Regional Councils throughout the state or through the State Planning Office.

The charge given to the Committee requires members to focus on interconnected issues of community health, land use, economic development, tax policy, rural preservation, and natural resource conservation. To help inform the members of the Committee on current state policies and initiatives, experts from several state agencies and interested organizations were invited to come forward to present their concerns and observations to the Committee during their second and third meetings of the year. This served as a springboard for the Committee retreat and fourth meetings.

Other Priority Areas Discussed at the 2nd and 3rd Meetings

The work of the Committee on the study resolves on barriers to affordable housing State Planning Office reviews of comprehensive plans will be discussed in the two "Study Mandate" Sections of the report. Other priority areas addressed by the Committee in 2003 include:

The Challenges of Building "Great American Neighborhoods" in Maine

Although there are several historic villages and towns in Maine that can be described as Great American Neighborhoods, developers have been challenged by local ordinances and NIMBYism ("Not In My BackYard") to be able to recreate this pattern of development. Elliott Chamberlain of Chamberlain Construction and Rich Cromwell of The Modular Advantage presented their experiences before the Committee during their September meeting.

Rich Cromwell is a homebuilder in Brunswick. He is in the process of building *Topsham Crossing*, a somewhat modified Great American Neighborhood. It is "somewhat modified" because the local planning board would not consider his original proposals, so he is building according to the maximum density and without mixed use allowed under the current zoning. Elliott Chamberlain is an owner of Chamberlain Construction and ALT Development with his brother. The company is trying, thusfar unsuccessfully, to develop a Great American Neighborhood (GAN) in Scarborough. They have been working on the Scarborough project since 2000, Recently efforts to settle the dispute with the town to allow a modified version of the project to go forward have stalled..

CPAC members noted there may be a gap in state policy if a town can adopt a comprehensive plan, have found it consistent with the Planning and Land Use Regulation Act by the State Planning Office, and then not follow through on adopting ordinances to implement that plan. Under current state statute, if a town is updating their ordinances to reflect their comprehensive plan, developers (or others) have no means to seek redress

in the courts until a project is proposed and is denied by a community (creating "standing" in the courts), after the investment of significant time and resources. The State Planning Office (SPO) is not an enforcement agency, and cannot act to ensure that a town adopts ordinances that implement its plan.

Parties opposed to Great American Neighborhood developments often focus on the number of school children the project would bring. Both developers found that local officials and residents dismissed or did not believe the expert reports of the minimal (or positive) impact the projects would have on education capacity.

There is no distinction in Maine Law between local legislative and administrative actions. Some states differentiate the two types of actions, allowing legislative actions, but not administrative actions, to be challenged by the public through citizen initiated referenda. If there was that distinction in Maine Law, the adoption of zoning district change could be challenged with a referendum, but the administrative decision to approve a contract zone probably would not..

Committee members and the two developers agreed that developers do not necessarily need additional incentives to support development of Great American Neighborhoods. Incentives should be directed toward the towns, not the developers, to address concerns regarding school and transportation impacts. Even so, encouragement for these projects from State agencies needs to be done carefully to avoid the perception of the State forcing a project on a municipality.

In addition, there is little case law about land use issues in Maine, relative to other states. In part, this is because development pressure isn't high enough; developers are typically small developers; and their pockets are not deep enough to absorb the risks and costs. In the legal field, very few attorneys specialize in land use law in Maine. If we are going to look to the courts to decide cases on day-to-day decisions, we will drive up the cost of development in Maine, because it will become very difficult for the private sector to produce a product for a price that people in Maine can afford.

Progress and News on a Statewide Building Code

Two bills addressing a statewide building code were folded into LD 1025 and carried over to the 2nd Session. There have been various efforts to develop a statewide building code for the last 30 years or so. Working with a broad set of stakeholders over six months, a committee has developed a consensus set of recommendations. There is a general agreement that before the issue of a rehabilitation ("rehab") code can even be considered, there has to be resolution of whether or not there will be a single building code – the rehab code is a subset of the building code.

A significant factor in the discussions (and disagreements) is, nationally, there are two competing building codes, those of the National Fire Protection Association (NFPA) and those of the International Code Council (ICC). (The ICC is the successor organization to the Building Officials and Code Administrators of America, or BOCA) In Maine, almost all of the municipalities that have adopted a code use the BOCA code, although the State fire marshal's office uses the NFPA fire safety code.

The consensus of the group exists only if all the pieces of this recommendations package are in place. There is consensus for using the ICC codes – the International Residential Code (IRC) and International Building Code (IBC). IBC covers everything except one and two family construction; IRC covers one- and two-family dwellings. Both use traditional standards.

This group has not been considering contractor licensing, only the choice of codes and issues around implementation. However, the consensus recommendations of the group are based on the assumption that contractor licensing is in place for one- and two-family dwellings.

The consensus recommendation on the residential code is bifurcated. It assumes that if the state adopts licensing and provides training and certification to IRC, then:

- (a) All one- and two-family buildings must be built to this code and the state must provide inspection – and therefore that it would be mandatory for all towns and not amendable; or
- (b) If state licensing only includes training and licensing, but not state inspection, then the municipalities maintain authority – the code would be voluntary in terms of adoption; communities can amend it (although there is a split opinion on what 'amendable' encompasses); and enforcement of the code would be a local matter.

The IBC recommendation isn't tied to licensing. The current recommendation is that the IBC code be fully voluntary and amendable by municipalities. Although voluntary, this would define the family of code, establish a state code model, and the education and training could start to bring everyone along.

The committee is drafting a report that will be submitted to the Business, Research, and Economic Development Committee. There will probably be a day of committee work sessions addressing the two bills related to building codes, as well as rehab code issues and plumbing code issues (if there is time).

School Siting Policies, Sprawl, and Regionalization

Since the Department of Education's last presentation to the Committee in early 2003, there have been several changes:

- The State Board's siting process uses a more comprehensive approach to considering and approving site selection;
- A new annual report is being submitted to the Legislature (Natural Resources and Education Committees) detailing which projects have been approved in the last year.
 - Since this report was first drafted, the Department has started gathering additional information on transportation, percent of children who are bussed, etc.
 - Local referendum approval rates are a strong indicator of the quality of the process – 70-80% approval would have been unheard of before the revised process of site selection. Before, about 15% of the projects that had been fully approved by the Board, were rejected by local voters.

Over the last couple of years, the Department of Education has been faced with new challenges – declining enrollments, for example. The school siting process requires the Department to look regionally, not just within a town, which leads to lots of discussions about consolidation.

The Department has worked to clarify the process. There is a step that includes a regional study to look at long-term viability. The State Planning Office, Bureau of General Services, and Department of Education weigh in relatively early in the process regarding site location – in a town's downtown, growth area, etc.

Investing in schools within Service Centers is both a financial and siting challenge. Siting schools in an urban setting, on a small site, without parking, large recreational spaces, etc., will continue to be a challenge. Safety concerns remain the top priority for the

Department. Valuation within the larger service centers significantly reduces the state contribution. Significant investments in suburban schools continue, creating additional draws away from Service Centers.

Building a school that meets educational requirements, *No Child Left Behind*, demands of technology, safety and security, etc. has changed school design, and it has only gotten more expensive. Durability and building better schools is hard and expensive, but it's a commitment that the Department has made.

CPAC remains strongly engaged and interested in issues surrounding school siting and its roles in influencing community preservation; this will continue to be a key topic for the Committee in the future.

Location of State Buildings in Downtowns and Service Centers

The Bureau of General Services (BGS) is charged with ensuring that state-purchased or leased space is located in downtowns and service centers. The Bureau has been very successful in meeting this mandate over the past year.

- In Portland, the Bureau of Motor Vehicles is moving into a renovated historic structure in a downtown area;
- In Augusta, the State has a 15-year lease at the Key Plaza; using it as swing space for agencies that are having other spaces renovated, updated, or built;
- In Augusta, BGS will be freeing up space in the Stone Buildings for potential renovation, demolition, and redevelopment;
- In downtown Bangor, BGS has extended the lease on Oak Street for the Department of Labor.

BGS does not overlook a space because it does not have the necessary parking. It is in law that the parking component has to be compatible with the service. There are provisions for access to parking for those that need it on-site, most of the parking is within walking distance. BGS hasn't yet found this to be a limitation. In Winthrop, DOT created additional parking to make sure that everyone was accommodated.

CPAC will continue to look to the Bureau of General Services to report their success and challenges in siting state office facilities and other construction in downtowns and service centers.

Rule-Making Update: Transportation and Land Use Coordination

The 121st Legislature also passed "An Act to Enhance Integration of Transportation and Land Use Planning" (Chapter 22), a bill originally proposed through CPAC. The law calls for the Maine Department of Transportation (MDOT) to adopt a rule that establishes linkage between the planning processes in the Sensible Transportation Policy Act (STPA) and the Planning and Land Use Regulation Act (PLURA). The bill also called for a series of incentives that reward communities for doing good planning. There is a MDOT internal working committee that includes a representative from the State Planning Office's Land Use Team working on this.

Among the areas being discussed for inclusion in either the rule or amendments to the STPA are:

- (1) A more clearly defined role for municipalities and regional councils in the STPA
- (2) When MDOT makes its transportation investment decisions, it has to consider local comprehensive plans. There is no similar directive to municipalities that when they are developing comprehensive plans that they have to consider state investment planning; and

- (3) Filling in the holes that involve municipalities and what they should address in transportation chapters of a comprehensive plan.

MDOT hopes that, along with these rules, they can create a grant program that could augment SPO's grants, particularly targeted to transportation within the comprehensive plan. The Department also hopes to provide some best practices or performance measures to give towns something to aim for. MDOT already uses a tool to create partnerships with municipalities – memoranda of agreement or understanding (MOA or MOU). MDOT thinks there may be a possibility for towns to enter into a MOU with state agencies when they have a plan that is consistent to support the implementation of the plan.

The State Planning Office has been working more closely with MDOT and other state agencies since December 2002 to streamline and improve the information provided to towns. With this working group, state agencies have been interested in integrating with the regional and municipal level. As a result, collaboratively the agencies have produced a new resource package that includes data and technical assistance materials.

This working group is also updating the 1992 comprehensive planning manual with agency input on all their areas. The State Planning Office is working with the agencies to clarify their mission, policies, and mandates and identify how they mesh with a community in a comprehensive plan process – surfacing the issues at the beginning rather than the end. We're working to build the linkages early, start the conversations at the beginning of the process rather than at the end.

The State Planning Office is also revising its rules, both substantive and procedural. Greater accountability is needed for towns that adopt comprehensive plans, the regional issue must be addressed. The approach the state has taken, a ground-up, rather than top-down, approach takes time. The most successful model in the country is Oregon and it took them 25 years to show success with a very well funded, top-down program. If you look at the other programs, such as Maryland, they're used fiscal tools very effectively, but they're not a model development pattern that Maine would want to emulate. They're experiencing different pressures; but also they're doing fiscal management without coordinating state land use planning. If Maine can give its efforts additional time and adjust its shortcomings, our program is likely to be far more successful in both addressing the fiscal issues and in supporting a more desirable character and land use pattern.

CPAC Retreat and Work Planning

At the November meeting, the Committee recognized that it had a great number of topical interests, and was not reaching conclusions or actions on many of them. Areas of strong interest mentioned by the Committee include:

- Affordable housing / workforce housing
- Comprehensive planning
- Smart growth agenda
- School interests
- Focus on service centers
- Downtown revitalization
- Building codes/rehab codes
- Primacy of transportation
 - Transit oriented development
 - Highway protection
 - Service roads
- Open space and preservation
- Economic development

- Controlling cost of government
- Inadvertent effect of single-purpose policies, and why we're going in the direction that we are...
- Regionalism

It was decided that the Committee would have a full-day retreat in early December to address and prioritize the issues given to them by legislative mandate, as well as the broad scope of interests held by members of the Committee. A work plan was developed at that retreat, with timelines for action set from 2004 until the end of the Committee's legislative lifespan in 2008. Additional information on the short-term (2004) and long-term (2005-2008) priorities are listed in later sections of the report.

Study Mandate: Addressing Barriers to Affordable Housing

This section constitutes the recommendations of the Community Preservation Advisory Committee to the Joint Standing Committee on Business, Research, and Economic Development, as authorized by Resolve Chapter 73, which stated that that the Joint Standing Committee on Business, Research and Economic Development may report out a bill during the Second Regular Session of the 121st Legislature on issues pertaining to barriers to affordable housing.

Specifically, the Committee recommends the following three legislative changes, with statutory language included in Appendix D below:

1. Affordable housing should be made exempt from any local rate of growth ("growth cap") ordinances (Title 30-A, §4360);
2. The law governing the municipal use of impact fees (Chapter 30-A, §4354) should be extended to apply to utility districts as well in order to prevent utility districts from charging fees for plans that are already built;
3. Draft a "sense of the state" resolve urging veterans' organizations to create a nonprofit housing corporation to develop assisted living housing for veterans at Togus campus and other locations around Maine.

Additional administrative and regulatory changes, as well as education and outreach, are also included in the recommendations below. In addition to the recommendations in the subcommittee report, the CPAC would like to have more information from and discussion about the Land for Maine's Future (LMF) program before crafting specific recommendations regarding LMF funding and linkages.

Background

In many regions in Maine, housing affordable to a diversity of households – i.e.: new families; long-time residents (sons, daughters and grandchildren); elders and disabled persons on fixed incomes; recent graduates and other young workers; those who serve and protect our communities, such as nurses, police, and teachers; people with special needs; and even professionals – has become very difficult to find. This is true both for householders eager to become homeowners and those needing/desiring to rent. These households represent a broad diversity of economic conditions – from those whose only source of income is Social Security, minimum wage or part-time employment, to professionals earning \$55,000 – \$60,000 annually. While the specific consequences vary for the broad spectrum of impacted households – some leave the state, some are dislocated, some live a long time with parents, some become homeless – the issue is a concern for all Mainers. It is something Maine must address for the stability and well-being of our residents, and as a fundamental component of our future economic strength and attractiveness.

Recognizing the need to address the serious lack of affordable housing, and wanting to seek information and input from a variety of informants, the Legislature passed a study order (L.D. 472, Chapter 73 of the Resolves of the Regular First Session of the 121st Legislature). That order (included in Appendix A) asked the Community Preservation Advisory Committee to "consult with stakeholders" and conduct "a comprehensive study to identify regulatory or other barriers to the creation of affordable housing in the state" and to provide "recommendations on ways to reduce that barrier and to provide incentives for the creation of affordable housing."

The Community Preservation Advisory Committee formed a subcommittee composed of the various stakeholder groups (also in Appendix A) to study the issue in detail. The subcommittee met five times between September and December of 2003. The subcommittee reported its recommendations to the full Committee at their December meeting. The recommendations accepted by the Committee are included in this report. The original report of the subcommittee can be found on the CPAC website.

Importance of Housing for Maine's Future

Housing has always been an important issue for the quality of life of Maine people. In recent years the issue has taken on additional importance. First, the shortage of affordable housing has become an obstacle to economic development and job creation; solving the housing crisis is now part and parcel of our economic development strategy. Secondly, the provision of affordable housing in Maine's built-up areas and service centers is essential to the environmental goal of preserving rural countryside and habitats.

Housing relates to economic development in multiple ways. Housing is needed for young people who want to stay in Maine after they finish school. Maine is last in the nation in building apartments. The shortage of apartments is directly related to the inability of young people to find a place to stay.

Housing is needed for workers in growing areas. Greater Portland had an increase of 23,000 jobs during the 1990s, and only 3,000 new apartments. This is unsustainable. Hospitals along the coast will not be able to find nurses. Teachers and policemen and firemen won't be able to afford to live in the communities where they work. Maine won't be able to continue to grow jobs unless it starts to grow its housing stock.

Affordable housing is also directly related to the environmental problem of sprawl. The reason many Maine people move to the countryside is that they cannot find affordable land or housing near their place of work. By moving to the countryside households increase their driving, increase air pollution, and disrupt rural habitat. The challenge of finding affordable in-town housing is an environmental as well as an economic issue.

The overall challenge is great. The Maine State Housing Authority estimates that there are 14,000 low-income Maine families who cannot afford their housing, and nearly 1,000 low-income elderly in the same situation.

This is the statewide reality. At the local level, however, the dynamic can be different. People can see housing as a cost, as a burden, and not as an economic asset to the area. People can also see no-growth policies that limit in-town housing as good environmental practice. Bridging the gap between statewide economic and environmental reality, and local perception, was one of the major goals of this study mandate.

Barriers

As instructed by the study resolve, the subcommittee spent several meetings identifying barriers. The key thematic areas include:

- 1) Lack of funds and simple programs for affordable housing
 - a) Federal government has withdrawn funds
 - b) State HOME fund sometimes is funded, sometimes is not
 - c) Complexity of "mix and match" funding system scares away developers
- 2) Local attitudes towards housing development
 - a) Don't just dislike affordable housing – but dislike all family housing
 - b) Fear of property tax increases (especially from new children in the schools)

- c) Dislike of traffic, loss of open space
 - d) Ignorance of benefits of housing
 - e) Attitudes are reflected in restrictive ordinances (see below)
- 3) Restrictive local regulatory practices that increase housing costs
- a) Large lot sizes
 - b) Long road frontages
 - c) Parking requirements
 - d) Impact fees
 - e) Growth caps
 - f) Prohibitions on accessory housing
 - g) High fees for permits
 - h) Added requirements for landscaping, trees
 - i) Rehabilitation and historic code requirements
 - j) Referendums to overturn Planning Board decisions
 - k) Moratoria
 - l) Unpredictable and lengthy review processes
- 4) Expensive land and infrastructure in high-growth areas
- 5) Lack of key state support for affordable housing
- a) No capacity-building funds for nonprofits
 - b) No statewide building code
 - c) No enforcement of Comprehensive Planning law
 - d) No model ordinances for affordable housing
 - e) No promotion of regional housing efforts
- 6) High cost of security deposits to tenants
- 7) Difficulty of developing assisted living housing for Maine veterans at Togus

A more complete list of barriers is included in the full report to the CPAC, available online at <http://www.state.me.us/spo/landuse/tfandcomm/cpac/meeting10.php>.

Recommendations

Principles for shaping solutions:

In creating recommendations, the work of the Subcommittee was based on the following principles:

- Prefer incentive-based approaches whenever possible;
- Attach benchmarks to incentives, and if affordable housing goals are not met within identified timelines, adopt stronger state action;
- Prefer strengthening existing laws and programs, such as the housing component of the comprehensive plan, rather than creating new ones; and
- Coordinate use of incentives with geographic areas of highest need for both new construction and rehabilitation.

Recommendations:

- 1) Secure and grow the HOME (Housing Opportunities for Maine) fund by committing future revenues from the Real Estate Transfer Tax.

As the federal government reduces its role in housing – and as housing is increasingly important to Maine’s economic future – state government’s responsibility must correspondingly increase.

The HOME fund is the central resource for the State to achieve its affordable housing goals. The HOME fund has been supported in the past by Real Estate Transfer Tax receipts. This makes total sense: the Real Estate Transfer Tax is like a user tax; it has the same relationship to housing affordability needs as the gas tax has to highway needs. When real estate activity is high, housing prices go up, and affordability problems worsen. That is also the time when Transfer Tax revenues go up in support of affordability programs. It is like the gas tax, in which revenues go up when there is more driving, and therefore more wear on the roads.

The problem with the current Real Estate Transfer Tax is twofold:

- It isn't enough; only 45% of revenues in a normal year support housing programs, and this is not enough to keep up with demand; and
- It is erratic; when the state budget gets tight – as happened last year – these funds are withdrawn and used for other purposes.

The alternatives to the Real Estate Transfer Tax are neither as cost-effective for the taxpayer nor as reliable. Maine could create a state tax credit program (as New Hampshire has done), but this would cost the Maine taxpayer much more per unit over time. Alternative taxes could be considered, such as Real Estate Transfer Tax surcharge on second homes, but these would be new taxes at a time when the Governor has pledged to hold the line.

Therefore, the CPAC believes it is appropriate that the Legislature re-commit itself to steady funding of the HOME fund from the Real Estate Transfer Tax. To accomplish this, we recommend the following:

- That the level of funding commitment be the equivalent of 90% of Real Estate Transfer Tax revenues (with 10% remaining with counties);
- That the new approach be phased in over the next two biennia. In 2005-6, the HOME fund should receive 45% of Real Estate Transfer Tax revenues; and in 2007-8, 90% of the Real Estate Transfer Tax revenues;
- That if the 90% figure is not achieved from 2007-8 forward, that the Legislature makes up the difference with bond appropriations; and
- That – in support of other recommendations – if the 90% revenue figure is reached, then up to 10% of state HOME funds be provided to municipalities for infrastructure and other public costs incurred in providing affordable housing – attached to specific housing projects.

2) Reward municipalities that promote affordable housing.

The production of new affordable housing¹ meets pressing state goals for economic development and quality of life. Therefore, it is only logical that state government should use its resources to reward communities that cooperate in the creation of such housing.

How could this be done? By:

- Increasing Municipal Revenue Sharing payments to high-need communities that provide affordable housing. Depending on the outcome of Legislative proposals to increase the amount of funding available to towns through Revenue Sharing, or the evolution of the Revenue Sharing II, this proposal deserves further consideration in the future. The Committee recommends a study commission be convened by CPAC to develop this concept and present its results to CPAC for consideration. The commission should

¹ As defined by Chapter 100 of the Maine State Planning Office's Rules, "Affordable Housing Definition Rule."

- consider the concept of rewarding such communities with an increase in education funding as it relates to affordable housing and/or increased density;
- Providing bonus points to such communities on competitive applications for Community Development Block Grants, water and sewer grants, discretionary transportation grants, Land for Maine's Future grants, and Municipal Investment Trust Fund grants.

3) Monitor and publicize performance in the creation of affordable housing.

How is Maine doing in providing affordable housing? If new programs are adopted, how will we know whether they work or not? Currently, the Maine State Housing Authority and Maine State Planning Office publish data on housing need and demand on a regular basis; and the Maine Economic Growth Council monitors an annual benchmark on overall housing costs in Maine.

However, these measures are not brought together, analyzed, and integrated into a coherent series of performance indicators that show whether we are resolving the unmet need for affordable housing in Maine. Such indicators must be sensitive to what is going on in different regions and markets of the state, and for different populations by age and income, and by different types of housing needs.

To promote this end, we recommend:

- That the Maine State Housing Authority send a letter to every municipality every year providing current information on local housing needs; the mailing of this letter should be accompanied by a press conference summarizing statewide needs;
- That CPAC work with the Maine State Housing Authority and the Maine State Planning Office to assist the Maine Economic Growth Council in creating a more meaningful series of benchmarks for performance on affordable housing, including rental housing;
- That Regional Planning Commissions and Councils of Governments be asked by the State Planning Office to develop benchmarks for affordable housing performance for housing market areas within their jurisdictions, and work with municipalities to develop cooperative plans to address those identified housing needs.

4) Strengthen the effectiveness of existing planning laws.

- a) Tighten comprehensive planning laws. The current state comprehensive planning law has fine goals. One is "to encourage and promote affordable, decent housing opportunities for all Maine citizens." The Maine State Planning Office rule for reviewing how municipal plans achieve the goal sets forth a sound objective as well. It calls for the city or town to "seek to achieve that 10%, or whatever greater percentage the inventory and analysis identifies as necessary, for the new housing units constructed in the municipality in the 5 years after plan adoption will be affordable housing."

However, our subcommittee has heard that municipalities do not take the comprehensive planning law seriously. The law has no teeth. Identifying specific solutions to this problem is beyond the mandate, resources, and available time of our subcommittee. We do believe, however, that any solution must have two essential elements:

- Promoting regional solutions. Housing – and for that matter transportation and economic development and sprawl as well – are all issues that require municipal cooperation within a region to address. One community may be reluctant to provide affordable housing if it feels that neighboring communities are not doing their fair share. The current comprehensive planning law concentrates too much on planning at the municipal level, and does not give enough attention to creating regional solutions.

- Putting teeth in the current law. Here are some suggestions:
 - The Maine State Planning Office rules on the review of comprehensive plans regarding affordable housing should be strengthened to read “assure that” instead of “seek to achieve” (Comprehensive Plan Review Criteria Rule, Chapter 202);
 - Affordable housing should be made exempt from any local rate of growth (“growth cap”) ordinances (Title 30-A, §4360). Sixteen York County communities have such caps; they are of questionable effectiveness for general planning purposes, and present a positive obstacle to creating new affordable housing. The Committee will be forwarding this legislative suggestion to the Business, Research, and Economic Development Committee in the 2nd Session;
 - The law governing the municipal use of impact fees (Chapter 30-A, §4354) should be extended to apply to utility districts as well – in order to prevent utility districts from charging fees for plans that are already built. The Committee will be forwarding this legislative suggestion to the Business, Research, and Economic Development Committee in the 2nd Session;
- b) Impact Fees. When reasonable, and implemented in accordance with current state law, impact fees have only a limited negative effect on the production of affordable housing, and serve the positive end of assisting towns in financing infrastructure improvements. However, if the first recommendation listed above is implemented [allowing 10% of state HOME funds to be awarded to municipalities to fund infrastructure and other public costs], it may eliminate the need for impact fees on affordable housing projects, or the statute allowing this 10% may prohibit any municipalities receiving these funds from charging impact fees.
- c) Moratoria. While moratoria on the issuance of permits was once a problem in Maine, at this time moratoria are not often used. Subcommittee members knew of no moratoria currently, or recently, being imposed.

5) Link land conservation and affordable housing.

Habitat for Maine’s people is as important as habitat for Maine’s wildlife. In fact, the two are connected. Unless we provide affordable housing for people within existing job centers and built-up areas, people will be forced to move out into the countryside in search of inexpensive land. These are two prongs of the same issue.

To make the connection stronger, we recommend that:

- Mechanisms are created that make transfer of development rights (TDR) programs effective in Maine. Transfer of development rights (TDR) is potentially an important technique for addressing rural conservation and in-town affordable housing. The transfer consists of a financial transaction in which an in-town developer buys the rights to develop a rural parcel of land – and applies these rights to developing the in-town parcel in a more intense manner. This approach allows rural land to be conserved, in-town land to be developed to its maximum value, while at the same time fairly compensating both rural and urban land-owners. This avoids the problems of simply zoning for dense in-town development and rural preservation – which, when done in the absence of any compensating mechanisms, takes value away from rural owners and gives a windfall to in-town landowners.

This tool has been on the books for years in Maine, but it has never (or rarely) been used. The problem is that there is not enough volume of activity within a given Maine town to create a market for TDR credits to be bought and sold. The Maine State Planning Office is studying the issue, and will make recommendations soon. We support

the effective use of TDRs, but only in circumstances where doing so does not simply serve as a license for the sender community to avert creating and sustaining affordable housing in their town.

- Money for land conservation – be it Land and Water Conservation Funds, Maine Outdoor Heritage funds, or Land for Maine's Future funds – should not be provided to a municipality that is not developing, rehabilitating or sustaining needed affordable housing. Exceptions could be made for situations of special and immediate need, but the general rule should be clear.
- In response to proposed collaborative land conservation and affordable housing projects, continue/expand the use of Land for Maine's Future's resources to include purchasing land for public access in town or regional parks and open/green space in support of such projects. To ensure this, language in the Land for Maine's Future bond bill under consideration during the second session of the 121st Legislature should allow for disbursement of bond proceeds for acquisitions of land for local and regional purposes, to be made directly to cooperating entities, as defined in Title 5, Chapter 353.A related concern is that Land for Maine's Future Requests for Proposals only occur once a year and funding for these purposes would need a more flexible cycle and process.

Additional Recommendations.

The Barriers to Affordable Housing Subcommittee also recommends that:

- a) The Legislature implement the recommendations of the Building Code Working Group (<http://www.state.me.us/mpuc/2004legislation/Codes-BCWG%20final%20report.htm>) to create a state building code, and then a state rehabilitation code. This will simplify regulations for developers working in several towns. The code should incorporate best practices for energy-efficiencies in housing development and rehabilitation. The Community Preservation Advisory Committee continues to actively support passage of LD 1551, An Act To License Home Building and Improvement Contractors, and other bills which address the Committee's interest in a clear statewide building and rehabilitation code in the 2nd Session of the 121st Legislature.
- b) The Legislature pass a "sense of the state" resolve urging veterans' organizations to create a nonprofit housing corporation to develop assisted living housing for veterans at the Togus campus and other locations around Maine. There are 150,000 veterans in Maine, many getting older, and in need of assisted living arrangements. The Togus hospital campus is an ideal place for such housing, and there are other possible locations around the state as well. However, there are special federal regulations governing the use and leasing of federal land, and the developer of such housing must be conversant with such rules. That is why a special corporation is needed. The Committee will be forwarding this legislative suggestion to the Business, Research, and Economic Development Committee in the 2nd Session.
- c) The Legislature consider a law stating that public buildings and land² that are effectively abandoned and are not in use, and are within towns experiencing a rapid rate of population growth, should be offered for bid to developers to create affordable housing. Abandoned schools and jails should not sit empty and unused for years while there is a shortage of housing and buildable land in the area. Existing state law requires that state property be offered to the Maine State Housing Authority before disposal; additional

² Public buildings and land would include those built or acquired using state, federal or other public funds and whether in the form of a purchase, lease, grant, loan, loan guarantee, credit, tax credit or other financial assistance.

research needs to be done to determine the details of this proposal. The Committee will consider this suggestion as it formulates its legislative proposals for the 122nd Legislature.

- d) The State Planning Office create a pool of funds available to regional councils through a competitive grant process for the purpose of developing regional, inclusionary land use regulations and approaches that support the construction of affordable housing. Participation by municipalities would qualify them for extra bonus points for competitive applications for various state resources [i.e., Land for Maine's Future, Municipal Investment Trust Fund, etc].
- e) The Legislature recast LD 2099 (120th Legislature) or LD 1084 (121st Legislature) in a format like Shoreland Zoning – and allow towns experiencing a rapid rate of population growth a given period of time to identify “affordable housing overlay” zones within the community. Previous bills would have created a state board with the authority to approve an affordable housing development for a community at a higher density and smaller street frontage than the community might have in its local ordinance. This level of state action proved to be unpalatable. The subcommittee suggests a statute that would give towns in towns experiencing a rapid rate of population growth two years to create “affordable housing overlay districts” with lot density and road frontage standards similar to that in the original bills. If the municipalities fail to identify suitable areas within the given period, then the State Planning Office would be given the power to impose appropriate districts (similar to the Shoreland Zoning or mobile homes laws). Additional consideration is needed; a bill to this effect may be proposed in the 122nd Legislature.
- f) State government adopt as a general policy that whenever state or federal action causes affordable housing units to be demolished in an area of high housing demand, that the state or federal program replace the lost units on a one-to-one basis. For example, if the construction of new infrastructure causes 20 units to be torn down in a high housing demand/cost community, then the responsible agency would build into its budget for the infrastructure project funds to replace those 20 units. The replacement activity could be accomplished through a joint endeavor of the Maine State Housing Authority or the Departments of Economic and Community Development and Transportation, or through the Department of Transportation seeking grants from other sources. Currently, the only federal requirement is relocation of the low-income tenants occupying those units, not replacement of the units themselves, which simply serves to further stress the lack of affordable housing available in high housing demand communities.
- g) Prohibit the use of municipal referendums from overturning local planning board decisions that are consistent with local ordinances. In fairness to both the process and the outcomes for the expansion of affordable housing in Maine, decisions made after affordable housing developers have invested time and money in plans that meet local land use requirements and are approved by the local planning board should not be susceptible to being reversed at a later date through the referendum process.
- h) Consider legislating a regional option tax dedicated to the development of affordable housing that is created through a regional planning process. Consistent with the subcommittee's urging of regional solutions for the development of affordable housing, we are recommending that the Legislature consider a regional option tax that could be imposed by communities within a designated region to help fund the planning and development of affordable housing in their region.
- i) CPAC will consider maintaining the Affordable Housing Subcommittee during the coming year in order to refine, advance, and expand solutions for the problems identified.

Study Mandate: Timeliness of State Planning Office Review of Comprehensive Plans

This section constitutes the recommendations of the Community Preservation Advisory Committee to the Joint Standing Committee on Natural Resources, as authorized by Resolve Chapter 34, which stated that the Committee shall submit a report of its findings and recommendations, including any legislation necessary to implement the recommendations, to the Joint Standing Committee on Natural Resources.

Specifically, the Committee recommends the following legislative changes, with statutory language included in Appendix D below:

1. Amend the Act to clarify who and how consistency of plans and ordinances is determined with respect to state investments and compliance with local land use ordinances (Title 30-A, §4352).
2. Adjust wording throughout the statute to clarify that the term "under this subchapter" means consistency with the procedures, goals and guidelines of the subchapter (an alternative to defining the term).
3. Provide a sunset provision on consistency findings if a plan is not amended or updated (Title 30-A, §4347-A).
4. Clarify that floodplain ordinances that meet the state model are exempt from consistency requirements under the Transition; Savings Clause (Title 30-A, §4314).
5. Reaffirm that financial aid contracts are allowed to extend beyond a single fiscal year. This will be recommended as emergency legislation to allow for rollover of grants to municipalities that will otherwise expire on June 30th).

Additional administrative and regulatory changes, as well as technical assistance recommendations, are also included below.

Background

In response to the legislative study mandate, Resolve Chapter 34, that the Community Preservation Advisory Committee study the Executive Department, State Planning Office's review of municipal comprehensive plans, growth management programs and local ordinances for consistency with state goals, the CPAC formed a subcommittee consisting of three of its legislative members, as well as invited representatives from the State Planning Office, development community, planning community (local and regional), environmental community, and municipalities. A copy of the study resolve and a full list of members is included in Appendix A.

The resolve included a mandate that the study must include a review of the rules governing the State Planning Office's review and the time frames for the State Planning Office's review. Accordingly, the subcommittee explored the State Planning Office's:

- Trends in grant awards, requests for review, and staff turn-over;
- Recent changes in review management procedures and performance;
- Recent changes in communications with towns and opportunities to improve them;
- Plans to update submission and criteria review rules and supporting technical assistance materials;
- Need to improve coordination among state agencies in response to recent legislative adjustments to the Planning and Land Use Regulation Act; and
- Need to modify and clarify statutes in the Act to reduce administrative demand on staff time.

Findings

- 1) Prominent focus on smart growth and on state investment policy has increased demands on the State Planning Office's Land Use Team, taking resources from traditional tasks like reviewing comprehensive plans.
- 2) In addition, staff turnover on the Land Use Team over recent years has been significant, creating vacancies and considerable time spent in hiring and training new employees.
- 3) The one-time appropriation of \$1.8 million dollars significantly increased the number of planning assistance and implementation grants the Office awarded, creating a temporary increase in the number of plans being submitted for review. Many of these planning projects have been completed or are nearing completion and the number of new contracts over the next two years will decline given cuts in the grant program associated with managing state's budget shortfalls.
- 4) New administrative systems have been put in place and improvements in turn-around time on reviews are being made. Since March 2003, the average time to respond to requests for reviews has been reduced by approximately 70%.
- 5) Significant "retooling" of the program through rulemaking is underway, including creating the Comprehensive Plan Update Handbook, partnering with state agencies to revamp data packages, updating and revising the submission and review criteria rules to clarify expectations and simplify the administrative burden of managing the review process, and updating the Comprehensive Planning Manual.
- 6) Coordination with state agencies in directing state growth-related capital investments, siting office buildings and new schools, and awarding Municipal Investment Trust Funds and other discretionary grants has created additional demands on Team time, particularly given the lack of clarity in the Planning and Land Use Regulation Act. Finalization of geographic information system data layers, as well as standardization of requirements for grant submissions and responses to solicitations to site state buildings, would provide substantial time savings for staff.
- 7) There will always be a certain amount of tension between state and local interests in meeting the goals of the Planning and Land Use Regulation Act.
- 8) While improved efficiencies in the system can be made through the improvements and adjustments noted above, additional resources may be needed to address all problems in the system if it is to function at optimum level of expectation.

Recommendations

Administrative Systems (FY 04)

- 1) Modify administrative system to provide a receipt to municipalities when responses to findings of inconsistency are submitted for further review. Document requests from municipalities to adjust or slow down the review process and adjust the schedule of dates accordingly.
- 2) Post a list of plans currently under review on the web page, including date of receipt of complete submissions, due date for comments, due date for findings, and date of receipt of responses to findings of inconsistency. (Note: This has already been done for plans entering the review process, and can be found online at <http://www.maine.gov/spo/landuse/plans/>.)

- 3) Encourage the Governor to direct state agencies to work together to prepare standardized submission requirements in response to solicitations for state investments (certification of date of adoption of current plans, consistency, and sections of local programs that support implementation of comprehensive plans).

Amend Statute (FY 04)

- 1) Amend the Act to:
 - a) Clarify who and how consistency of plans and ordinances is determined with respect to state investments and compliance with local land use ordinances (Title 30-A, §4352).
 - b) Adjust wording throughout the statute to clarify that the term "under this subchapter" means consistency with the procedures, goals and guidelines of the in the subchapter (an alternative to defining the term).
 - c) Provide a sunset provision on consistency findings if a plan is not amended or updated.
 - d) Clarify that floodplain ordinances that meet the state model are exempt from consistency requirements under the §4314 (Transition; Savings clause).
 - e) Reaffirm that financial aid contracts are allowed to extend beyond a single fiscal year.

Rulemaking (FY 04/FY05)

- 1) Establish clear expectations and submission and review criteria in the new rules, acknowledging the tension between a one size fits all approach and the need for flexibility that reflects variation among communities; allow for modification based on changes in knowledge; and articulate the expectation of a raised bar for plan updates.
- 2) Prepare rules to guide the financial assistance program.

Technical Assistance (FY 05)

- 1) If grants are awarded to more than one town in a region, consider holding a single start-up meeting rather than one for each town. Alternatively, consider holding 1-2 regional start up meetings per year and invite members of select boards, councils, planning boards, and community and economic development officials in addition to comprehensive planning committee members.
- 2) Strive to meet with towns that are preparing comprehensive plans at least three times, with at least one meeting occurring after they have completed their draft plan, but before they finalize and submit it for review.
- 3) Review existing outreach materials that address what the law means and the distinction between consistency and acceptance of a plan, prepare new materials, prepare a timeline of expectations. Continue to post educational materials to the web page. Change the focus of staff time from reviews for consistency to implementation of plans, though recognize concerns about the limitation of funding staff resources.
- 4) Make sure that towns are aware of the opportunity for and terms of "exemption" from requirement to designate growth areas. Add specific statements to the annual grant program statement and application forms; include discussion of the issue in start up presentations; and conduct outreach on the subject to the consultant community.
- 5) Continue to reiterate the expectation of a raised bar for plan updates that reflects the iterative process of comprehensive planning and add a similar statement to contracts for financial assistance.

Continuing Discussion (FY05 and 06)

- 1) The Community Preservation Advisory Committee, or a subcommittee, should continue to meet periodically to discuss the broader underlying issues associated with SPO's Community Planning and Investment Program, its staffing, and the Act. These discussions should continue to recognize that there will always be a certain amount of tension between state and local interests in meeting the goals of the Planning and Land Use Regulation Act and that further adjustments in the system envisioned in the Act may be appropriate. The Committee should also monitor resources that are allocated for the Program.

CPAC Priorities for 2004

In setting its priorities for 2004, the Committee has focused on eleven priority areas that can be grouped into: (1) state policies that cut across disciplines and state agencies; (2) policies that “belong” to a single state agency, but which have significant impacts across disciplines; (3) areas of administrative and fiscal change that support the vision and mandate of the Committee.

Address Impacts of State Tax Policy on Community Preservation

The importance of state tax policy in influencing individuals’ and communities’ investment decisions cannot be minimized. The Committee believes that a comprehensive approach to tax reform is the best opportunity for creating real change in the State. The Committee intends to focus on the impact of tax policy on Service Centers and land use, and examine how a “sprawl tax” or “smart growth tax credit” might be incorporated into the state’s tax reform discussions. The Committee will invite presentations on tax issues at their next meeting, continue to monitor emerging state legislation and policies, and issue a position paper on tax policy in 2004.

Coordinate State Fiscal Planning / Create a 5-year Statewide Capital Improvement Program

State smart growth and community preservation policies for the last several years have included a focus on “getting the State’s house in order.” That effort should continue with concentrated effort to develop a coordinated state fiscal planning tool and five-year statewide capital improvement program (CIP). To have a greater understanding of the impact of state policy on sprawl, the Committee recommends that the State Planning Office develop a sprawl impact analysis evaluation tool to be used as screen for state policy decisions – a “sprawl note” akin to a “fiscal note.” In 2005 and beyond, the Committee will learn more about how other states are using capital improvement programs and develop legislation to implement a statewide CIP, if necessary.

Integrate Regulatory Policies

Although often charged with clear state (and sometimes federal) mandates, Maine’s state agencies do not implement their policies and programs in a vacuum. It is clear that state education, transportation, economic development and environmental policies have impacts on tax policies, land use and investment decisions, and community character. The CPAC wishes to draw attention to state regulatory policies that may have unintended consequences, and serve as a clearinghouse for addressing identified conflicts. The sprawl impact analysis tool described above could be used to evaluate the impact of proposed state regulations, as well as legislation.

Address Local / Regional Efficiencies through Effective Regionalism

The Committee has as a high priority the creation of a regional strategy that: reduces redundancy, increases efficiency, and increases quality (not regionalism for the sake of regionalism); ties into community preservation; and recognizes that communities extend beyond municipal borders. In 2004, the Committee intends to follow up on the report and recommendations of the Task Force on Intergovernmental Structure (1997) and hold a second Regionalism Forum, following up on the previous information presented at the March 2003 Forum.

Address Growing Affordable Housing Gap

The lack of availability of safe, affordable housing for all of Maine’s residents, including both workforce housing and low- and moderate-income housing, is a social, economic, environmental, and land use issue. No single municipality can adequately address the issue of affordability in Maine’s housing markets; it is a regional problem that must be solved on a regional scale. The

Committee will forward several of the administrative suggestions of the Barriers to Affordable Housing subcommittee, formed under the direction of Study Resolve Chapter 73, "Resolve, Directing the CPAC to Study Issues Pertaining to Barriers to Affordable Housing in the State," to the Maine State Housing Authority, the State Planning Office, and other state agencies. The Resolve also states that the Joint Standing Committee on Business, Research and Economic Development may report out a bill during the Second Regular Session of the 121st Legislature on issues pertaining to barriers to affordable housing, and the Committee intends to forward three legislative recommendations from the Subcommittee for consideration.

In addition, the Committee will continue to support efforts to implement a statewide building code which will include a rehabilitation code, facilitating the redevelopment of buildings and housing in Maine's downtowns and service centers. Developing meaningful incentives for infill development and improving communication between regulators, such as local historic preservation boards, and developers, are among the Committee's administrative priorities for 2004.

Shift Paradigm of School Construction and Rehabilitation: School Administration, Siting, and Construction

The Committee is committed to working closely with the Department and Board of Education, and the Legislature's Joint Standing Committee on Education, to pursue the administrative and legislative changes necessary to ensure the implementation of policies and funding practices that support, rather than undermine, the Committee's community preservation goals. The Committee's educational priorities in 2004 are:

- Increasing funding to the Department of Education's revolving renovation fund;
- Supporting bonding, or another funding mechanism, for school renovation;
- Strengthening incentives for renovation or reconstruction on current school sites;
- Ensuring the consideration of regional capacity when funding new construction or extensive renovation projects;
- Creating a high level of offering in Service Center schools; and
- Encouraging the consolidation of school *administration* by regions.

Support the Integration of Transportation Investments and Land Use

As with education, the Committee is committed to working closely with the Department of Transportation, and the Legislature's Joint Standing Committee on Transportation, to pursue the administrative and legislative changes necessary to ensure the implementation of policies and funding practices that support the Committee's community preservation goals. The Committee's transportation-oriented priorities in 2004 are:

- Fine tune Access Management Program to encourage frontage roads when necessary, addressing when strict access limitations in growth areas are encouraging outward development;
- Ensure linkage of land use planning and transportation investments, perhaps through regional comprehensive plan process: Does the land use planning and implementation protect the state's transportation investments; Does the land use planning and implementation take into account changes in land use pressures after a significant transportation investment is made;
- Revitalize the "Explore Maine" program (<http://www.exploremaine.org>); and
- Institutionalize incentives to create walkable, transit oriented land use (commercial and residential).

Implement Sustained Campaign to Increase Awareness of Community Preservation and Smart Growth

The Committee strongly supports and encourages the State Planning Office and the network of Maine's nonprofit organizations and interest groups that are engaged in education and outreach around community preservation and smart growth topics. To this end, in 2004 the Committee further encourages these groups to:

- Promote community outreach and education that demonstrates what a Great American Neighborhood (GAN) looks like, what a "dense" project is on the ground, and what scale a "large" Maine project is; and
- Implement sustained campaign to increase awareness around issues of smart growth and community preservation (health, lifestyle, transportation, community development).

Support Maine's Downtowns and Great American Neighborhoods

Retaining the integrity and spirit of Maine's downtowns and supporting concepts behind Great American Neighborhoods tie together many of the aspects of community preservation that this Committee strongly supports. Therefore, in 2004, the Committee advocates:

- Creating a permanent home for the Maine Downtown Center;
- Using the lessons learned from recently failed Great American Neighborhood proposals to develop recommendations and support future outreach to developers, municipalities, and residents; and
- Linking state infrastructure investments to communities that encourage and permit GAN development.

Create Meaningful Strategies to Protect Rural Industries and Landscape

The Committee recognizes that the protection of Maine's rural industries and landscapes is a critical component in ensuring that local economies and community spirits remain healthy and intact. In 2004, after inviting testimony from experts on the current status and projected future of Maine's natural resource based industries, the Committee will:

- Support the Department of Agriculture, Food and Rural Resources farmland protection programs;
- Encourage research and reporting on state investments in declining industries and identify and target investment to critical regional infrastructure / elements;
- Encourage new participation in farming and fishing;
- Address Working Waterfronts as a critical piece of Maine's economy / culture; and
- Address aquaculture as a key element of Maine's marine industry.

The Land for Maine's Future program has been critical in preserving over 133,000 acres, acquired entirely from willing sellers, with an additional 46,000 acres protected through conservation easements. The Committee supports a significant bond package to continue and expand the Land for Maine's Future program. It also believes that the bonded funding can be used for investment in the Maine GeoLibrary for a statewide protected area inventory without compromising the primary goals of the program. The Committee also encourages the reexamination of the Land for Maine's Future administrative rules and enabling legislation so that:

- Properties are not being acquired to remove them from the development stream;
- Land for Maine's Future investments are closely related to the growth / rural strategies in an adopted consistent comprehensive plan;
- Beginning with Habitat focus areas are prioritized for acquisition / conservation; and

- Land for Maine's Future eligibility is expanded to address livability issues – open space, parks, trails, access in service centers and growth areas.

The Committee also recognizes the importance of – and need for – additional tools to assist in natural resource planning and protection. To that end, the Committee encourages:

- The creation of incentives for communities to consider Beginning with Habitat (BWH) in creating regional plans;
- The creation of a permanent home and stable funding for the Beginning with Habitat program;
- The further integration of Beginning with Habitat data and information in local and regional planning efforts; and
- The full implementation and deployment of the Maine GeoLibrary; and
- Full consideration of the legislative and administrative recommendations made by the State Planning Office's project examining the role and future of statewide and regional Transfer of Development Rights programs in Maine.

Improve SPO / Municipal Relationships

The Committee recognizes that tight budgets and perceptions of increased unfunded mandates contribute to a strained relationship between municipalities and the State Planning Office, which is charged with implementing the programs and policies of the Planning and Land Use Regulation Act. To improve this relationship, the Committee supports increasing the technical assistance role for the State Planning Office and publishing case studies and other outreach materials highlighting successful partnerships between state agencies and towns addressing growth issues. The Committee will forward several legislative recommendations to the Joint Standing Committee on Natural Resources in response to Chapter 34, "Resolve, Directing the CPAC to Study the State Planning Office's Review of Municipal Comprehensive Plans and Growth Management Programs." The Committee also supports the administrative and regulatory changes by State Planning Office outlined above in the section on the Timeliness of State Planning Office Review of Comprehensive Plans Study Mandate.

Mid-Term and Long-Term Committee Recommendations

Looking beyond 2004, the Committee's workplan also addresses the following areas:

1. **The Authorization of the Community Preservation Advisory Committee should be expanded to allow the introduction of legislation during either session of the Legislature.**

Although the two study resolves allowed the Committee to recommend bills to the Natural Resources and Business, Research, and Economic Development Committees on issues related to the State Planning Office's review of comprehensive plans and affordable housing, the Committee has much broader goals. In 2004, the Committee will forward a bill that will amend Title 30-A, §4350 to allow the introduction of legislation by the Committee in both the first and second sessions of the Legislature.

2. **To advance the dialogue and build on the committee's shared experiences, Legislative members of the Committee should be reappointed to the Committee, whenever possible.**

Although the non-legislative members of the Committee are appointed for three-year terms, legislators' terms end at the end of each Legislature. Continuity and trust are critical for a group addressing the complex issues of growth management, fiscal, transportation, education funding, school siting, and land use policies. Whenever possible, the Committee recommends that legislative members, who are re-elected, be reappointed to the Committee at the beginning of each Legislature.

3. **Continue to investigate and support other CPAC priorities in the Legislature.**

Several critical areas central to the Committee's charge will be addressed in upcoming Legislative Sessions. The Committee will continue to meet and discuss these issues, as well as support bills that coincide with the CPAC mandate. Issues of special consideration include: *Tax Policy*, as it impacts the investment decisions of individuals and government (state and local) in Maine's Service Centers, downtowns, and growing communities; *Regionalism*, especially as the discussion moves around increasing efficiencies in local governance ("municipal" or "regional service districts) and school administration; *School Construction and Renovation Funding*, which ties directly to investment in Maine's communities, community preservation, walkable neighborhoods, and efficient state investment; *Storm Water Rules*, which may create unintended consequences by discouraging density and encouraging dispersed development; *Contractor Certification*, related to building and rehabilitation code; and *Growth Management*, supporting the ability of Maine's towns and cities to plan their futures.

4. **Relate State Tax Policy to Impact on Community Preservation**

Whether through comprehensive tax reform or improving existing tax policy and laws to support community preservation goals, the Committee will continue to be engaged in the tax debates. The Committee will continue to enhance their education on tax issues by inviting experts to share information with the Committee and by retaining, if possible, a member of the Committee who also sits on the Joint Standing Committee on Taxation. The Committee will continue to monitor emerging state legislation and policies, and share the policies outlined in their position paper on tax policy.

5. Encourage Increases in State Fiscal Planning and Coordination

Even in tight fiscal times, the State has considerable resources at its disposal that influence community and individual investment. State investments should work toward a clear and comprehensive set of state goals, and should not frustrate each other. School financing, transportation infrastructure, the investments of the "Municipal Investment Trust Fund," and conserving Maine's natural spaces by the bonded Land for Maine's Future program, are among the largest state investments affecting community preservation, but the complete list is much longer. With a statewide Capital Improvement Plan as a guide, the Committee hopes that the Administration and state agencies will carefully consider the location of state investments, and increase the coordination across agencies to increase efficiency of state investments.

6. Recognize "Unintended Consequences" of State Regulations and Investments

The Committee will continue to encourage consideration of the impacts of single-purpose regulations and investments on Maine's communities. State education, transportation, economic development, planning and environmental policies have impacts on tax policies, land use and investment decisions, and community character. The Committee will continue to work with individual agencies and the Governor's Office to draw attention to state regulatory policies and investments that may have unintended consequences.

7. Encourage Meaningful Regionalism

The Committee will continue to encourage regional approaches that reduce redundancy, increase efficiency, and increase quality (not regionalism for the sake of regionalism). In addition to supporting the State Planning Office and Department of Transportation in addressing regionalism in their rules and programs, the Committee recognizes that regional approaches to planning go beyond the short-term financial gain to be had by sharing resources. Just as labor markets, housing markets, and ecosystems do not recognize municipal boundaries, our leaders and planners should recognize that local decisions and planning have an impact far beyond the town line. The Committee will support legislation and non-legislative programs that strengthen regional approaches in Maine.

In supporting a regional approach, the Committee will consider means for creating incentives for programs that cross municipal boundaries, as well as incentives for thinking and acting regionally, in areas such as infrastructure, economic development, school siting, housing, transportation planning, and natural resource management.

8. Increase Awareness of Community Preservation and Smart Growth Statewide

Building on the partnerships and strategy it intends to develop in 2004, the Committee supports the implementation of a sustained campaign to increase awareness around issues of smart growth and community preservation (health, lifestyle, transportation, community development), including supporting a statewide conference addressing these issues and increasing education by combining the Maine Development Foundation's "Indicators of Economic Growth" with the Livable Communities Indicators.

For additional information on the Committee's intended activities from 2004 – 2008, please see Appendix E, The Community Preservation Advisory Committee's Draft Work Plan.

Appendix A: CPAC Authorizing Legislation and Study Mandates

§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.

CHAPTER 34
H.P. 762 - L.D. 1045

Resolve, Directing the Community Preservation Advisory Committee To Study the State Planning Office's Review of Municipal Comprehensive Plans and Growth Management Programs

Sec. 1. Study by Community Preservation Advisory Committee.

Resolved: That the Community Preservation Advisory Committee, as established by the Maine Revised Statutes, Title 5, section 12004-I, subsection 24-F, shall study the Executive Department, State Planning Office's review of municipal comprehensive plans, growth management programs and local ordinances for consistency with state goals. The study must include a review of the rules governing the State Planning Office's review and the time frames for the State Planning Office's review. The Community Preservation Advisory Committee shall submit a report of its findings and recommendations, including any legislation necessary to implement the recommendations, to the Joint Standing Committee on Natural Resources by December 1, 2003. The report may be included in the annual report submitted by the Community Preservation Advisory Committee pursuant to Title 30-A, section 4350, subsection 9, paragraph A. The Joint Standing Committee on Natural Resources may report out legislation relating to the study during the Second Regular Session of the 121st Legislature.

Effective September 13, 2003, unless otherwise indicated.

Subcommittee Members

Chair

Rep. Janet McLaughlin

Members

Rep. Ed Suslovic

Rep. David Tobin

Beth Della Valle, Maine State Planning Office

Jenn Burns, Maine Audubon

John Maloney, Androscoggin County Council of Governments

Maureen O'Meara, Cape Elizabeth Town Planner

Jeff Austin, Maine Municipal Association (Peggy Daigle, Town Manager of Houlton and member of MMA's Legislative Policy Committee attended the second meeting on behalf of MMA)

Note: Ginger Davis, Maine Real Estate Developers Association was invited to participate as a representative of the development and real estate industry, but could not attend.

CHAPTER 73
H.P. 364 - L.D. 472

Resolve, Directing the Community Preservation Advisory Committee To Study Issues Pertaining to Barriers to Affordable Housing in the State

Sec. 1. Community Preservation Advisory Committee to study issues pertaining to affordable housing. Resolved: That the Community Preservation Advisory Committee, as established in the Maine Revised Statutes, Title 30-A, section 4350, referred to in this resolve as "the committee," shall undertake a comprehensive study to identify regulatory or other barriers to the creation of affordable housing in the State. For each barrier identified, the committee shall make recommendations on ways to reduce that barrier and to provide incentives for the creation of affordable housing. The committee's study must include, but is not limited to, a review of and recommendations on methods to remove or reduce barriers to the creation or availability of affordable housing created by:

1. State rules or local regulations that inhibit the construction of new affordable housing units or the renovation of existing buildings for the purpose of creating affordable housing units. The committee's recommendations in this area must be consistent with the legitimate concerns of the State and the local communities for healthy neighborhoods, sound environmental practices, sustainable affordability and inclusive communities;
2. Zoning or zoning practices that create barriers to affordable housing;
3. Laws pertaining to municipal impact fees, as allowed under Title 30-A, section 4354, to the extent those laws create barriers to the creation of affordable housing. In reviewing this issue, the committee shall consider and make recommendations on exempting affordable housing units from such impact fees and applying that exemption only to affordable housing located within a locally designated growth area identified in the municipality's comprehensive land use plan. If the committee recommends such an exemption, its recommendations must include specific recommendations on how an exemption would be calculated and applied and what impact that exemption would have on the ability of a municipality to adequately fund infrastructure improvements necessitated by the construction of those units;
4. Laws pertaining to municipal moratoria on development permits, as allowed under Title 30-A, section 4356, to the extent those laws create barriers to the creation of affordable housing. In reviewing this issue, the committee shall consider and make recommendations on exempting affordable housing units from such moratoria and applying that exemption only to affordable housing located within a locally designated growth area identified in the municipality's comprehensive land use plan;
5. Laws pertaining to municipal rate of growth ordinances, as allowed under Title 30-A, section 4314, to the extent those laws create barriers to the creation of affordable housing units. In reviewing this issue, the committee shall consider and make recommendations on exempting affordable housing units from such laws pertaining to municipal rate of growth ordinances;
6. Barriers to the creation of affordable rental housing, including the unavailability of deposit assistance, in areas of the State where rental housing is unaffordable;
7. Barriers to the construction or availability of affordable housing for veterans, seniors, retirees, persons with disabilities and homeless persons; and
8. Other barriers to the construction or availability of affordable housing identified by the committee or by stakeholders; and be it further

Sec. 2. Consultation with stakeholders. Resolved: That the committee shall consult with stakeholders during this study and in the development of its recommendations. Those stakeholders include, but are not limited to, the following:

1. The Commissioner of Economic and Community Development;
2. The Director of the Maine State Housing Authority;
3. The Executive Director of the State Planning Office within the Executive Department;
4. The President of the Maine State Chamber of Commerce;
5. The Executive Director of the Maine Municipal Association;
6. The President of the Maine Association of Planners;
7. A representative from a neighborhood association;
8. A representative from a city council;
9. A municipal officer;
10. A representative from a town planning board;
11. A representative from a nonprofit housing developer;
12. A representative from a for-profit housing developer;
13. A representative from a land trust;
14. A representative from a manufactured housing manufacturer;
15. A representative from a financial institution;
16. A representative from the business community;
17. A representative of the York County Initiative to End Homelessness;
18. A representative of the Genesis Community Loan Fund;
19. A representative from an organization in the Lewiston-Auburn area that is active in matters pertaining to affordable housing;
20. A representative of the Maine Affordable Housing Network; and
21. A person representing the AFL-CIO; and be it further

Sec. 3. Staff assistance. Resolved: That the Executive Department, State Planning Office shall, within its existing budgeted resources, provide staffing assistance to the committee in conducting this study; and be it further

Sec. 4. Drafting assistance. Resolved: That the Office of Policy and Legal Analysis shall draft any legislation recommended by the committee to implement its recommendations; and be it further

Sec. 5. Report. Resolved: That the committee shall incorporate its findings and recommendations, including suggested legislation, into the annual report required under the Maine Revised Statutes, Title 30-A, section 4350, subsection 9, paragraph A and provide a copy of the report to the Joint Standing Committee on Business, Research and Economic Development no later than December 1, 2003; and be it further

Sec. 6. Legislation. Resolved: That the Joint Standing Committee on Business, Research and Economic Development may report out a bill during the Second Regular Session of the 121st Legislature on issues pertaining to barriers to affordable housing.

Effective September 13, 2003, unless otherwise indicated.

Subcommittee Members

Co-chairs

Mary Ann Gleason	York County Initiative to End Homelessness
Senator Tom Sawyer	Maine Senate, Bangor

Members

John Anton	Northern New England Housing Investment Trust
Holly Baldwin	Maine Affordable Housing Network
Peter Crockett	AFL-CIO
Richard Cromwell	Modular Homebuilders of Maine
John DelVecchio	Maine State Planning Office
Mike Finnegan	Maine State Housing Authority
Linda Gifford	Maine Association of Realtors
Dana Connors/Peter Gore	Maine State Chamber of Commerce
Jim Hatch	Freeport Housing Trust
Arthur Lerman	Neighborhood Association and Maine House of Representatives, Augusta
Jon Lockman	Maine Association of Planners/Southern Maine Regional Planning Commission
Andrea Cianchette Maker	Southern Maine Affordable Rental Housing Coalition
Mike McGovern	Maine Municipal Association Representative/Cape Elizabeth Town Manager
Beth McPherson	Genesis Community Loan Fund
Peter Merrill	Maine State Housing Authority
Jim Nimon	Department of Economic and Community Development
Lillian O'Brien	Maine House of Representatives, Lewiston
Joyce Peterson	Jackson Laboratory
Dana Totman	Avesta Housing
Elly Udeh	Hannaford Brothers

Facilitator/Report Writer

Frank O'Hara	Planning Decisions
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Note: Jim Friedlander of Brunswick also attended every meeting as an advocate for veterans' issues

Appendix B: CPAC Members

The President of the Senate and Speaker of the House appointed eleven members to the Committee. The Directors of the Maine State Planning Office and Maine Historic Preservation Commission, or their designees, are also members:

- Sen. Lynn Bromley, Senate Chair
- Rep. Ted Koffman, House Chair
- Sen. Thomas Sawyer
- Rep. Janet McLaughlin
- Rep. Peter Mills
- Rep. David Tobin
- Mr. Ed Suslovic, representing the real estate and development community (House appointment)
- Mr. David Holt, Town of Norway, representing service center interests (Norway) (Senate appointment)
- Ms. Barbara Charry, Maine Audubon, representing environmental interests (House appointment)
- Mr. Peter Merrill, Maine State Housing Authority, representing a statewide housing authority (Senate appointment)
- Mr. David Keeley, Maine State Planning Office, on behalf of Director Martha Freeman
- Mr. Mike Johnson, Maine Historic Preservation Commission, on behalf of Commissioner Earle Shettleworth
- The position representing rural municipal interests (Senate appointment) is currently vacant

With the departure of Liz Rettenmaier from state employ, the CPAC is staffed by Paula Thomson at the State Planning Office, with legislation drafting assistance from Susan Johannesman at the Office of Policy and Legal Analysis.

Appendix C: Meeting Notes

1. March 17, 2003
2. September 24, 2003
3. November 5, 2003
4. December 17, 2003

Regionalism in Maine: Its Barriers, Successes, and Opportunities

Community Preservation Advisory Committee

Augusta Civic Center, Pine Tree Room

March 21, 2003

9:00 – 4:00

From school districts to counties to councils of government, saving money to coordinated planning to habitat preservation, “thinking regionally” will profoundly influence the shape of economics and politics in the upcoming years. You are cordially invited to join the Community Preservation Advisory Committee (CPAC) for its next meeting: Regionalism in Maine: Its Barriers, Successes, and Opportunities. This one-day (free!) event will include presentations from a broad variety of speakers who have thought about - and implemented - various regional approaches throughout the state. The forum will be held in the Augusta Civic Center Pine Tree Room on Friday, March 21st from 9:00 – 4:00. Box lunches will be provided for those that register before 3/17/03. Online registration and a complete schedule of the day's events are available on the CPAC website:

<http://www.maine.gov/spo/landuse/tfandcomm/cpac/>

The Community Preservation advisory Committee wishes to thank the Maine State Housing Authority, the Maine Association of Realtors, and the Maine Real Estate and Development Association for underwriting the costs associated with this event.

Over 100 people attended this open forum, sharing ideas, interests, and concerns about emerging regionalism trends in the State. Copies of the presentations made at the meeting are available on the CPAC website, listed above.

- | | |
|--------------|---|
| 9:00 | Introduction and Welcome – CPAC Chairs: Rep. Ted Koffman, Sen. Lynn Bromley |
| 9:15 | Regional Efforts in Education Policy
Sen. John Martin
Jim Rier, Maine Board of Education |
| 10:00 | Sample of Existing Regional Structures: Challenges and Opportunities
Interlocal Agreements and Consolidated Activities - Jim Brown, Presque Isle County Government – Sen. Dennis Damon
Regional Planning Commissions - Ken Young, Kennebec County Council of Governments |
| 11:00 | Incentives and New Visions for Governance and Intergovernmental Coordination
Looking Ahead: Regional Government in New England - Evan Richert |
| 12:00 – 1:00 | Box Lunch, with thanks to the Facility, Lunch and Coffee Sponsors |
| 1:00 | Regional Open Space Planning - Paul Schumacher, Southern Maine Regional Planning Commission |
| 1:30 | Regionalism and Housing Markets – Mike Finnegan, Maine State Housing Authority |
| 2:00 | Multi-municipal Economic Development - Mark Scarano, Piscataquis County Economic Development Commission |
| 2:30 | Integrating Regional Transportation Policies and Programs – Kathy Fuller, Maine Department of Transportation |
| 3:00 | New Examples of Efficiencies and Intergovernmental Coordination
Multi-municipal Efforts and Planning - John Edgecomb, Town Manager of Mapleton, Chapman, and Castle Hill
Five towns north of Portland – Bill Stiles, Cumberland Town Councilor
Maine Municipal Association's 2% of Revenue Sharing Proposal – Geoff Herman |
| 3:45 | Concluding Comments – CPAC Chairs: Rep. Ted Koffman, Sen. Lynn Bromley |

Community Preservation Advisory Committee

September 24, 2003

9:00 am – 3:30 pm

State Capitol Room 437

Meeting Summary

Attending:

Sen. Lynn Bromley (Chair), Cumberland County
Rep. Ted Koffman (Chair), Bar Harbor,
Southwest Harbor, Mt. Desert Island
Sen. Tom Sawyer, Penobscot County
Rep. Janet McLaughlin, Cape Elizabeth
Rep. Peter Mills, Skowhegan, Cornville
Rep. David Tobin, Windham
Ed Suslovic, community development consultant
and former Realtor
Peter Merrill, Maine State Housing Authority
Beth Della Valle, State Planning Office
Mike Johnson, Maine Historic Preservation
Commission

Absent Committee Members:

David Holt, Town Manager, City of Norway
Jeff Sosnaud, Maine Audubon (Board)

Additional Attendees:

Liz Rettenmaier, SPO (committee staff)
Susan Johannesman, Office of Policy and Legal
Analysis (committee staff)
Jim Adolph, Office of Policy and Legal Analysis
Doug Rooks, House Speaker's Office
Kathy Fuller, MDOT
Peggy Schaffer, DECD
Martha Freeman, SPO
David Keeley, SPO
John DeVecchio, SPO
Mary Ann Hayes, SPO
Jeff Austin, Maine Municipal Association
Holly Baldwin, Maine Affordable Housing
Network
Ray Bergendoff, GrowSmart Maine
Jennifer Burns, Maine Audubon
Alan Caron, GrowSmart Maine
Jodi Castallo, Maine NEMO
Elliott Chamberlain, Chamberlain Construction
Rich Cromwell, The Modular Advantage
Ginger Davis, MEREDA
Jeff Edelstein, Building Code Working Group
Mary Ann Gleason, York County Initiative to End
Homelessness
Chris Hall, Maine Chamber of Commerce
Rod Melanson, Friends of Midcoast Maine
Theresa Savoy, Coastal Enterprises Inc.

Introduction and Welcome

Introductions by Committee members and attendees. Introduction and welcome by the Committee Chairs, Sen. Bromley and Rep. Koffman. In addition to the interests of the individual members in the work of the committee, several members echoed the importance of the Committee in providing a venue for the “cross-colonization” of ideas across disciplines, and the need to think about the way impacts move across areas – and ways to create change.

The CPAC Affordable Housing Subcommittee

LD 472 (Resolve Chapter 73) passed the Legislature last session as a compromise bill, aggregating aspects of several bills addressing affordable housing in Maine. The bill directed the Community Preservation Advisory Committee (CPAC) to study issues pertaining to affordable housing, specifically to “undertake a comprehensive study to identify regulatory and other barriers to the creation of affordable housing in the State. For each barrier identified, the committee shall make recommendations on ways to reduce that barrier and to provide incentives for the creation of affordable housing.” If there are legislative recommendations that come out of the subcommittee, CPAC is authorized to submit legislation through the Business, Research, and Economic Development Committee in the 2nd Session. The report from the committee is scheduled to be included in the CPAC Annual Report, issued by December 1, 2003.

The Resolve also directed CPAC to consult with a listed set of 21 stakeholders “during this study and in the development of all its recommendations.” (A copy of the Resolve is on the CPAC website.) Because of the number of mandated stakeholders, there is a subcommittee being formed to meet the mandate; the subcommittee will have 4 meetings this fall and report back to the full CPAC with its recommendations. Sen. Tom Sawyer and Mary Ann Gleason will be co-chairing the subcommittee. John DeVecchio of the State Planning Office will be providing staff support to the subcommittee. Mary Ann Gleason gave an introduction to the work of the committee. Their first meeting will be Friday, September 26th in Augusta. Additional meetings are scheduled for October 22nd, November 12th, and November 19th. Frank O’Hara will facilitate the last three meetings, with support from the Maine State Housing Authority. A list of members and draft agenda for the first meeting was also distributed to the Committee. CPAC members (and other interested parties) are welcome to attend the meetings of the subcommittee.

The subcommittee will be primarily focused on suggestions and solutions, moving beyond identification of barriers that are generally well known.

CPAC Members commented:

- Although the focus of this study resolve is affordable housing, the CPAC will have to think about this in a broader context and with awareness of relationships and impacts across disciplines. By encouraging developing affordable housing, we should not be increasing sprawl.
- Issues around affordable housing are much broader than subsidized or Section 8 housing. Concerns around lack of available “workforce” housing must also be addressed for families that need “start up” houses and the working residents of towns.
- Design issues should also be considered by the subcommittee – mixed income, mixed use, compatibility with the community.
- A mix of strategies and suggestions – some incremental and some far-reaching would be an appropriate outcome of the subcommittee.
- Jim Brown, who recently resigned from CPAC might be a good addition to the subcommittee. He’s the Director of Economic and Community Development for the City of Presque Isle.

Contact John DeVecchio at john.delvecchio@maine.gov for more information.

The Challenges of Building The “Great American Neighborhood” in Maine

The concept of the “Great American Neighborhood” is a reflection of the traditional New England village center. “Great American Neighborhoods” tend toward six characteristics:

- Walkability;
- A civic core;
- Neighborhood boundaries that join together 2 or more neighborhoods and are meeting places;
- Protection from excessive traffic and traffic noise;
- Human scale; and
- A public-private continuum.

Although there are several historic villages and towns in Maine that can be described as Great American Neighborhoods, developers have been challenged by local ordinances and NIMBYism (“Not In My BackYard”) to be able to recreate this pattern of development. Elliott Chamberlain, of Chamberlain Construction, and Rich Cromwell, of The Modular Advantage, presented their experiences before the Committee.

Rich Cromwell is a homebuilder in Brunswick. He is in the process of building “Topsham Crossing”, a somewhat modified “Great American Neighborhood.” It is “somewhat modified” because the local planning board would not consider his original proposals, so he is building according to the maximum density allowed under the current zoning.

Elliott Chamberlain is an owner of Chamberlain Construction and ALT Development with his brother. The company is trying, thus far unsuccessfully, to develop a Great American Neighborhood (GAN) in Scarborough. Elliot was introduced to the GAN concept by Evan Richert (former SPO director) in 1997, or so. They have been working on the Scarborough project since 2000, and have recently entered into a lawsuit against the town to allow this project to go forward. The State has a law that permits towns to do a comprehensive plan, and Scarborough has a comprehensive plan adopted in 1994. Our project fits their comp plan to a T in their ideas of a village compact. Our project is about 400 units, within 3 miles of 2 exits of the Turnpike, has utilities and services, etc. We were also going to donate \$1m to the town of Scarborough for conservation. The Scarborough land trust supported the plan; they would have been involved in the conservation. The land slotted to be taken off of the development rolls would have offset the traffic contribution, etc. The project was going to have a diversity of uses, provide more affordable housing (affordable by Scarborough standards), with shops, trails, and open space. The project would have been a profit for the town, even with the increase in the number of school-aged children. The creation of open space would have benefited the town and the region. Transportation upgrades as part of the project would have addressed an issue that has existed since the 1960s. The project, nearly 400 units, would have been built-out over approximately 15 years, with a final average density of less than three units per acre (less dense than the town’s R-3 zone).

Rep. Koffman noted that there may be a gap in state policy if a town can adopt a comprehensive plan and have it approved by the State Planning Office, and then not follow through on adopting ordinances to reflect that plan. For example, if a town has a state-approved, locally adopted comp plan, but has not developed ordinances, could the plan have more weight? Or, if a project was facing a late-coming challenge, there could be a statewide board of appeals, akin to the board proposed in LD 2099? If we’re talking about the larger context, if good governance isn’t taking place, and the state has approved the comp plan, there ought to be some protection for folks that are working in line with that plan.

Elliott added that if SPO had some legal means to tell the town they had to update their zoning, a lot of these conversations wouldn’t be happening. Under current state statute, if a town is not following their comprehensive plan or updating their ordinances, developers (or others) have no means to seek redress in the courts until a project is proposed and is denied (creating “standing” in the courts) – after the investment of significant time and resources.

Beth Della Valle commented on the size of the project relevant to the build out time. This project would have been about 26-27 units per year; Scarborough has been experiencing growth of 200 units per year

over the past several years. The town now has a cap now of approximately 90 units/year – this is even a small part of that. State statute says that the town is required to have updated/implemented their zoning ordinance (if called for in the comp plan) within 2 years of adoption. Scarborough should have had that in place by 1996 or 1997. But, the State Planning Office (SPO) is not an enforcement agency. Some aggrieved party, typically in the development community, would have to challenge the ordinance in court; the court would look to statute (the transition savings clause) and find that the town is not implementing ordinances that are consistent with their plan. The only body that can do this is the court, under current law. If you're looking at requiring towns to submit their ordinances (right now only voluntary), there will be resource limitations to address at SPO. We are not required to review ordinances because of changes in law a couple years ago.

Rep. Suslovic noted that throughout the process, there was a well-designed and implemented plan for involving the community in the planning of the development. There were a series of widely publicized public forums, more than 500 invitations sent out, etc. The neighborhood actually designed the development. Three teams of community members and neighbors came up with three plans; the developers pulled them together and went back to the community for feedback. When there were changes, the developers went back to the community to check back in. It's important to recognize that there was a "smart process" to go along with this "smart growth" project.

The town has a comprehensive plan which describes the village compact area they desired for that area of town, but have not updated their zoning ordinance to reflect the comprehensive plan. The town council issued a legislative finding that the proposal was consistent with the comp plan, even though the land use was not consistent with current zoning. The developers worked to get a contract zone approved for the project, a two-year, nine-step process. It was approved in June by 5:1 by the City Council, and then overturned by a public referendum in July.

Opposition focused on the number of school children the project would bring, although the Chamberlains produced expert reports that the local schools needed the children the project would bring. Traffic concerns were also addressed in expert analyses and reports, but those against the project didn't believe them.

Rep. Tobin noted that it is much harder to overturn a project in an overlay zone (such as a compact village overlay) than a project approved through contract zoning. An overlay zoning decision would have to be challenged in court, not through a public referendum.

Beth Della Valle noted that in Maine's constitution there is not a distinction between local legislative and administrative actions. Some states differentiate the two types of actions, allowing legislative actions to be challenged by the public, but not administrative actions. The question of whether permitting a contract zoning change is administrative or legislative is another question.

This project was stopped by upset town residents who didn't want it in their back yard. If this project fails, other developers will be scared off. There are more developers willing to build "Great American Neighborhoods" if they are allowed to.

Starting at the state level, and moving locally, we need to address this issue. We need to have projects that are of a regional and local benefit move forward.

Sen. Sawyer commented that the way to get to these developments is to remove disincentives, rather than providing incentives.

Elliott Chamberlain agreed; developers don't need incentives, it's the barriers that are an impediment. The timeframe needs to be shortened, the process more predictable, risks reduced. Currently, the only way to get most of these projects built is through contract zoning, which takes too long and is too much at the whim of opposition to overturn at the last minute, after significant investment of time and resources (by everyone). Incentives should be directed toward the towns, not the developers, to address concerns regarding school and transportation impacts. Rich Cromwell added, however, that encouragement for

these projects from State agencies needs to be done carefully to avoid the perception of the State forcing a project down onto a municipality.

Rep. Tobin reminded the Committee of their work last session, putting forward and supporting a bill authorizing the use of TIFs for affordable housing. The money generated by those TIF programs could be used to address local impacts on schools.

Rich Cromwell bought the beginning of Topsham Crossing in 1999; it was a mobile home park that was part of an overlay district. At the time, there were 4 manufactured housing overlays in the town – 1 was sold, 2 were undevelopable, and Rich's acquired property was the only one left. Nevertheless, the town and neighbors were strongly opposed when Rich proposed additional manufactured housing units. Thinking about GANs, he started purchasing adjacent properties. Topsham Crossing was started with much less organization than the Chamberlain Brothers. Eventually, he found outside support was available and worked with John DelVecchio of the State Planning Office, held local charrettes, worked with a landscape architect, got a professional planner involved.

The project developed would have required a zoning change. After spending some resources and a couple of years on the project, the Planning Board voted not to even consider the processes involved to get a zoning change. With that in mind, he adjusted the project to follow current zoning restrictions exactly, not requiring any variances or zoning changes. If the town was going to deny it, he was ready to go to court. That project was approved, although it does not include key elements that could make it a "Great American Neighborhood" – especially incorporating multifamily housing units and some local commercial aspect to the project – because it is not allowed under the current zoning ordinance.

The project has five units built, and 15 sold. The first unit is being occupied this weekend. Rich is hopeful that once the neighbors see the development working, the neighbors, council, and planning board will have enough courage to complete this project as originally envisioned.

Rich received a Maine State Housing Authority (MSHA) infrastructure grant for \$100,000 for making 30% of the houses affordable in Phase 1 or two of the development. This was very important for moving the project forward. There is another community in Maine where he has an option to build a 22-lot existing subdivision that hasn't been able to be built because of high infrastructure costs. That property is near the local high school, near the downtown. A month after a court decision ordered the town to accept that 22-unit subdivision, the town adopted ordinances with a 3-lot per year restriction on subdivision development.

"Any developer that starts a project, even with a gut feeling or strong indications from the council or planning board that it would work, if a zoning change or something similar (contract zoning) is required, you really haven't started the process until you have that done. You're wide open to referenda, NIMBYism, etc. We met with a ton of NIMBYism. At one point, they were considering having police protection at the planning board meetings. After final approval, the opposition did try to organize an appeal, had 132 signatures, but the town didn't accept it. The people that organized the neighborhood uprising were the people that had attended my charrette, which was an interesting turn."

There were also challenges in finding the best data. The data about the number of school children generated by new development is flawed. Rich demonstrated those flaws in Bowdoinham. He conducted two studies on the school system in Topsham. Approximately 1 child/household is produced in neighborhoods like mine, not 2.3. The premise that local schools were overcrowded was also wrong. There was a bubble moving through – by the time Topsham Crossing came online, there would have been a deficit of kids. The Planning Board refused to accept the study. We had the same issue with a traffic study. We got sent back and repeated the studies, and the Board wouldn't accept them. We need to move forward with better data for the planning boards, but boards aren't accepting them; there is an institutionalized NIMBYism within some local governments.

Rich volunteered to demonstrate, for the Committee, the economic benefit of new houses in three communities in Maine, taking into account the impact on schools, etc.

Sen. Sawyer enquired if there was a way for towns and neighbors to tell the “good” developers from the “bad” ones. Elliott Chamberlain responded that from a town’s perspective, it doesn’t matter if a developer is a “good guy” or a “bad guy” – it only matters if the project is a good project for that town or not. Rich added that there is a different level of experience and expertise needed to do a 3-5-unit subdivision and a larger project. For the larger projects, bonding is required, letters from creditors, subcontractors that will be paid for millions of dollars of projects, support from banks, etc. If the developer is willing to use high density, GAN principles, and include affordability, you’re probably on pretty safe ground on trusting the project.

Each of these projects is large enough to have been considered a regional solution to a regional problem of availability of affordable housing. Rep. Suslovic asked about the Chamberlain’s and Rich Cromwell’s experience with regional entities. Elliott Chamberlain responded that regionalism is brought up a lot, but there is nobody doing it. Municipal boundaries are sacrosanct. PACTS, the Metropolitan Planning Organization for the greater Portland region contributed to the transportation studies; Greater Portland Council of Governments was not engaged in the project.

Beth Della Valle noted that there is no regional entity whose governing body crosses municipal boundaries (GPCOG’s governing body is made up of municipal representatives).

Rep. Suslovic added that one of the reasons comp plans end up on the shelf is because they don’t go beyond their own municipal border. Also, volunteers put a lot of energy into writing plans, and it exhausts them. They’re burnt out by the time it gets to implementation.

Rep. Tobin suggested greater training of planning boards would help members understand the correct enforcement of local ordinances. Rep. McLaughlin added that it is not just planning board training, but planning staff time and resources that are critical. Sen. Sawyer recommended that planning boards be reminded of their fiduciary responsibilities as representatives of the municipality.

Beth Della Valle commented to the Committee that there is little case law about land use issues in Maine, relative to other states. In part, this is because development pressure isn’t high enough; developers are typically small developers, not high-rollers or national developers; the pockets are not deep enough to absorb the risks and costs. Even in the legal field, very few attorneys specialize in land use law in Maine. Beyond that, making land use policy through the courts is a terrible way to make policy. The courts are bound by a set of rules that turn on where commas are in statute, technical issues would be decided by people that are not in that profession. If we are going to look to the courts to decide cases on day-to-day decisions, we will drive up the cost of development in Maine, because it will become very difficult for the private sector to produce a product for a price that people in Maine can afford to live in.

The CPAC Mandate to Examine SPO’s Comprehensive Plan Review Process

Resolve Chapter 34, passed by the legislature last session, directs CPAC to “study the Executive Department, State Planning Office’s review of municipal comprehensive plans, growth management programs and local ordinances for consistency with state goals. The study must include a review of the rules governing the State Planning Office’s review and the time frames for the State Planning Office’s review.” The Committee is permitted to submit any legislation during the next session through the Natural Resources Committee, and to include its findings in its annual report (due December 1, 2003). (A full copy of the resolve is available on the CPAC website.)

Beth Della Valle provided some background information to the Committee. The original legislative proposal would have mandated that any review that was late from the State Planning Office would be deemed automatically consistent with state goals and law. That would have probably ended up in court, had it passed. The land use team at SPO does a lot more than simply review plans; it manages a grant program, provides technical assistance to communities, creates technical assistance materials, works

with state agencies, coordinates with regional councils, etc. Many of these are activities that are mandated in statute. We also recognized this issue prior to LD 1045 coming forward and is, in fact, in our four-year evaluation provided to the NR committee earlier this year. Beth provided handouts of the relation of comp plan reviews to other SPO and state agency programs, an excerpt from "We Have a Choice" (the four-year evaluation), the language of Resolve 34, Beth's testimony to the Natural Resources Committee on the original LD, and a memo summarizing her talking points.

There are six staff, including myself, in the land use team, four Senior Planners, one Planner II and a Policy Development Specialist (Beth). There are issues both in terms of workload and compensation. A Planner at the town level with five years experience is making as much as I am; we have had a 67% turnover in staff in the last four years, not unrelated to that issue.

We have created a system that has local plans and ordinances at the center of our planning universe. (handout) The upper part of this page is the statutory language that are linked to that consistency – growth related capital investments, state office building siting, grant preferences, state investments. The bottom focuses on all the regional linkages. The hatched part is what is missing: regional land use plans, regional investment schemes. For example, in thinking about the casino, there is no regulatory structure in the state that allows us to deal with the regional impacts that are non-environmental and non-traffic. We can get cooperation from the developer, but there's no way to have that developer pay for those impacts. Another concern is that there is no specific requirement for state coordination with a regional land use or investment plan developed by entities within a region.

Areas that Beth recommended that CPAC consider in trying to solve this issue:

- Adjustment of the statute where the statute is vague or creating administrative burden for towns, regional councils, SPO, other agencies, etc.;
- Further coordination of state and regional efforts;
- New systems for delivery of services – how can we do a better job with less effort? How can we modify the review process so that it takes less of our time for the review process? For example, if we spend more time with towns during the process, it might not be a net gain in time, but we might get a better result. Shifting our attention from writing theses to having a more perfunctory set of review comments and spend the time face-to-face with town along the planning process may be one approach. Another is coordinating the administrative pieces around grant preferences, etc. We're trying to engage partners to help us think of creative ways to improve business.;
- Identifying partners that can take on some of the things we have historically done; and
- Additional resources.

SPO has been taking several steps to address the issue of timeliness already. We have taken some steps administratively to modify our steps around reviews. Some are still going out late, but they're going out a lot faster – a couple of days or weeks rather than months late. We've also had a 296% increase in the number of plans we're doing. Last year we reviewed less than 20 plans; we expect to review 50 by the end of this year. This summer, we've moved 1-3 plans out a week.

Rep. Koffman requested that SPO project their review load over the next three years based on current grants and age of plans across the state.

SPO has also been engaging in a retooling of the growth management program. It started last year with Mary Ann Hayes and 38 people across state agencies (the interagency comprehensive plan partnership working group) that have become reengaged in the growth management act in providing review comments and providing data to towns up front in the comp planning process. That group is moving into a major rulemaking effort that Mary Ann will address.

Beth will assemble a subcommittee, to include at least Rep. Tobin, Rep. Suslovic, and Rep. McLaughlin, to assemble recommendations for CPAC to consider, including statutory changes, directions on rulemaking, priority setting.

Transportation and Land Use Coordination

The 121st Legislature also passed "An Act to Enhance Integration of Transportation and Land Use Planning" (Chapter 22), a bill originally proposed through CPAC. The law calls for rulemaking by the Maine Department of Transportation (MDOT) to adopt a rule that establishes linkage between the planning processes in the Sensible Transportation Policy Act (STPA) and the Planning and Land Use Regulation Act (PLURA). The bill also called for a series of incentives that reward communities for doing good planning. There is a MDOT internal working committee that includes Mary Ann working on this. I have started thinking about introducing these amendments in context of the existing STPA. STPA is a law says that MDOT and the Maine Turnpike Authority (MTA) will plan in these ways... There is an element that says that the regional planning agencies should do what MDOT does. There is currently no role for municipalities and regional councils in the STPA. So, maybe we should fill that gap. When MDOT makes its transportation investment decisions, it has to consider local comprehensive plans. There is no alternative directive to municipalities that when they are developing comprehensive plans that they have to consider state investment planning. We're trying to bridge that gap.

The rule changes proposed will include filling in the holes that involve municipalities and what they should address in transportation chapters of a comprehensive plan, but there will also be some housekeeping legislative changes to bring STPA up to date.

The goal is for MDOT to have a public hearing on these rules by mid-December at the latest, with a full public comment period in January; and then repackage and get to the legislature in February/early March. In addition to the rules, it's important that we create a guidebook, a how-to. There are only a few resources in the country on how to link transportation and land use; it's still very new. We're working on that as well. We're hoping to work with Evan Richert on that effort. We hope that along with these rules we can create a grant program that could augment SPO's grants, particularly targeted to transportation within the comp plan. If SAFETEA (federal legislation, the next generation of TEA-21) passes, there is potential for a national pilot program that offers grants to municipalities to integrate land use and transportation. We're looking at making data more meaningful, provide regional information/context.

Finally, one of the ways MDOT is thinking of creating the glue – we're going to provide some best practices or performance measures in our product to give towns something to aim for. MDOT already uses a tool to create partnerships with municipalities – memoranda of agreement or understanding. We think there may be a possibility from the planning side of the equation for towns to enter a MOU when they have a plan that's consistent, and that changes to that consistent plan needs some oversight or examination of impact.

The State Planning Office has been working more closely with MDOT and other state agencies since last December to streamline and improve the information we're getting to towns. With this working group, state agencies have been interested and willing to do a better job to integrate with the regional and municipal level. As a result, collaboratively we have produced a new resource package that includes data and technical assistance materials. It includes CDs with the geographic data and software to use it. It went to 49 communities in July, and there are another 35 towns that have requested it in October.

This working group is also updating the 1992 comprehensive planning manual with agency input on all their areas. MDOT is talking about going further with in-depth guidance/companion to the overall manual. We're trying to get this integration so that if there is a state law on phosphorous control, that there's integration with planning and land use regulation. We're working with the agencies to clarify their mission, their policies, and mandates and find how that meshes with a community with a comp plan process – surfacing the issues at the end rather than the beginning... We're working to build the linkages early, start the conversations at the beginning of the process rather than at the end.

The third piece is revising our rules, both substantive and procedural. (Handout) There are a couple of things that we think may need statutory clarification/addressing. For example, the term of consistency – towns are working against their best interest to submit an updated plan if their old plan is consistent.

Rep. Suslovic expressed frustration over the resources put into comprehensive planning over the years and the relatively minor outcomes seen. Many of the problems, such as affordable housing, are not being adequately addressed.

Beth Della Valle responded that it is worth trying to fix the comp planning process, which includes more than just the review timetable. Greater accountability is needed for towns that adopt comprehensive plans, the regional issue must be addressed. The approach the state has taken, a ground-up, rather than top-down, approach takes time. The most successful model in the country is Oregon and it took them 25 years to show success with a very well funded, top-down program. If you look at the other programs, such as Maryland, they're used fiscal tools very effectively, but they're not a model development pattern that Maine would want to emulate. They're experiencing different pressures; but also they're doing fiscal management without planning. If we can bear this out and fix the shortcomings, our program will be far more successful in both addressing the fiscal issues and in having good planning. I would encourage not throwing the baby out with the bathwater, but there may be some fundamental retooling needed.

Kathy Fuller (MDOT) noted there have been very few, if any, real incentives for communities to implement their plans or take actions to shape their growth and rural areas. One approach toward this is a more coordinated state response: you are not eligible for anything unless you do a regional or multi-municipal plan. We can't do it piecemeal, town-by-town.

There is a regional coordination component to comp plans that is in the state goals, but it is very "warm and fuzzy." Beth Della Valle noted it would be better if it were more measurable, more outcome oriented.

Rep. Suslovic reflected on the map of towns with growth caps handed out earlier in the day. Each town has done the best thing for their own interests in the short run. The problem is that, in the big picture, they have created a larger issue – they're the most unaffordable area in the state. We are failing a significant portion of our state's population – loss of economic development, lack of housing opportunities; environmental/resource lost... They're doing what is best for their constituents, but maybe it's the system that isn't meeting the needs of the people in Maine.

The Natural Resources Committee, under Resolve Chapter 34, is permitted to report out legislation related to the study during the second regular session. Beth Della Valle noted that there might be 15-20 changes to the Planning and Land Use Regulation recommended, some minor, some more substantive. If you believe that there is more in 1045 than just late reviews, that the late review element is symptomatic of the multiple statutory responsibilities, these changes would be justified under Chapter 34.

Beth Della Valle will meet with a subcommittee of the group, including Rep. Tobin, Rep. Suslovic, and Rep. McLaughlin and come to the next meeting with some recommendations.

Progress and News on a Statewide Building Code

Jeff Edelstein sits on a committee that is examining building and rehab code issues, statewide. Jim Adolf is on the OPLA staff serving the Business, Research, and Economic Development Committee, and is providing drafting assistance to the committee. They brought the Committee up to date on what has been happening in this committee.

Two bills addressing a statewide building code were folded into LD 1025 and carried over to the 2nd session. That bill has been the springboard for the committee's work. There have been various efforts to develop a statewide building code for the last 30 years or so. Working with a broad set of stakeholders over six months, the committee has developed a consensus set of recommendations. Before the issue of a rehabilitation ("rehab") code can even be considered, there has to be resolution of whether or not there will be a single building code – the rehab code is a subset of the building code.

A significant factor in the discussions (and disagreements) is because, nationally, there are two competing building codes, the National Fire Protection Association (known as the "life safety code") and

the International Code Council (successor organization to BOCA). In Maine, 100% of municipalities that use a code use BOCA, although the fire marshal's office uses the NFPA code.

The resolution the group has right exists only if all the pieces of this recommendations package are in place. We have consensus in using the ICC codes – the International Residential Code (IRC) and International Building Code (IBC). IBC covers everything except one and two family construction; IRC covers one- and two-family dwellings – both use traditional standards. The choice of the code is just one piece of the consensus; the group has also discussed whether or not that code would be mandatory, if towns have to adopt the code, opportunities for amending the code locally, how to treat municipalities with codes already adopted, the continued use of NFPA codes by the fire marshal, etc.

This group has not been considering contractor licensing – only the choice of codes and issues around implementation. However, the consensus recommendations of the group are based on the assumption that contractor licensing is in place for one and two family dwellings.

Although the group has reached a delicate consensus, these agreements do not translate to the national level. The national organizations involved may not respect the agreement, and are likely to continue to exert pressure on the decision-makers.

The consensus recommendation on the residential code is bifurcated. It assumes that if the state adopts licensing and provides training and certification to IRC, then:

- (c) all one-two family buildings must be built to this code and the state must provide inspection – and therefore that it would be mandatory for all towns and not amendable; or
- (d) if state licensing only includes training and licensing, but not state inspection, then the municipalities maintain authority – the code would be voluntary in terms of adoption; communities can amend it (although there is a split opinion on what 'amendable' encompasses); enforcement of the code would be a local matter.

On the IBC, the recommendation isn't tied to licensing. The recommendation is currently that the IBC code be fully voluntary and amendable by municipalities. Although voluntary, this would define the family of code, establish a state code model, and the education and training could start to bring everyone along.

The committee is drafting a report that will be submitted to the Business, Research, and Economic Development Committee. There will probably be a day of committee work sessions addressing the two bills related to building codes, as well as rehab code issues and plumbing code issues (if there is time).

Rep. Koffman suggested that in order to ensure that rehab codes become part of the picture, legislation proposed that if a town adopts a local building code, it shall adopt the rehab part of that code as well. Potential conflicts between the NFPA and BOCA rehab codes also exist, and would require a significant process to address. Finding a common ground between the two codes is possible, but it will take a line-by-line analysis and agreement, which could take a year. (New Jersey, Maryland, and Rhode Island have done this quite successfully.)

Rep. Mills reminded the committee that many towns have adopted BOCA building codes, but that those codes have not been kept up to date with the most recent amendments because of the cost of updating codes through BOCA and the political fight that it might create locally.

Peter Merrill commented that as difficult as the process is to address a single building and rehab code, it is well worth doing. Every developer the Maine State Housing Authority (MSHA) talks to won't touch an existing structure in downtown Augusta.

Next Steps

The next meeting of the CPAC will be November 5, 9-12 in the Natural Resources Hearing Room.

Proposed agenda items include:

- Preliminary report back from the barriers to affordable housing subcommittee with top priorities;
- Preliminary report back from a subcommittee convened by Beth Della Valle with initial recommendations;
- Presentation / discussion on issues of school siting;
- Check-in on MDOT's experiences implementing access management;
- Check-in on the Bureau of General Service's experiences in placing office building location in locally designated growth areas; and, time permitting
- Testimony/presentation from Rep. Sean Faircloth on the package of bills he has introduced linking public and community health.

Community Preservation Advisory Committee
November 5, 2003
9:00 am – 12:00 pm
State Capitol Room 437

Meeting Summary

Attending:

Sen. Lynn Bromley (Chair), Cumberland County
Rep. Ted Koffman (Chair), Bar Harbor,
Southwest Harbor, Mt. Desert Island
Rep. Janet McLaughlin, Cape Elizabeth
Rep. David Tobin, Windham
David Holt, Town Manager, City of Norway
Mike Johnson, Maine Historic Preservation
Commission.
David Keeley, State Planning Office
Peter Merrill, Maine State Housing Authority
Ed Suslovic, community development consultant
and former Realtor

Absent Committee Members:

Sen. Tom Sawyer, Penobscot County
Rep. Peter Mills, Skowhegan, Cornville

Additional Attendees:

Liz Rettenmaier, SPO (committee staff)
Susan Johannesman, Office of Policy and Legal
Analysis (committee staff)
John Bastey, Howe Associates
Scott Brown, Maine Department of Education
Jennifer Burns, Maine Audubon
Beth Della Valle, State Planning Office
Kathy Fuller, Maine Department of
Transportation
Mary Ann Gleason, York County Initiative to End
Homelessness
Jane LaFleur, Friends of Midcoast Maine
Rod Melanson, Friends of Midcoast Maine
Darcy Rollins, Maine Downtown Center

Introduction and Welcome

Presentation / discussion on issues of school siting (Jim Rier and Scott Brown, Maine Department of Education)

Since the last time Jim appeared before the Committee, he has joined the Department of Education addressing school funding issues. Jim introduced Scott Brown, leader of the construction team of the Department, both renovation and major capital construction, to the Committee.

Since Jim's last presentation to the Committee, there have been several changes:

- The State Board's siting process uses a more comprehensive approach to considering and approving site selection;
- A new annual report is being submitted to the Legislature (Natural Resources and Education Committees) detailing which projects have been approved in the last year. (*handouts*)
 - Since this report was first drafted, the Department has started gathering additional information on transportation, percent of kids that are bussed, etc.
 - The graphic on the 2nd page is a quick picture look at the 10 sites approved in FY 2002. Preferred area is where designated growth isn't defined (Chapter 60 adopted 3 years ago). The last column is where you don't particularly want projects to happen – Hebron Elementary was early in the process, and SPO did not get a chance to weigh in on the project.
 - On the front page, part C, local referendum approval rates are a strong indicator of the quality of the process – 70-80% approval would have been unheard of before. That might be an indicator we want to keep an eye on. If that trends downward, we might want to pay attention (and there isn't a real difference between 73 and 84 percent). Before, we were losing about 15% of the projects that had been fully approved by the board. Cleaning up the siting process has been a significant improvement

The challenges continue. The last couple of years, we've been faced with new challenges – declining enrollments, for example. The process requires looking regionally, not just within a town, which is very difficult to do, as it leads to lots of discussions about consolidation. It's extremely important, though, even though difficult, that we plan these significant capital investments.

The Department has worked to clarify the process (*handout*). Step 5 is the regional study to look at long-term viability. Step 6 is where SPO, BGS, and Education come in re: site selection, downtowns, growth areas, etc.

Questions from the Committee:

- Rep. Suslovic: I still am getting feedback that we are still slanted toward a suburban way of thinking when it comes to building new schools – minimum lot size requirements for schools, parking, fields, the disincentives for growing vertical. Looking ahead, do you see a continuing evolution toward appreciating urban settings for schools, or is that still going against the grain for a small site, without parking, without large play spaces, etc.?
 - That will continue to be challenge. I don't believe that's the rule anymore. This report brings some attention to that. If you look at the number of projects on existing sites or growth area sites, I think the tide has turned – it's happening on a majority of sites, even when they're new construction... The siting process has really improved at this point. Before the State Board approves a site, the SPO looks at it and weighs in on it.
- Rep. McLaughlin: Let's go to Hebron. Would there have been a site in that area that would have met the new criteria?
 - In some areas, it's very hard. Hebron is very rural, so coming up with something that meets our new vision may have been pretty difficult anyway. That was approved roughly 3 years ago, when these new approaches were just evolving. We continue to work with communities that have already purchased or chosen a site before it enters the Department's process. We try to discourage that, but it still happens. The existing school site in Hebron was not a possibility. The existing site had the front door about 30 feet from a major highway.
- Rep. McLaughlin: It would also be good to know if we are expanding an existing site that is not in the best place – some place that isn't downtown or in a growth area.
- Peter Merrill: We know that people, in deciding where to live, look at local taxes and local schools. So, a lot of suburban towns have been attractive to people, maybe moving them in a direction we don't want them to do. Gov. Glendening talked about Maryland, and there they created magnet schools – invested all of their money in in-town schools, using them to attract people into the cities. The related part of that is the money part of it. Jack Elementary. When the state announced how little money was going to be contributed to the reconstruction, it was a huge disincentive for the in-town schools.
 - The situation with the Jack School is very specific to Portland, in that, based on the valuation and the local requirements, most areas meet the local limit with just one project – but Portland doesn't... However, where that school is going to be located is one of the most exciting things happening. It's a great example of a good process.
 - Belfast, Biddeford, Calais are all in-town projects. Lisbon is new construction, but was a great project, blending bike paths. Windham and Cumberland are major projects on existing sites.
- Rep. Tobin: Even though the area around the new school in Windham is 2-acre lots, we have designated that a growth area, so we can bring denser development there and use it as an incentive for a transfer of development rights program.
- Rep. Suslovic: Looking ahead, do you envision the day when you would be handling an application, renovating an abandoned downtown building?
 - It's possible, but it would have to be a really great site and safe for students, which is the highest priority.
- Rep. Koffman: I would like to invite Scott back to address issues of construction design, efficiency, durability, maintenance, equality – protecting the state and local investment. The other issue I'm interested in is bussing. Prices have been going up, and we're spending \$50 million a year + on bussing. In 10 years, we'll spend a billion dollars on bussing.

Scott Brown continued to answer the Committee's questions. Building a school that meets all the educational requirements, no child left behind, technology, safety and security, etc. has changed school

design, and it has only gotten more expensive. Durability, and building better schools is hard and expensive, but it's a commitment that we've made. The Department is trying to get LEED accreditation (Leadership in Energy & Environmental Design), a fairly high standard of construction. There was a bill last session to build our schools 20% above ASHRAE standards (American Society of Heating, Refrigerating and Air-Conditioning Engineers)– we're struggling just to meet them! The building codes are also changing all the time. One of the issues with elementary level kids is around codes – kindergarteners and first graders need to exit at grade, they shouldn't be in stairwells with sixth graders, etc.

Questions from the Committee:

- Sen. Bromley: If the state is going to put money in, the state should have a say in what it looks like and where it goes. Is the list of renovation needs an updated and ongoing list?
 - The Department just had an application process, and only had about 25 applicants in response to the June 2001 \$15m bond. At one time, in '98, there was a study done by building principals and superintendents that was a good benchmark. It was conservative in its needs listing – not including many of the critical elements I listed. We don't have a particularly accurate or more recent study.
- Sen. Bromley: Do we know which towns with schools really need renovation? We aren't always putting the right investments in the right places – a new roof on a building that is going to be closed a year later because all the other systems are failing.
 - We have ongoing lists on who is applying for help – the major capital list is about 100 strong, the renovation list is probably about 100 projects – asbestos, roofs, etc.
- Rep. Suslovic: How do we balance the vision of large campus, fenced, long driveway schools with downtown schools that exist all over the country?
 - In the case of the Jack School, we will be using on street parking and a bus drop to get kids out of traffic. We're doing similar situations in Auburn. I don't know if we've been challenged with building or redeveloping a 5-story building downtown – but all other potentials would need to be examined first. If that were the best alternative, we would consider it.
- Rep. Koffman – please list questions for Scott for future consideration, and we'll invite him back.
 - How does the Department work with communities to assure that the capital improvement plans they have are viable and robust, that they're taking care of the schools they currently have, and are not going to be rewarded for not taking care of their schools?
 - Is there any connection between school impact fees in communities and state aid; is there any state oversight of school impact fees? Is there any connection to the state's school investment decisions?
 - How can we get more strategic about renovation?
 - A lot of new schools were constructed out in the countryside. As they get run down, will we renovate them? Move them more to growth areas?
 - In more rural areas, you're dealing with districts, not a town. What can you tell us about cooperation between towns in siting?
 - I had to go to a daylong training with a 4 inch thick manual to learn how to put a sidewalk in behind the school – how can we have greater cooperation b/w the department and the towns and local officials?
 - I would be curious to know how many communities have schools that are no longer in use, how they are using abandoned schools right now?
 - I'm still interested in exploring ways to use schools to attract people to towns, as opposed to looking to where people are and building schools there.
 - I would like to look at the bussing environment a bit more. The last I read, our bus fleet had a "C" on an A-F rating. What can you tell us about the efficiency of our bus system, our strategies to upgrade? The percentage of our GPA that's spent to transportation over time? How is that comparative to other Northern New England states? Trend information on the amount of time that kids are spending on a bus per day?
 - Is there any linkage between your selection of sites and state transportation plans from MDOT for road improvement, and MSHA preferred sites for mixed income housing?

Location of State Buildings in Downtowns and Service Centers (Jerry Nault, Bureau of General Services)

Jerry highlighted a few recent projects:

- In Portland, moving BMV into a renovated historic structure in a downtown area;
- In Augusta, the State has a 15-year lease at the Key Plaza. We're using that as swing space for agencies that are having other spaces renovated/updated/built due to bats, mold, unhealthy buildings (e.g., Conservation);
- After this meeting, I'm going over to the Psychiatric Hospital. In Augusta, they will be freeing up space in the Stone Buildings so they'll be available for potential renovation, demolition, and redevelopment.
- In downtown Bangor, we've extended the lease on Oak Street for the Department of Labor.

In overview, when the division of lease space does work, it works to locate items in downtowns and growth areas. In Dover-Foxcroft, the building is not in the downtown, but it is in the growth area. Since the Department of Labor moved in, a third building has started in that industrial park.

There were requirements for parking that were a challenge; can you update the committee?

- We don't overlook a space because it does not have the necessary parking. It is in law that the parking component has to be compatible with the service. There are provisions for access to parking for those that need it on site, most of the parking is walking distance. I don't think it has ever been a limitation. In Winthrop, DOT created some additional parking to make sure that everyone was accommodated.

Would you lease spaces in a downtown, where folks had to walk two or three blocks to a garage?

- Yes. Some of our locations in Bangor are an example of that

Is this a comprehensive list of the last year's activities?

- John Conrad developed it; it's pretty comprehensive.

Jim Rier had a pretty good report, it would be nice to know if BGS is doing the same things, that there's somebody else looking at it, that we're measuring apples and apples. The good news is appreciated, but it's also good to know when there are outliers.

- These are all the recent leases. From what John tells me, we have not done any outside of downtowns. We haven't gone off into a rural pasture. We try to work with the departments and agencies to steer them downtown. It is typically leased space, so it generally is preexisting building. The DHS building in Augusta and Portland are two examples of new buildings – but they're both in growth areas/downtowns.

Rep. Koffman: As leases begin to lapse, I would hope that our movement is toward consideration of alternative places in designated growth areas, that we're not married to existing leased spaces that aren't in growth areas.

- Springvale, for example, moved into a more concentrated area, from a relatively rural area. Closer to the library, the courthouse.

Jerry was invited to return, and requested to, next time, bring a couple of case studies – some sort of map to talk about where the population is, where the buildings are being sited, etc...

Preliminary Report From the Barriers to Affordable Housing Subcommittee (Mary Ann Gleason, Subcommittee co-chair)

The subcommittee has met twice since we were last here, the subcommittee itself and a larger stakeholder group. The first meeting focused on the barriers, what was listed in the committee's charge, and expanding on that to fill in any gaps. (*handout*)

Rep. Suslovic: In light of this Committee's last meeting, I was curious to see where retroactive moratoria come into play. Was it a conscious decision not to specifically label it; it came in obliquely in several areas?

- It's sort of the barrier that happens afterwards, but we are aware of it.

Rep. Tobin: The subcommittee felt that impact fees were not widely used and not a major factor?

- Some members of the committee didn't think that was an issue.
- Rep. Tobin: I think some Southern Maine communities are using that as a disincentive.
- If they're used appropriately under state law, they aren't that big of a barrier, but if they're not...

Rep. Tobin: What was the context of the contract zoning proposal?

- Some people believe that we should be more "planful" than contract zoning allows
- Peter Merrill – I think part of the argument on contract zoning is the conflict between town planners and neighbors (flexibility for development vs. contract zoning is no zoning at all)

Peter Merrill: Some towns have growth caps that exclude federally funded housing – can you send me those examples? Towns like Alfred do that to get around the housing discrimination threat.

The following meeting, the Subcommittee reviewed the barriers, and talked about potential resolutions... (handout)

Rep. Tobin: There seems to be a trend in this discussion that we can force folks to do something they don't want to do. People in this state are very upset and we have to be very careful; they will rebel.

Rep. McLaughlin: Please don't have the lawyers do the model zoning ordinances – use the Maine Association of Planners or State Planning Office.

Sanford seems to be ready to be a model for a regional Transfer of Development Rights (TDR) process with Shapleigh. The question is do we really encourage discouraging affordable housing in Shapleigh?

- Rep. Tobin: What's the incentive for towns that gain the density?
- Some towns want growth. They're interested in having younger folks move in. Sanford has a section of town that needs rebuilding/refurbishing, it has a school on the edge that needs the young families, needs some attention. Particularly in York County, 40% growth in the population segment that is 45 years old, or older, has huge implications.

In the interest of time, Committee members were invited to share a brief comment and any additional information they wanted.

- I would encourage you to have a piece in the introduction tying economic development to the availability of affordable housing.
- I would urge you to be bold. Things don't get bolder as they go through the process. We would do a disservice to gloss over the bolder ideas because they are politically unfavorable.
- The answers for some communities in this state are very different than for others. The menu of approaches is a good answer. I'm apprehensive about mandating an answer based on some people's values.
- As to the open space issue, there is an opportunity to make our urban and settled areas more compelling for development and home ownership. I want to suggest that you consult with Jen Burns (Maine Audubon), Tim Glidden (LMF), Ken Elowe (DOC), DECD (MITF) to weave together the open space issue.
- An approach that we tried to weave into some previous legislation is looking at the 35 housing/labor markets in Maine – avoiding the one-size-fits all approach. That starts to build on housing as a regional problem. We shouldn't be pitting town against town, but within a region with a problem, all the communities have a responsibility for fixing it – and towns are rewarded or penalized appropriately.
- Please cluster the recommendations by levels of government, sector, and a sense of leverage / priority – where is the bang for the buck, the cascading dynamics?

Update on Access Management (Kathy Fuller, Maine Department of Transportation)

Kathy provided a handout, the Annual Report of the Access Management Activities, and summarized its highlights for the Committee. (handout)

The Committee asked to be kept informed of future rulemaking activities related to Access Management and the major substantive rules this spring on land use and transportation planning.

Kathy noted that the corridor planning process has really taken off across the state. The Department of Transportation and the Regional Transportation Advisory Committees (RTACs) are beginning to talk about what corridor planning means for land use, not just about transportation improvements, but how can the land use side of it help protect the long term life and the carrying capacity of that transportation investment?

The Department is looking at places congested today and looking to 2020 or 2025, looking at the most unsafe locations, and trying to understand where designated growth areas are. We're not talking about all 11,000 miles of the state highway system. This is about 1000 miles of high priority, economic backbone of the state – route 1, 1a, 3, 302, ...

The access development piece outlined in the report (handout) is still very much in the conceptual stages, although there are some examples of that happening – e.g., Augusta's new bridge, Standish's paper grid system.

Kathy also provided a draft update of the status of LD 463, An Act to Enhance Integration of Transportation and Land Use Planning.

Questions from the Committee:

- Rep. Tobin: Wouldn't it be wise before MDOT invests a large amount of money to review the abutting towns' ordinances to see if that access would be protected in the long run?
 - Kathy: We're moving toward that.
- Rep. McLaughlin: May we at some point consider having a member of the transportation community sitting on this Committee?
- Rep. Suslovic: Where in the process do we start to look at comprehensive plans, ordinances, etc. in the impacted area – not just the town with the improvements/bypass?
- Peter Merrill: I don't know how you're going to solve the problem of frontage roads, but good luck!
- Rep. Koffman: One size shouldn't fit all. There has to be some kind of cost-benefit about the value of our state highways.
- Rep. Koffman: I see places like Route 9 in New Hampshire that have used frontage roads to great success. For those areas that are most vulnerable to huge costs, would service roads or reducing access save money in the future?

Status report on Comprehensive Plan Review study (Beth Della Valle, State Planning Office)

Beth reported that the subcommittee will be meeting in the near future to synthesize and ready recommendations for CPAC. Beth provided a handout/memo with background information on the topic and some suggestions of what the subcommittee may consider. (handout)

Beth provided some highlights from the handout. Part of the reason for the late reviews was the increase in number of reviews due to the increase in number of grants from the smart growth money that we had a few years ago. In addition, the Land Use Team had a 67% turnover in staff between 1997 and 2001; and, during this time our responsibilities have increased.

In the meantime, the team has adopted a series of administrative improvements, with a dramatic improvement, even if we aren't quite there. In general, if reviews are late, they're only a week or two late;

and we work in close contact with the town to make sure we aren't inconveniencing them. In 2002, the team completed 17 reviews; in 2003, we have 28 reviews done and another dozen expected by the end of the year. We think this trend will start to turn downward in 2004-2005.

We have also recently increased the amount of funding in comprehensive planning grants, decreasing the number of planning grants awarded, and at the same time, we have started doing more multi-municipal grants – which will all reduce the number of reviews.

We are also retooling the administration of the Act, publishing a comprehensive plan update handbook; revamping data packages; updating and revising review submission and criteria rules; and updating the 1990 comprehensive planning manual.

The next place to look is the statute itself. Some recent revisions have increased administrative responsibilities; some are just confusing.

Rep. Koffman noted that the Legislative Council approved a bill to be considered in the next session, LR 2387, "An act to amend the laws governing growth management". This bill provides that, in granting or loaning state funds to municipalities, preference must be given to municipalities that have certified comprehensive development plans and land use ordinances and capital investment plans consistent with the comprehensive plans as determined by the executive department, State Planning Office.

Next Steps

The Committee discussed the two openings on the Committee, one representing environmental interests and the other representing rural municipal interests.

At the GrowSmart meeting in October, Governor Baldacci announced that he would be working with CPAC to develop his Smart Growth Agenda. The Committee will spend time at a future meeting focusing on this topic.

The annual report to the legislature is due on 12/1/03. Liz will draft a request for the Committee Chairs to push back the reporting date. At the next meeting, the Committee will focus its attention on a limited number (three?) of topics and develop strategies and recommendations for addressing them in the short term (2004). Areas of potential interest mentioned by the Committee include:

- Affordable housing / workforce housing
- Comprehensive planning
- Smart growth agenda
- School interests
- Focus on service centers
- Downtown revitalization
- Building codes/rehab codes
- Primacy of transportation
 - Transit oriented development
 - Highway protection
 - Service roads
- Open space and preservation
- Economic development
- Controlling cost of government
- Inadvertent effect of single-purpose policies, and why we're going in the direction that we are...
- Regionalism

SPO has a small pot of resources if the committee wants to take a 1 day or 2 day working retreat to really sort through these issues.

How can we get there? There's so much information out there; how do we prioritize and get through it?

- Sen. Bromley: We have to articulate what our vision is. I think we've done that in past committees. We might need to revisit it and confirm that it is still true.
- Rep. Suslovic: We're not the only state doing this. It might help to have a quick overview of what the other states are doing. That will help us identify trends, what's working, etc.
- Rep. Koffman: We need to identify the pressure points and analyze what we could do to overcome the political hurdles. Identify immediate and long-term strategies.
- David Keeley: What's our vision for 2020? How do we get beyond the details?
- Beth Della Valle: It would be very helpful if the Committee were to develop a workplan for the next three years.

Next meeting, 12/2/03

- Committee Retreat at Maple Hill Farm, a working session for members

Meeting 12/17/03

- Report back from subcommittees
- Three Year Workplan
- Finalize key strategies / actions for 2004 Legislative Session

Community Preservation Advisory Committee

December 17, 2003

9:00 am – 2:00 pm

State Capitol Room 437

Meeting Summary

Attending:

Sen. Lynn Bromley (Chair), Cumberland County
Rep. Ted Koffman (Chair), Bar Harbor,
Southwest Harbor, Mt. Desert Island
Sen. Tom Sawyer, Penobscot County
Rep. Janet McLaughlin, Cape Elizabeth
Rep. David Tobin, Windham
Mike Johnson, Maine Historic Preservation
Commission
David Keeley, State Planning Office
Peter Merrill, Maine State Housing Authority
Ed Suslovic, community development consultant
and former Realtor

Absent Committee Members:

Rep. Peter Mills, Skowhegan, Cornville
David Holt, Town Manager, City of Norway

Additional Attendees:

Liz Rettenmaier, SPO (committee staff)
Susan Johannesman, Office of Policy and Legal
Analysis (committee staff)
Jeff Austin, Maine Municipal Association
Andrea Ciacette Maker, Southern Maine
Affordable Rental Housing Coalition
Beth Della Valle, State Planning Office
John DeVecchio, State Planning Office
Fred Dillon, Muskie School
Kathy Fuller, Maine Department of
Transportation
Mary Ann Gleason, York County Initiative to End
Homelessness
Paula Thomson, State Planning Office

Introduction and Welcome

Review of the 2004 Work Plan

With a large number of high priority items on the table in 2004, the Committee opted to follow an approach of monthly "work session" meetings in the spring while the Legislature is in Session, to be followed by focusing on developing legislation and solidifying strategies in the fall. A proposed schedule may be something like:

January: Legislative Strategy for Short Session, Direct Research/Administrative Tasks to prepare for Fall Meetings, TDR Presentation, Tax Policy Strategy (full-day meeting)
February: Transportation, Downtown Center Presentation & Affordable Housing (full-day meeting)
March: Regionalism: Counties, Regional/Municipal Service Districts (full-day meeting)
April: Schools (½-day meeting)

September: Coordinated Fiscal Planning (Statewide Capital Improvement Plan) (½-day meeting)
October: Protecting Rural Maine – LMF, Natural Resources Industries, BWH (full-day meeting)
November: Finalize Legislative Proposals for 1st Session of the 122nd (½-day meeting)
December: Finalize Annual Report and 2005 Work Plan (½-day meeting)

The Work Plan developed at the Committee Retreat on December 2nd sets out an ambitious agenda for 2004. In many areas, the Committee recognizes that it could be more valuable in ensuring that its voice is heard – and looked to as a credible set of leaders in the area – rather than directing the specifics of Legislative and Administrative change that may be necessary. The Committee will consider a series of policy statements / fact sheets on key subjects to share with the Governor, Legislative Committees of jurisdiction, and lead agencies.

The Committee's staff will work with the 2004 work plan to condense it onto a page, focusing on the 4-5 core elements with a statement on each. This will form the core priorities of the Committee to pass on to the Governor for the formulation of his Smart Growth Agenda.

As the Committee discussed future plans and membership (the position representing rural municipal interests is currently vacant; David Holt has suggested that he be reappointed into that position, and that somebody new is appointed to represent service centers), it was suggested that next year, as appointments are made to accommodate changes in the legislative members of the committee, that legislative members that also sit on either the Transportation or Education Committees be considered as potential members of CPAC.

Final Report From the Barriers to Affordable Housing Subcommittee (Mary Ann Gleason, Subcommittee co-chair)

Mary Ann Gleason presented the final report of the Barriers to Affordable Housing Subcommittee, and reviewed highlights with the Committee. Overall, she noted that the issue was too large, and timeline too short to accomplish all the subcommittee want to accomplish; the subcommittee's report includes a recommendation that the subcommittee continue to exist for another year to continue to advance the agenda / priorities set forth.

The Committee had a few questions on the Subcommittee's recommendations:

1. In considering the HOME Fund, should there be a constitutional segregation of these funds (as there is for the gas tax) – that they are from housing and should be used for housing?
2. Regarding increasing Revenue Sharing:
 - a. The subcommittee also discussed approaches such as those in Massachusetts where municipalities are, in effect, paid to create local infrastructure and education capacity when they allow additional affordable housing.
 - b. The subcommittee was very interested in proposed legislation that will increase the total amount of funding available for municipal revenue sharing, Revenue Sharing III – and the opportunity to use some of this difference to incent creation of affordable housing.
 - c. Frank O'Hara, who facilitated the subcommittee meetings, is looking at the impact of rental housing on education demand, which will help to dispel some of the myths surrounding the creation of affordable housing.
3. In linking land conservation and affordable housing, the subcommittee focused on creating a bonus for municipalities that are addressing their affordable housing needs. Because so much of LMF's funds are used for recreation / outdoor purposes, we think there is a strong connection to affordable housing which is consistent with habitat for Maine's people
 - a. Barbara Charry, the representative of environmental interests on the committee, expressed real concerns over restricting the use of Land for Maine Future's (LMF) money. LMF focuses on habitat goals and critical natural resources of statewide or regional priority.
 - b. LMF money is restricted to acquiring property with natural resource value or farmland. Current funding is not allowed for purchasing or creating a park or doing street tree planting. If you're talking about purchasing wetlands and creating a park around it for public access, that would be allowed, but Capitol Park could not.
 - c. Would LMF work as a statewide development rights bank? LMF really isn't set up for that, and would need to adjust their expertise and statute.
 - d. Why wouldn't TNC be interested in promoting a statewide development rights bank? Local groups don't have the financial backing to do it.

The Committee chose to move forward with the following legislative proposals from the Subcommittee's recommendations:

1. Affordable housing should be made exempt from any local growth cap ordinances;
2. The law governing the municipal use of impact fees (Chapter 30-A, section 4354) should be extended to apply to utility districts as well in order to prevent utility districts from charging fees for plans that are already built (additional clarification is needed from Mary Ann Gleason on the details of this proposal);
3. Draft a "sense of the state" resolve urging veterans' organizations to create a nonprofit housing corporation to develop assisted living housing for veterans at Togus campus and other locations around Maine.

The Committee added a few thoughts to the table on options to address barriers to affordable housing:

1. Authorize local option sales tax – 1% on food and lodging – to be used for workforce or affordable housing. Or, rather than directing the outcome, you may limit the access – you can only do local option sales tax if you are implementing meaningful affordable housing, "doing your part."
2. CPAC may need a markup on the Affordable Housing TIF bill to address some concerns about "recapturing" money. Maine State Housing Authority (MSHA) may try to interpret it the way it was intended, and bringing it in through major substantive rulemaking. If that is not successful, CPAC may wish to submit a placeholder LD in case we actually have to change the law.
3. Regarding the issue of retroactive moratoria and building moratoria. Some predictability, assurance, that you won't have your legs lopped off retroactively at the end of the process is important. The EPA Finance Center at USM is working on a new approach to this topic that draws a line between administrative decisions (cannot be subject to a citizens' referendum) and policy decisions (can be). The referendum in Scarborough should have been on the comprehensive plan, not the administrative decision around a specific project. This may require a constitutional change in Maine.

Status report on Comprehensive Plan Review study (Janet McLaughlin, Subcommittee Chair)

Representative Janet McLaughlin presented the findings and recommendations of the Comprehensive Plan Review Study Subcommittee. Beth Della Valle of the State Planning Office was also available to answer questions of the Committee.

Committee members had several questions for the Subcommittee and SPO:

- *Is there an educational component for consultants?* Not beyond the Regional Council meetings 3 times a year, which usually includes an educational component.
- *Does SPO provide technical assistance for ordinance development?* Yes, we focus our attentions based on where the most need and interest is.

Both the Maine Municipal Association and Maine Department of Transportation have concerns over the suggested clarifying amendments to Title 30(A), §4352(6). The subcommittee will continue to meet in January to address their concerns.

Writing the Annual Report

Liz Rettenmaier went over the outline of the Annual Report; drafts will be circulated to Committee members in early January for comment, with the report due to the Legislature on February 2, 2004. The Report will incorporate the reports and recommendations of the two Study Resolves.

Next Steps

SPO will work with the Committee Chairs to set a meeting date in January; future meeting dates will be set at the next meeting.

Appendix D: Draft Legislation

The following legislative proposals by CPAC members will be recommended to the Business, Research and Economic Development per the authority of Study Resolve 73:

An Act to Implement the Affordable Housing Recommendations of the Community Preservation Advisory Committee

Sec. 1. 30-A MRSA §4354-A is enacted to read:

30A § 4354-A. Impact fees assessed by quasi-municipal corporation or district

A quasi-municipal corporation or district as defined in section 2604, subsection 3 may require the construction of off-site capital improvements or the payment of impact fees instead of the construction. Notwithstanding section 3442, subsection 2, an impact fee may be imposed that results in a developer or developers paying the entire cost of an infrastructure improvement. A quasi-municipal corporation or district may impose an impact fee either before or after completing the infrastructure improvement.

1. **Construction or fees may be required.** The requirements may include construction of capital improvements or impact fees instead of capital improvements including the expansion or replacement of existing infrastructure facilities and the construction of new infrastructure facilities.

2. **Restrictions.** The imposition of impact fees by a quasi-municipal corporation or district must meet the following requirements.

A. The amount of the fee must be reasonably related to the development's share of the cost of infrastructure improvements made necessary by the development or, if the improvements were constructed prior to the development, the fee must be reasonably related to the portion or percentage of the infrastructure used by the development.

B. Funds received from impact fees must be segregated from the quasi-municipal corporation or district's general revenues. The quasi-municipal corporation or district shall expend the funds solely for the purposes for which they were collected.

C. The quasi-municipal corporation or district must establish a reasonable schedule under which the quasi-municipal corporation or district is required to use the funds.

D. The quasi-municipal corporation or district must establish a mechanism by which the quasi-municipal corporation or district shall refund impact fees, or that portion of impact fees, actually paid that exceed the quasi-municipal corporation or district's actual costs or that were not expended according to the schedule under this subsection.

Sec. 2. 30-A MRSA §4360, subsection 3 is enacted to read:

3. **Affordable housing.** A rate of growth ordinance may not limit the number of building or development permits issued for affordable housing as defined in section 4301.

SUMMARY

This bill implements the affordable housing recommendations made by the Community Preservation Advisory Committee pursuant to Resolve 2003, ch. 73. The bill sets restrictions on the use of impact fees by a quasi-municipal corporation or district. The bill also exempts affordable housing from local growth cap ordinances.

Joint Resolution Memorializing Veterans' Organizations to Create a Nonprofit Housing Corporation to Develop Assisted Living Housing for Veterans at Togus Campus and Other Locations Around the State

WHEREAS, there are approximately 150,000 veterans in Maine, many who are in need of assisted living arrangements; and

WHEREAS, the campus of the Veterans Administration Center at Togus as well as other locations around the State are ideal places for assisted living housing for veterans; and

WHEREAS, the Togus campus is on federal land and the regulations governing the use and leasing of federal land can be complex; and

WHEREAS, builders are reluctant to build assisted living housing for veterans due to the complexity; and

WHEREAS, veterans' organizations should be urged to form a housing corporation with expertise to undertake the development of assisted living housing for veterans; now therefore, be it

RESOLVED, That We, the Members of the One Hundred and Twenty First Legislature now assembled in the Second Regular Session, take this occasion to urge veteran's organizations to create a nonprofit housing corporation to develop assisted living housing for veterans at the Togus campus and other locations around the State.

The following legislative proposals by CPAC members will be recommended to the Natural Resources per the authority of Study Resolve 34:

An Act to Implement the Recommendations of the Community Preservation Advisory Committee Regarding the State Planning Office's Review of Growth Management Programs

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, several municipalities may lose financial assistance and regional planning grants if the law is not clarified to allow those grants to be carried forward twice;

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 30-A MRSA §4314, sub-§1 is amended to read:

1. Comprehensive plan. A municipal comprehensive plan adopted or amended by a municipality under former Title 30, chapter 239, subchapter V or VI remains in effect until amended or repealed in accordance with the procedures, goals and guidelines established in this subchapter.

Sec. 2. 30-A MRSA §4314, sub-§2 is repealed and the following enacted in its place:

2. Shoreland and floodplain zoning ordinances. Notwithstanding section 4352, subsection 2, any portion of a zoning ordinance that is not consistent with a comprehensive plan adopted in accordance with the procedures, goals and guidelines established in this subchapter is no longer in effect 24 months after adoption of the plan unless the ordinance:

A. Does not regulate land use beyond the area required by Title 38, chapter 3, subchapter I, article 2-B; or

B. Is adopted pursuant to and complies with the provisions of Title 38, section 440 and complies with the requirements of the Federal Flood Insurance Program.

Sec. 3. 30-A MRSA §4314, sub-§3 is amended to read:

3. Rate of growth, zoning and impact fee ordinances. After January 1, 2003, any portion of a municipality's or multimunicipal region's rate of growth, zoning or impact fee ordinance must be consistent with a comprehensive plan adopted under in accordance with the procedures, goals and guidelines established in this subchapter. The portion of a rate of growth, zoning or impact fee ordinance that is not consistent with a comprehensive plan is no longer in effect unless:

A. The ordinance or portion of the ordinance is exempted under subsection 2;

B. The municipality or multimunicipal region is under contract with the office to prepare a comprehensive plan or implementation program, in which case the ordinance or portion of the ordinance remains valid for up to 4 years after receipt of the first installment of its first planning assistance grant or for up to 2 years after receipt of the first installment of its first implementation assistance grant, whichever is earlier;

C. The ordinance or portion of the ordinance conflicts with a newly adopted comprehensive plan or plan amendment adopted under in accordance with the procedures, goals and guidelines established in this subchapter, in which case the ordinance or portion of the ordinance remains in effect for a period of up to 24 months immediately following adoption of the comprehensive plan or plan amendment;

D. The municipality or multimunicipal region applied for and was denied financial assistance for its first planning assistance or implementation assistance grant under this subchapter due to lack of state funds on or before January 1, 2003. If the office subsequently offers the municipality or multimunicipal region its first planning assistance or implementation assistance grant, the municipality or multimunicipal region has up to one year to contract with the office to prepare a comprehensive plan or implementation program, in which case the municipality's or multimunicipal region's ordinances will be subject to paragraph D.

Sec. 4. 30-A MRSA §4314, sub-§4 is repealed:

~~**4. Encumbered balances at year-end.** At the end of each fiscal year, all encumbered balances accounts for financial assistance and regional planning grants may be carried twice.~~

Sec. 5. 30-A MRSA §4323, sub-§2 is amended to read:

2. Growth management program. Adopt and amend local growth management programs, including comprehensive plans and implementation programs, consistent with the procedures, goals and guidelines established in this subchapter; and

Sec. 6. 30-A MRSA §4324, sub-§§ 1 and 2 are amended to read:

1. Growth management program. Each municipality or multimunicipal region may prepare a growth management program in accordance with this section or may amend its existing comprehensive plan and existing land use ordinances to comply with the procedures, goals and guidelines established in this subchapter.

2. Planning committee. If a municipality or multimunicipal region chooses to prepare a growth management program, the municipal officers of a municipality or combination of municipalities shall designate and establish a planning committee, which may include one or more municipal officials.

A. The municipal officers may designate any existing planning board or district established under subchapter IV, or a former similar provision, as the planning committee. Planning boards established under former Title 30, section 4952, subsection 1 continue to be governed by those provisions until they are superseded by municipal charter or ordinance.

B. The planning committee may develop and maintain a comprehensive plan and may develop any portion of an implementation program to which it is assigned in an adopted comprehensive plan or otherwise directed by the municipal officers or municipal legislative body or bodies. In performing these duties, the planning committee shall:

(1) Hold public hearings and use other methods to solicit and strongly encourage citizen input; and

(2) Prepare the comprehensive plan or any portion of the implementation program to which it is assigned in an adopted comprehensive plan and make recommendations to the municipal legislative body regarding the adoption and implementation of the program or amended program.

Sec. 7. 30-A MRSA §4324, sub-§8 is amended to read:

8. Public hearing required. The planning committee shall hold at least one public hearing on its proposed comprehensive plan.

A. Notice of any a public hearing must be posted in each municipality at least 30 days before the hearing, except that if a follow-up hearing is held pursuant to comments made at a public hearing, the hearing may be conducted if notice is posted at least 14 days prior to the hearing.

B. A copy of the proposed comprehensive plan must be made available for public inspection at each municipal office or other convenient location with regular public hours at least 30 days before the hearing. If modification of the plan is proposed pursuant to comments made at a public hearing, and if a follow-up public hearing is held, the proposed changes must be made available for public inspection at each municipal office or other convenient location with regular public hours at least 7 days before any follow-up hearing.

Sec. 8. 30-A MRSA §4345, first ¶ is amended to read:

Under the provisions of this article, a municipality or multimunicipal region may request financial or technical assistance from the office for the purpose of planning and implementing a growth management program. A municipality or multimunicipal region that requests and receives a financial assistance grant shall develop and implement its growth management program in cooperation with the office and in a manner consistent with the procedures, goals and guidelines established in this subchapter provisions of this article.

Sec. 9. 30-A MRSA §4346, second ¶ is amended to read:

The office may enter into financial assistance grants only to the extent that funds are available. In making grants, the office shall consider the need for planning in a municipality or multimunicipal region, the proximity of the municipality or multimunicipal region to other areas that are conducting or have

completed the planning process and the economic and geographic role of the municipality or multimunicipal region within a regional context. The office may consider other criteria in making grants, as long as the criteria support the goal of encouraging and facilitating the adoption and implementation of local and multimunicipal growth management programs consistent with the procedures, goals and guidelines established in this subchapter ~~provisions of this article~~. In order to maximize the availability of the technical and financial assistance program to all municipalities, multimunicipal regions and regional councils, financial assistance programs administered competitively under this article are exempt from rules adopted by the Department of Administrative and Financial Services pursuant to Title 5, section 1825-C for use in the purchase of services and the awarding of grants and contracts. The office shall publish a program statement describing its grant program and advertising its availability to eligible applicants.

Sec. 10. 30-A MRSA §4346, sub-§2-B, ¶ H is amended to read:

H. Any other purpose agreed to by the office and the municipality or multimunicipal region that is directly related to the preparation of a comprehensive plan or the implementation of a comprehensive plan adopted ~~under~~ in accordance with the procedures, goals and guidelines established in this subchapter.

Sec. 11. 30-A MRSA §4346, sub-§2-D is enacted to read:

2-D. Encumbered balances at year-end. Notwithstanding Title 5, section 1589, at the end of each fiscal year, all encumbered balances accounts for financial assistance and regional planning grants may be carried forward twice.

Sec. 12. 30-A MRSA §4347-A, sub-§1 is repealed and the following inserted in its place:

1. Comprehensive plans. A municipality or multimunicipal region that chooses to prepare a growth management program and receives a planning grant under this article shall submit its comprehensive plan to the office for review. A municipality or multimunicipal region that chooses to prepare a growth management program without receiving a planning grant under this article may submit its comprehensive plan to the office for review.

A. Review. The office shall review plans for consistency with the procedures, goals and guidelines established in this subchapter. Any contract for a planning assistance grant must include specific timetables governing the review of the comprehensive plan by the office. Any comprehensive plan submitted for review more than 12 months following a contract end date may be required to update data, projections and other time-sensitive portions of the plan or program to the office's most current review standards.

B. Finding of consistency. Except as provided in paragraph C, a finding of consistency of a municipality's or multimunicipal region's comprehensive plan under this article is valid for 15 years from the date of adoption or finding of consistency by the office, whichever is earlier; unless otherwise stated in the finding. The office may adopt rules to require that a municipality's or multimunicipal region's comprehensive plan under this article provides a schedule for future update of the plan to begin no later than 12 years after adoption or finding of consistency by the office, whichever is earlier. In no case is a finding of consistency valid for more than 15 years from the original adoption or finding date, whichever is earlier.

C. Finding of consistency prior to January 1, 1996. A finding of consistency dated prior to January 1, 1996 is valid until January 1, 2006 or for 15 years from the finding date, whichever is later.

Sec. 13. 30-A MRSA §4347-A, sub-§2, ¶C is enacted to read:

C. Upon a request for review under this section, the office may review rate of growth, impact fee, and zoning ordinances to determine whether the ordinances are consistent with a comprehensive plan that has been found consistent under section 4347-A without requiring submission of all elements of a growth management program. An affirmative finding of consistency by the office is required for a municipality or multimunicipal region to assert jurisdiction as provided in sections 4349-A and 4352 subsection 6.

Sec. 14. 30-A MRSA §4347-A, sub-§3, ¶¶ C and D are amended to read:

3. Review of comprehensive plan or growth management program. In reviewing a comprehensive plan or growth management program, the office shall:

C. Within 60 days after receiving the comprehensive plan or 90 days after receiving the growth management program, send all written comments on the comprehensive plan or growth management program to the municipality or multimunicipal region and any applicable regional council. If warranted, the office shall issue findings specifically describing how the submitted plan or growth management program is not consistent with the procedures, goals and guidelines established in this subchapter and the recommended measures for remedying the deficiencies.

(1) In its findings, the office shall clearly indicate its position on any point on which there are significant conflicts among the written comments submitted to the office.

(2) If the office finds that the comprehensive plan or growth management program was adopted under in accordance with the procedures, goals and guidelines established in this subchapter, the office shall issue a finding of consistency for the comprehensive plan or a certificate of consistency for the growth management program.

(3) Notwithstanding paragraph D, if a municipality or multimunicipal region requests a certificate of consistency for its growth management program, any unmodified component of that program that has previously been reviewed by the office and has received a finding of consistency will retain that finding during program certification review by the office as long as the finding of consistency is current as defined in rules adopted by the office;

D. Provide ample opportunity for the municipality or multimunicipal region submitting a comprehensive plan or growth management program to respond to and correct any identified deficiencies in the plan or program. A finding of inconsistency for a comprehensive plan or growth management program may be addressed within 24 months of the date of the finding without addressing any new review standards that are created during that time interval ~~jeopardizing partial findings of consistency attained during that review.~~ After 24 months, the plan or program must be resubmitted in its entirety for state review under the office's most current review standards; and

Sec. 15. 30-A MRSA §4349-A, sub-§1, ¶ A is amended to read:

A. A locally designated growth area, as identified in a comprehensive plan adopted pursuant to and consistent with the procedures, goals and guidelines of this subchapter or as identified in a growth management program certified under section 4347-A;

Sec. 16. 30-A MRSA §4349-A, sub-§3 is amended to read:

3. Preference for other state grants and investments. When awarding grants or making a discretionary investment under any of the programs under paragraphs A and B or undertaking its own capital investment programs other than for projects identified in section 4301, subsection 5-B, a state agency shall respect the primary purpose of its grant or investment program and, to the extent feasible,

give preference first to a municipality that receives a certificate of consistency under section 4347-A and 2nd to a municipality that has adopted a comprehensive plan consistent with the procedures, goals and guidelines of this subchapter over a municipality that does not obtain the certificate or finding of consistency within 4 years after receipt of the first installment of a financial assistance grant or rejection of an offer of financial assistance. This subsection applies to:

A. Programs that assist in the acquisition of land for conservation, natural resource protection, open space or recreational facilities under Title 5, chapter 353; and

B. Programs intended to:

- (1) Accommodate or encourage additional growth and development;
- (2) Improve, expand or construct public facilities; or
- (3) Acquire land for conservation or management of specific economic and natural resource concerns.

This subsection does not apply to state grants or other assistance for sewage treatment facilities, public health programs or education.

The office shall work with state agencies to prepare mechanisms for establishing preferences in specific investment and grant programs as described in paragraphs A and B.

Sec. 17. 30-A MRSA §4352, sub-§6 is amended to read:

§4352. Zoning and other land use ordinances

6. Effect on State. ~~A zoning ordinance that is not consistent with a comprehensive plan that is consistent with the provisions of section 4326 is advisory with respect to the State. Except as provided in this section, a state agency shall comply with a zoning ordinance consistent with a comprehensive plan that is consistent with the provisions of section 4326 in seeking to develop any building, parking facility or other publicly owned structure. When developing any buildings, parking facilities, or other publicly owned structures, a state agency shall comply with zoning and other land use ordinances that the office has found consistent with a comprehensive plan that the Office has also found consistent under section 4347-A; otherwise, zoning and other land use ordinances are advisory with respect to the State.~~ The Governor or the Governor's designee may, after public notice and opportunity for public comment, including written notice to the municipal officers, waive any use restrictions in those ordinances upon finding that:

- A. The proposed use is not allowed anywhere in the municipality;
- B. There are no reasonable alternative sites for or configurations of the project within the municipality that would achieve the necessary public purposes;
- C. There are no reasonable alternatives to the project, including sites in other municipalities, that would achieve the necessary public purposes;
- D. The project will result in public benefits beyond the limits of the municipality, including without limitation, access to public waters or publicly owned lands; and or
- E. The project is necessary to protect the public health, welfare or environment.

A decision to waive a restriction under this section may be appealed by the municipality or any aggrieved party to Superior Court.

Sec. 18. 30-A MRSA §1589, first ¶ is amended to read:

At the end of each fiscal year, unencumbered appropriation and allocation balances lapse into the appropriate fund and are not available unless authorized by law. Encumbered balances may not be carried forward more than once at the end of a fiscal year, except that all encumbered balances and accounts for financial assistance and regional planning grants in accordance with Title 30-A, chapter 187 may be carried forward twice.

Sec. 19. 38 MRSA §440, second ¶ is amended to read:

Zoning ordinances adopted or extended pursuant to this section shall be pursuant to and consistent with a comprehensive plan unless the ordinance complies with the requirements of the Federal Flood Insurance Program or other provisions of this section.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.

SUMMARY

This bill clarifies that financial aid contracts are allowed to extend beyond a single fiscal year. It clarifies that floodplain ordinances that comply with the Federal Flood Insurance Program are exempt from the requirement that ordinances must be consistent with a comprehensive plan. It clarifies that the term "under this subchapter" means consistency with the procedures, goals and guidelines established in the growth management law. It provides that a finding of consistency of a comprehensive plan is valid for 15 years. It amends notice requirements for follow-up public hearings that are held as a result of comments made at an initial public hearing. It provides that the State Planning Office, if requested, may review certain ordinances to determine whether they are consistent with a comprehensive plan without requiring submission of all elements of a growth management program. It also provides that an affirmative finding of consistency by the State Planning Office is required for a municipality to assert jurisdiction regarding state investments.

Appendix E: Community Preservation Advisory Committee Work Plan 2004 - 2008

Priority: <u>Address Impacts of State Tax Policy on Community Preservation</u>					
Activity	Type of Action	Next Steps	Sense of Priority	Lead & Partners	Timing
Examine effects of tax policy on sprawl	Research/analysis Monitor legislation	<ul style="list-style-type: none"> • Presentation to CPAC on impact of tax policy on service centers / land use by SPO based on Service Center research • Peter Mills present background on Vermont equalization program to CPAC • Endorse current use taxation proposal 	Very important	<ul style="list-style-type: none"> • Governor's Office • SPO • MMA • DOE • Key legislators 	2004
Resurrect idea of "sprawl tax" or Smart Growth Tax Credit	Research/analysis Legislation	<ul style="list-style-type: none"> • Determine what this would look like • Develop legislative proposals • Support proposals 	Important	<ul style="list-style-type: none"> • Legislators • SPO 	2004 – 2005

Priority: Coordinate State Fiscal Planning / Create a 5-year statewide Capital Improvement Program					
Activity	Type of Action	Next Steps	Sense of Priority	Lead & Partners	Timing
Develop sprawl impact analysis evaluation tool to be used as screen for state policy decisions – a “sprawl note” akin to a “fiscal note”	Research/analysis Legislation	<ul style="list-style-type: none"> • Update Maine’s ‘Costs of Sprawl’ • Research how to develop impact tool • Develop proposal 	Very Important	<ul style="list-style-type: none"> • SPO • Legislature 	2004
Develop five-year statewide capital improvement plan	Research/analysis Legislation	<ul style="list-style-type: none"> • Learn more about states using CIPs now • Develop legislation to have statewide CIP, if needed 	Important	<ul style="list-style-type: none"> • Courts • University • Corrections • Governor’s Office/Cabinet • DOT • DEP • DOE • Others? 	2006
Incorporate state investment and field natural and cultural resources inventory data into GeoLibrary	Administrative Change Investment	<ul style="list-style-type: none"> • Fund the GeoLibrary, ensuring an operating budget to manage data, make it accessible, and maintain it 	Very Important	<ul style="list-style-type: none"> • Maine GeoLibrary • Bureau of General Services • Office of GIS • Beginning with Habitat Coalition 	2004
Implement GeoLibrary	Monitoring Legislation	<ul style="list-style-type: none"> • Determine ongoing funding needs • Ensure continuous stream of funding 	Important	Involve all current partners	Depends on status of current funding
Support the Municipal Investment Trust Fund; ensure support for service centers and designated growth areas	Administrative Change Legislation	<ul style="list-style-type: none"> • Support further bonding of MITF 	Important	<ul style="list-style-type: none"> • DECD • SPO • Legislature 	

Priority: <u>Coordinate State Fiscal Planning / Create a 5-year statewide Capital Improvement Program</u>					
Activity	Type of Action	Next Steps	Sense of Priority	Lead & Partners	Timing
Focus federal and state funded infrastructure (roads, schools, sewer, water, etc.) extensions in service centers/ growth areas	Administrative Change Legislation	<ul style="list-style-type: none"> • Encourage agencies to incorporate location component and coordination across agencies for state investments 	Important	<ul style="list-style-type: none"> • MDOT • Dept. of Education • PUC • DEP • SPO • Legislature 	
Pilot "smart" demonstration projects on state land – e.g., the Youth Center in S. Portland	Administrative Change Legislation	<ul style="list-style-type: none"> • Encourage coordination across agencies for state investments 	Important	<ul style="list-style-type: none"> • MDOT • MSHA • SPO • Legislature 	

Priority: <u>Integrate Regulatory Policies</u>					
Activity	Type of Action	Next Steps	Sense of Priority	Lead & Partners	Timing
Identify impacts of regulatory policies Serve as lens/ clearinghouse for identified conflicts	Legislation Administrative Change Research/analysis Education/outreach Investment	<ul style="list-style-type: none"> • Invite key agencies and stakeholders to testify regarding the impacts of regulatory policies • Outreach to agencies & departments to identify and problem solve • Monitor regulatory policies • Use sprawl impact analysis tool to assess impacts when issues/proposals come to the legislature • Make recommendations in CPAC annual report 	Very Important	<ul style="list-style-type: none"> • DOT • DOEd • BGS • DECD • DEP • DMR • DAFRR • MFS • Others TBD 	DEP, 2004 Aquaculture, 2004 Others, ongoing/TBD

Priority: <u>Address Local / Regional Efficiencies through Effective Regionalism</u>					
Activity	Type of Action	Next Steps	Sense of Priority	Lead & Partners	Timing
<p>Create a regional strategy that reduces redundancy, increases efficiency, increases quality (not regionalism for the sake of regionalism); tie into community preservation; recognize that communities extend beyond municipal borders</p> <p>Address politics of County situation</p> <p>Look at existing regional systems & explore failures</p>	<p>Legislation Administrative Change Research/analysis Education/outreach Current investment</p>	<ul style="list-style-type: none"> • Use/update report from inter-governmental task force and service district concept; hold a 'day on regionalism' • Partner with regionalism task force • Mesh initiatives (e.g. service center, transportation) • Use incentive systems 	Very Important	<ul style="list-style-type: none"> • Governor's office • Service center coalition • Environmental Finance Center • County Commissioners • EDDs, COGs • DOT • Others TBD 	<p>Current/ongoing</p> <p>Hold a 'regionalism day' after the legislature gets out or just before session?</p>

Priority: <u>Address Growing Affordable Housing Gap</u>					
Activity	Type of Action	Next Steps	Sense of Priority	Lead & Partners	Timing
Consider Barriers to Affordable Housing Subcommittee Recommendations. Incorporate into Work Plan.	TBD	<ul style="list-style-type: none"> Consider recommendations at 12/17/03 meeting 	Very Important	<ul style="list-style-type: none"> MSHA, others 	2004
Support efforts to implement a statewide building code that includes rehabilitation code	Legislation Administrative Change	<ul style="list-style-type: none"> Track status of bill / proposal Support Rep. Cowger, Task Force recommendations 	Very Important		2004
Improve communication between regulators (e.g., local historic preservation boards) and developers	Education Administrative Change	<ul style="list-style-type: none"> Encourage MHPC and others that train Historic Preservation Boards to be clear in requirements, involved at beginning of process Develop state guidelines and model ordinances, best management practices 	Somewhat Important	<ul style="list-style-type: none"> Maine Historic Preservation Commission 	2004-2005

Priority: <u>Address Growing Affordable Housing Gap</u>					
Activity	Type of Action	Next Steps	Sense of Priority	Lead & Partners	Timing
Incentivize infill redevelopment by reducing the risk and increasing the predictability, e.g., <ul style="list-style-type: none"> • Clean up MSHA regulations to be in synch with statewide rehabilitation code • Investigate an insurance program for developers to insure against unexpected catastrophic loss / derailing during rehab project 	Research Outreach Administrative Change	<ul style="list-style-type: none"> • Direct MSHA to pursue insurance idea • Direct MSHA to update regs if/when statewide building code is accepted 	Important	<ul style="list-style-type: none"> • MSHA 	2004
Restore the HOME fund	Legislation	<ul style="list-style-type: none"> • Support legislation to restore this fund 	Important	<ul style="list-style-type: none"> • MSHA • Legislators 	2004
Address Retroactive Moratoria, clarifying that, statewide, administrative decisions are not subject to citizen referenda	Legislation	<ul style="list-style-type: none"> • Draft statutory language • Introduce 	Very Important	<ul style="list-style-type: none"> • CPAC / OPLA • Legislature 	2005

Priority: <u>Address Growing Affordable Housing Gap</u>					
Activity	Type of Action	Next Steps	Sense of Priority	Lead & Partners	Timing
Link state investments to housing development, addressing affordable housing gaps in region (where needed) <ul style="list-style-type: none"> • TIFs • DECD funds • Transportation 	Administrative Change Legislation	<ul style="list-style-type: none"> • Conduct market assessments re: workforce housing, compact housing • If necessary, draft legislation that would favor state funding to regions addressing the affordable housing gap • Draft administrative / rule changes for grant programs as needed 	Very Important	<ul style="list-style-type: none"> • MSHA • DECD • MDOT 	2005
Develop incentives to create regional housing authorities. <ul style="list-style-type: none"> • ME Community Foundation grants for expanded collaboration • Davis Foundation • State grants 	Administrative Change Education State Investment	<ul style="list-style-type: none"> • Direct MSHA to develop recommendations to achieve • Consider legislative or administrative changes if necessary 	Somewhat Important	<ul style="list-style-type: none"> • MSHA • Housing Groups 	2005
Support regional vehicles to address lack of affordable housing (where needed)	Administrative Change	<ul style="list-style-type: none"> • Develop media strategy re: workforce housing, compact housing (mixed income) • Consider variety of approaches, e.g., don't certify growth caps in towns within a housing market deemed unaffordable 	Important	<ul style="list-style-type: none"> • MSHA • SPO 	2006

Priority: Shift Paradigm of School Construction and Rehab: School Siting, School Construction, etc					
Activity	Type of Action	Next Steps	Sense of Priority	Lead & Partners	Timing
Create additional requirements/incentives to influence school siting	Research Administrative Change Legislation	<ul style="list-style-type: none"> • Review siting criteria • Get report on statewide renovation needs • Increase funding to revolving renovation fund • Support bond for renovation • Increase carrot stick approach to siting, strengthen incentives to build on existing footprint 	Very Important	<ul style="list-style-type: none"> • Department of Education • Board of Education • Joint Standing Committee on Education 	2004
Ensure strategic application of construction and rehab dollars <ul style="list-style-type: none"> • Consider regional capacity – do not invest new construction dollars until regional capacity filled 	Research Investment Legislation Administrative Change Education	<ul style="list-style-type: none"> • Consider the Governor's Executive Order on Education, to be completed Dec 2003 (contact: David Silvernail, USM) • Ensure rules reflect priorities; update if necessary 	Very Important	<ul style="list-style-type: none"> • Department of Education • Board of Education • Joint Standing Committee on Education 	2004

Priority: <u>Shift Paradigm of School Construction and Rehab: School Siting, School Construction, etc</u>					
Activity	Type of Action	Next Steps	Sense of Priority	Lead & Partners	Timing
Create a high level of offering in service center schools <ul style="list-style-type: none"> Examine state aid formula and its impacts on service centers 	Research Investment Administrative Change	<ul style="list-style-type: none"> Demonstrate benefit of investing in service center schools Request that the Department / Board update rules / investment to reflect priority Act legislatively, if necessary, to revise allocation formula 	Very Important	<ul style="list-style-type: none"> Department of Education Board of Education Joint Standing Committee on Education 	2004
Encourage consolidation of school <i>administration</i> by regions: <ul style="list-style-type: none"> Region eligible for additional state rehabilitation funding if in a regional district governance agreement, ensuring both representation and accountability 	Administrative Change Investment	<ul style="list-style-type: none"> Update rules or legislation, if necessary 	Very Important	<ul style="list-style-type: none"> Department of Education Board of Education Joint Standing Committee on Education 	2004

Priority: <u>Support the integration of transportation investments and smarter land use</u>					
Activity	Type of Action	Next Steps	Sense of Priority	Lead & Partners	Timing
Fine tune Access Management Program to encourage frontage roads when necessary, addressing when strict access limitations in growth areas are encouraging outward development (unintended consequence)	Administrative Change	<ul style="list-style-type: none"> Request recommendations from MDOT 	Very High	<ul style="list-style-type: none"> MDOT 	2004
Ensure linkage of land use planning and transportation investments, perhaps through regional comprehensive plan process: <ul style="list-style-type: none"> does the land use planning and implementation protect the transportation investments; does the land use planning and implementation take into account changes in land use pressures after investment is made 	Administrative Change Legislation	<ul style="list-style-type: none"> Request recommendations from MDOT and SPO 	Very High	<ul style="list-style-type: none"> MDOT SPO 	2004
Revitalize "Explore Maine"	Administrative Change Legislation	<ul style="list-style-type: none"> Request recommendations from MDOT 	Very High	<ul style="list-style-type: none"> MDOT 	2004 - 2008

Priority: <u>Support the integration of transportation investments and smarter land use</u>					
Activity	Type of Action	Next Steps	Sense of Priority	Lead & Partners	Timing
Institutionalize incentives to create walkable, transit oriented land use (commercial and residential)	Administrative Change Legislation	<ul style="list-style-type: none"> Request Recommendations from MDOT and SPO 	Very High	<ul style="list-style-type: none"> MDOT SPO 	2004 - 2008

Priority: <u>Implement sustained campaign to increase awareness of community preservation / smart growth</u>					
Activity	Type of Action	Next Steps	Sense of Priority	Lead & Partners	Timing
Promote community outreach / education that demonstrates what a Great American Neighborhood (GAN) looks like, what a "dense" project is on the ground, and what scale a "large" Maine project is	<ul style="list-style-type: none"> • Education/Outreach 	<ul style="list-style-type: none"> • Request recommendations and timeline from John DeVecchio, SPO • Encourage SPO to develop outreach material and use it 	Important	<ul style="list-style-type: none"> • SPO 	2004
Implement sustained campaign to increase awareness (health, lifestyle, transportation, community development)	Legislation Administrative Change Research/analysis Education/outreach	<ul style="list-style-type: none"> • Try to find allies & partners (e.g. public health) • Do market research on attitudes and politics, test during campaign • Develop work plan to address politics • Sponsor/hold a statewide conference • Monitor legislation, identify smart growth interest and weigh in • Form delegations in the legislature from regions/areas to tackle problems 	Very Important	<ul style="list-style-type: none"> • Healthy Communities • Me Lung Assoc., NGOs • Sportsmen's organizations • GrowSmart conference • DOT, State Highway Stewardship • Others TBD 	Develop strategy 2004-5 Act on strategy 2006-8 ongoing

Priority: <u>Implement sustained campaign to increase awareness of community preservation / smart growth</u>					
Activity	Type of Action	Next Steps	Sense of Priority	Lead & Partners	Timing
Combine MDF Indicators of Economic Growth with Livable Communities Indicators, i.e. increase importance and visibility of sprawl indicators and effects on economy	Education/outreach	<ul style="list-style-type: none"> • SPO coordinate with MDF • Meet with Economic Growth Council 	Important	<ul style="list-style-type: none"> • MDF • SPO • Growth Council 	2005 MDF Indicators report
Develop and distribute outreach materials	Education/outreach	<ul style="list-style-type: none"> • Complete and distribute 'Code of the West' 	Important	<ul style="list-style-type: none"> • SPO, others? 	2006

Priority: Support Maine's Downtowns and the "Great American Neighborhood"					
Activity	Type of Action	Next Steps	Sense of Priority	Lead & Partners	Timing
Create a home for the Downtown Center - Agency or independent	Administrative Change Investment	<ul style="list-style-type: none"> • Invite Darcy Rollins, MDF, to present to CPAC and submit recommendations 	Somewhat Important	<ul style="list-style-type: none"> • DOC Natural Areas Program • BWH Coalition 	2004
Examine recently failed GAN proposals – what happened and why? If they would have been built, who are the economic/fiscal winners and losers?	Research/Analysis	<ul style="list-style-type: none"> • Conduct research, use to develop recommendations and support future outreach 	Important	<ul style="list-style-type: none"> • SPO • USM 	2004
Link state infrastructure investments to communities that encourage / permit GAN development	Investment Administrative Change	<ul style="list-style-type: none"> • Request recommendations from MDOT to institutionalize its position in Scarborough 	Important	<ul style="list-style-type: none"> • SPO • MDOT 	2004

Priority: Create meaningful tools and strategies to protect rural industries and landscape					
Activity	Type of Action	Next Steps	Sense of Priority	Lead & Partners	Timing
Create incentives for communities to consider Beginning with Habitat (BWH) in creating regional plans	Administrative Change Investment	<ul style="list-style-type: none"> • Invite BWH to present to CPAC and submit recommendations for administrative and legislative changes 	Somewhat Important	<ul style="list-style-type: none"> • DOC Natural Areas Program • BWH Coalition • IFW 	2004 – 2006
Improve the implementation of Beginning with Habitat through more permanent infrastructure and stable funding	Administrative Change Investment	<ul style="list-style-type: none"> • Invite BWH to present to CPAC and submit recommendations 	Somewhat Important	<ul style="list-style-type: none"> • DOC Natural Areas Program • BWH Coalition • IFW 	2004 – 2006
Integrate and further refine BWH information in local comprehensive plans	Administrative Change	<ul style="list-style-type: none"> • Engage in the SPO rulemaking in 2004 	Somewhat Important	<ul style="list-style-type: none"> • DOC Natural Areas Program • BWH Coalition • IFW 	2004
Support farmland protection programs	Legislation Research/analysis	<ul style="list-style-type: none"> • Educate ourselves • Look at farmland protection strategies (DAFRR & S. Smith reports), decide what to do with them 	Somewhat Important	<ul style="list-style-type: none"> • DAFRR • Maine Farmland Trust, MOFGA, NGOs • Maine Rural Development Council • Others TBD 	Develop initiatives 2005-6 Look at aquaculture report soon (2004) Address legislative proposals as they come out
Increase efficacy of investments in declining Natural Resources industries Identify and target investment to critical regional infrastructure / elements	Legislation Research/analysis Current investment	<ul style="list-style-type: none"> • Encourage research and reporting on state investments in declining industries • Hear from agencies & interest groups • Develop pilot projects 	Somewhat Important	<ul style="list-style-type: none"> • State Economist • Maine Farmland Trust, Aquaculture association, Lobstermen's assoc., etc. • DMR • Others TBD 	Research, reporting by fall 2004 2 year reporting process Move into action phase in 2-3 years

Priority: <u>Create meaningful tools and strategies to protect rural industries and landscape</u>					
Activity	Type of Action	Next Steps	Sense of Priority	Lead & Partners	Timing
Develop clear policy statements about Natural Resource industries, including tourism industry	Administrative Change Research/analysis	<ul style="list-style-type: none"> • Track Governor's initiatives • Provide input to Governor in developing policies • Highlight sustainability issues • Hear from trails community • Consider liquidation forestry 	Important	<ul style="list-style-type: none"> • TNC, trails groups • Others TBD 	2005-6
<p>Encourage new participation in farming and fishing</p> <p>Retain traditional resource based industries (ensure/enable success)</p> <p>Look at non-traditional ways to utilize traditional resources</p>	Legislation Research/analysis Current investment	<ul style="list-style-type: none"> • Look at methods • Look at needs • Look at initiatives & identify opportunities • Figure out CPAC role 	Important	<ul style="list-style-type: none"> • Maine Farmland Trust, Fishermen's groups • SWOAM • Others TBD 	2004: After legislative session & later
Address Working Waterfronts as a critical piece of Maine's economy / culture	TBD	<ul style="list-style-type: none"> • Invite representative of Working Waterfronts Initiative to present recommendations to CPAC 	TBD	• TBD	TBD
Address aquaculture as a key element of Maine's marine industry	TBD	<ul style="list-style-type: none"> • Invite representative of Aquaculture task force to present recommendations to CPAC 	TBD	• TBD	TBD

Priority: Create meaningful tools and strategies to protect rural industries and landscape

Activity	Type of Action	Next Steps	Sense of Priority	Lead & Partners	Timing
Support significant bond package for the Land for Maine's Future program: <ul style="list-style-type: none"> • Permit bond funding to be used for investment in Geo Library for statewide protected area inventory 	Legislation	<ul style="list-style-type: none"> • Support legislation proposed • Work within legislative process to add amendments to allow funding for the Geo Library 	Very Important	<ul style="list-style-type: none"> • OPLA • Legislators 	2004
Expand LMF eligibility to address livability issues – open space, parks, trails, access in service centers and growth areas	Legislation Administrative Change	<ul style="list-style-type: none"> • Request recommendations and timelines from Tim Glidden • Develop and support legislation 	Very Important	<ul style="list-style-type: none"> • SPO • OPLA 	2004

Priority: <u>Create meaningful tools and strategies to protect rural industries and landscape</u>					
Activity	Type of Action	Next Steps	Sense of Priority	Lead & Partners	Timing
Amend LMF administrative rules to: <ul style="list-style-type: none"> • Ensure that properties are not being acquired to remove them from the development stream; • Tie LMF investments to growth / rural strategies in an adopted consistent comp plan; • Tie LMF investments to availability of affordable housing in market (e.g., do not reward towns that do not meet affordability goals); • Review incorporation of Beginning with Habitat Focus Area designation in evaluation criteria 	Administrative Change	<ul style="list-style-type: none"> • Request recommendations and timelines from Tim Glidden, SPO 	Very Important	<ul style="list-style-type: none"> • SPO 	2004

Priority: Address Statewide Transfer of Development Rights Legislative Charge

Activity	Type of Action	Next Steps	Sense of Priority	Lead & Partners	Timing
Encourage preferences in LMF and other state conservation programs / funds for acquiring development rights over outright purchase (when there is a cost savings)	Research Administrative Change	<ul style="list-style-type: none"> • Determine if there is actually a cost savings to acquiring only the development rights? • Update LMF and other acquisition program rules 	Important	<ul style="list-style-type: none"> • SPO • DOC • IFW 	2006-2007
Consider recommendations from SPO's advisory group on statewide and regional TDR programs in Maine	TBD	<ul style="list-style-type: none"> • Invite Fred Landa and Rich Rothe to present recommendations to the Committee 	Important	<ul style="list-style-type: none"> • SPO 	2004

Priority: Improve SPO / Municipal Relationships

Activity	Type of Action	Next Steps	Sense of Priority	Lead & Partners	Timing
Improve SPO / municipal relationships	Education and outreach Administrative Change	<ul style="list-style-type: none"> Publish case studies of successful partnerships between state agencies and towns regarding growth issues (e.g. corridor studies) Increase technical assistance role for SPO, decrease "regulatory" role 	Very important	<ul style="list-style-type: none"> SPO DOT others 	2004