

STATE PLANNING OFFICE NEWSLETTER

Current News and Updates for Municipal Officials

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A New Approach to Planning

Streamlining the state's consistency review process

Changes are being made to Maine's growth management policies that simplify the state review process for local comprehensive plans.

For the past five months, the land use staff has been overhauling the way it reviews local comprehensive plans for consistency with state law. They held five meetings across the state, met with numerous groups, and asked planners, municipal officials, and other interested parties to critique drafts and offer suggestions. Stakeholders offered over 200 substantive comments that staff are considering one-by-one.

The office's new approach has been to develop a process and review criteria to minimize findings of inconsistency, focus local planning on where and how the community wants to grow, and limit state review to those areas where the state invests its dollars.

SPO submits legislative proposals

The State Planning Office is proposing changes to both its land use and solid waste statutes. The legislative proposals relating to the Growth Management Act arise from stakeholders input during the fall and will:

- Clarify that certain ordinances can be adopted without a consistent plan (see related article elsewhere in this newsletter)
- Add a severability provision where plan inconsistencies, which are not related to zoning and other land use controls, do not void those controls (see related article elsewhere in this newsletter)

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Specific Changes to Review Criteria

For each topic area of a comprehensive plan, the office presents specific questions to help the community analyze the issues it faces or will face in the future. It then outlines the minimum required data to answer those questions and the key policies and strategies needed to address the issues raised. Some of the data would need to be collected locally, but much would be provided by the State Planning Office, other state agencies, or regional planning agencies. The office has determined that if certain state data is not available, the community would not be required to

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- Add an appeals process
- Add a sunset provision to SPO's consistency finding after 12 years
- Change the time line for plan reviews from a 7-day filing period and a 60-day state review to a process allowing 35 working days to issue a finding of completeness and 10 working days to issue of finding of consistency
- Add an exemption from designating a growth area for towns that lack a village or densely populated area

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Director's column

By Martha Freeman



Governor's Key Legislative Proposal: The FY08–09 state budget item receiving the most attention involves school administration streamlining. Governor Baldacci proposes reducing Maine's 152 school superintendents and 290

school administrative units to 26. This *Local Schools, Regional Support* (LSRS) initiative will consolidate central administrative services, but not schools. In fact, the LSRS proposal puts a principal in every school and provides for greater voter participation in approving school budgets. Regional school board members will be elected and local councils of parents and community members will advise them. As with current law, a school may not close if the citizens of a community vote to keep it open. LSRS enhances local control, while streamlining administration to save state and local revenues.

The estimated state and local savings from this proposal come close to \$250 million. The Governor wants to invest the state's share of these savings in the classroom. On the local side, the Governor wants property tax relief to result from administrative streamlining and the additional \$178 million in the state budget to achieve a 55% share of school aid.

The LSRS proposal appeared just as the State Planning Office reported on Maine's second year of progress under LD 1, the 2005 tax burden

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"For a second year in a row, the rate of growth of property taxes was lower than before LD 1 went into effect. The estimated state and local tax burden on Maine residents declined both in 2005 and 2006."

LD 1 progress in 2006

Each year the State Planning Office reports on progress made by Maine's state, county, and municipal governments, and its school administrative units in reaching the tax burden reduction goal set out by LD 1.

LD 1 imposes caps on government spending as one way for Maine to lower its tax burden.

Last year researchers at the University of Maine's Margaret Chase Smith Policy Center found that the growth in government spending had slowed as a result of LD 1. Particularly, they said that increased state subsidies for local education were contributing to the reduction in municipal government spending.

This year the reduction of growth in spending was not as dramatic as it was last year. The report finds in 2006 that:

- The state is staying within its LD 1 limit even while increasing aid to local education.
- Most counties stayed within their LD 1 limit and slowed their assessment growth in 2006, their first year of full compliance with LD 1. However, the high cost of one jail project created an increase in overall assessment growth.
- For a second year, municipalities' combined property tax commitments were below their estimated LD 1 limit.
- School administrative units displayed the most divergence from the expenditure targets set by LD 1. Eighty-one percent exceeded their LD 1 limits.

In its second year, we find that LD 1 is pointing Maine in the right direction.

The State Planning Office's report looks at LD 1 compliance as an indicator of the progress made toward tax burden reduction. A companion report prepared by the Maine Revenue Services calculates the current tax burden on Maine residents. Both reports are available on line at: www.maine.gov/spo/economics.

Protecting local land use controls

Continued growth pressures, particularly in southern and coastal Maine, have led to a number of proposals for revising the requirements that communities must have consistent comprehensive plans in order to exercise their land use controls.

During the stakeholder process to revise the way we review comprehensive plans, the State Planning Office heard that towns need a timely way to put some development controls in place without a plan. Regulations that apply townwide are not considered zoning, and there are some tools towns can use to help manage growth that do not necessarily need to be tied to zoning ordinances.

The State Planning Office will propose statutory changes to clarify that towns may adopt non place-based ordinances such as design, open space subdivision, and building size cap ordinances without having a comprehensive plan. (A comprehensive plan would still provide the rationale and legal basis for conventional zoning.)

In addition, we heard that municipal land use controls across the board are at risk of invalidation when a community's plan is found inconsistent with the Growth Management Act. This is true even if that inconsistency is unrelated to the land use controls. Currently in statute, any inconsistency finding invalidates an entire plan which also invalidates land use controls.

The State Planning Office will propose that inconsistencies, which are not directly related to

“Currently, if a community is missing something in one small area [of their comprehensive plan], their entire land use control system is under threat.”

—Stakeholder at September 20, 2006 meeting

Goals of growth management changes

1. Encourage regional solutions to meet the goals of the Growth Management Act
2. Improve the effectiveness of local comprehensive plans
3. Streamline data and inventory requirements
4. Expedite the review process
5. Make plan requirements for consistency with state law more transparent
6. Reduce the time to bring a plan to consistency
7. Allow SPO to provide better technical assistance

zoning, rate of growth, or impact fees ordinances, would no longer invalidate these land use controls.

These changes are intended to allow a community to put and keep in place local land use controls; recognizing the pace of growth and threat to community character without them.



Meet SPO's two newest land use planners: Tom Miragliuolo (left) has a BA in geography. He brings six years of experience working with communities as part of SPO's waste management and recycling team. He and his wife are building a new home in China. John Weber (right) was with an environmental consulting firm in Portland before joining SPO and served as Boston Harbor coastal program coordinator and as a city planner in Utah. He has a MS in marine resources management from Oregon State University. He and his wife have a new baby daughter.

MAINE MUNICIPAL BOND BANK SEEKS APPLICANTS FOR GRANTS FUNDS

The Maine Municipal Bond Bank has \$1 million available for municipalities, districts, and groups of local governments to improve financial efficiencies or reduce the cost of local government operations, while maintaining or improving services. The range of activities that towns might undertake under this program is quite broad.

Any unit of local government eligible to undertake capital financing through the Maine Municipal Bond Bank is eligible to apply. The deadline for grant applications is Friday, March 23, 2007. Information and an application form are available on-line at: <http://www.mmbb.com/Applications.aspx> under the Credit Quality Improvement Grant Program.

WORKING WATERFRONTS PROTECTED

This month, the Land for Maine's Future Board approved six projects that will protect working waterfront properties and assure that they retain their capacity to support commercial fisheries forever.

Two municipalities, one fishing coop, one local land trust, one community foundation, and one commercial fishing facility received \$1.29 million of a \$2 million bond. The Town of Machiasport received funds for the purchase of a right-of-way to secure access to one of the region's best clamming flats. Isle Au Haut will be able to protect and renovate their town pier to ensure its viability and availability to the year-round fishermen who are at the core of the permanent community there.

Funding for the program is provided by a voter-approved bond that includes \$10 million for the Land for Maine's Future Program and \$2 million to preserve working waterfront properties that are strategically and economically significant to Maine's fisheries now and in the future.

BLUE RIBBON COMMISSION ON SOLID WASTE

The Legislature's blue ribbon commission on solid waste met nine times over the fall and winter and is preparing their recommendations for the Joint Standing Committee on Natural Resources.

During their meetings, the commission discussed these major topics:

- Expansion and clarification of host community benefit agreements
- The structure of solid waste management programs
- Construction/demolition debris management and its role as a biomass fuel
- The solid waste management hierarchy and its effectiveness

The final report should be completed by mid-February, when it will be presented to the Natural Resources Committee for their consideration and action. For more information: <http://www.maine.gov/dep/rwm/solidwaste/blueribbon/>

MODEL CHART OF ACCOUNTS AVAILABLE

The Maine Department of Audit, working with municipal officials, CPAs, and state finance personnel, developed a model chart of accounts for use by municipalities and counties. Its development was at the instigation of the Intergovernmental Advisory Commission to facilitate comparison of financial data and consistent financial reporting.

The structure, which coincides with the one that is now required by the Maine Department of Education for schools, was prepared with a universal structure to accommodate smaller municipalities and for larger municipalities needing a more complex structure.

The Maine Municipal Association has made the chart of accounts available on its web site at: <http://www.memun.org/>.

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include it in their plan.

The new approach would require minimum plan elements for all communities. These elements would be straightforward enough for a small, slow-growing community to prepare. Yet, larger or faster growing communities would be free to augment the minimums to meet their needs. The office also proposes a process for omitting some or substituting different elements to meet unique local needs.

Specific Changes to Review Process

The Office proposes to focus its consistency reviews on the future land use section of local plans. The Future Land Use Plan provides the basis for the community's land use regulations. It is where the community determines where and how it wants to grow. Because the state invests more than \$400 million per year in local infrastructure, the Future Land Use Plan is where state and local planning interests intersect. It is the section of the local comprehensive plan that most directly addresses issues of state and regional significance and where state review is most appropriate.

The State Planning Office would no longer find a plan inconsistent for missing data or minor deficiencies. The community would self assess its plan to determine if it is complete.

Next Steps

Most stakeholders agree that the new process and criteria should significantly reduce the number of findings of inconsistency. The office is proceeding

Public Hearing Notice

Prior to adopting any rule changes, the office is required to hold a public hearing and accept public comment. If you would like to be notified of the date and time of this public hearing, please contact Donna Bradstreet at 287-5649 or donna.bradstreet@maine.gov

with implementing the new approach. Some of the changes require statutory amendments, some require regulatory changes. The office has drafted legislative proposals for consideration by the 123rd Legislature (see related articles elsewhere in this newsletter) and intends to undergo rule-making under the State's Administrative Procedures Act this spring. For more information about the changes to the growth management program: <http://www.spo-comp-plan-rules.com/spo/>.

Linking Transportation and Land Use Planning
The transportation section of the State Planning Office's proposed comprehensive plan review criteria is being developed with the MaineDOT to meet the requirements of the Growth Management Act and the revisions to the Sensible Transportation Policy Act (STPA) rules currently being drafted by MaineDOT. The goal is to have the same requirements for consistency with both rules, so towns do not have to meet two separate standards in order to be consistent with both rules. MaineDOT is also planning to increase technical assistance for communities working on comprehensive plans or transportation plans under the STPA rule.

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In addition, the State Planning Office is proposing a number of changes resulting from its 2005 solid waste policy review task force:

- Replace the 5-year policy task force with an advisory committee that would meet at least once a year and advise the office on policy and program issues
- Change the time frame for updates to the solid waste disposal capacity report from biennially to annually
- Give the Legislature more notice of the need to develop state-owned disposal capacity (six years notice vs. four)

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law. The 2006 LD 1 report shows that the state met its LD 1 growth limits even while increasing aid to local education. For the second year in a row, the growth rate of property taxes was lower than before LD 1 went into effect. The estimated state and local tax burden on Maine residents declined in both 2005 and 2006.

But...in 2006, 81% of school administrative units exceeded their LD 1 limit. Aid to local education accounts for a third of state general fund appropriations. Education spending accounts for the largest share of aggregated property taxes. If Maine people want greater property tax relief, we must not expend precious revenues on unneeded administrative overhead. If Maine people want to prepare our children for 21st Century jobs, we must streamline school administration and invest savings in support of teachers and students.

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