

# STATE PLANNING OFFICE NEWSLETTER

Current News and Updates for Municipal Officials

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## Maine CEO Program

### *20 years of certifying local code enforcement officers pay dividends*

In Maine, land use control and regulation rest largely in the hands of our 494 cities and towns. Recognizing this important responsibility, the Legislature, in 1988, decided that, if the state's long-range goals for resource protection and economic development were to be achieved, there was a need not only to train, but also to test and certify municipal code officers for specific competencies. It established, as part of the [Growth Management Act](#), a state-administered program to train and certify code officers. Today, the program at the State Planning Office continues to build and strengthen local capabilities to administer and enforce land use laws, environmental regulations, and building standards.

The program has been a remarkable success. As of January 1, 2007, 558 individuals were certified

## What is the future for Maine's building codes?

In accordance with [Resolve, 46](#), the State Planning Office, State Fire Marshal's Office, Maine Historic Preservation Commission, and departments of Economic and Community Development and Professional and Financial Regulation have begun to develop an implementation plan for Maine's building codes.

The absence of a single, statewide code was cited by the Brookings Institution as a deterrent to economic sustainability in Maine.

Maine's model building code stands separate from electrical, fire safety, energy efficiency, and other

### INSIDE THIS ISSUE

Maine CEO Program	1
What is the future for Maine's building codes?	1
Director's Column	2
Legislative Highlights	2
Sharing a CEO	3
Grant and program announcements	4

in one or more of the required areas. As a result of nearly 20 years of training and certification, CEOs have become more skilled in enforcing land use laws and other codes. The program has increased stability for municipalities who previously faced high turnover rates in CEOs. Finally, it has spurred code enforcement as a profession, giving CEOs legitimacy in their communities, in the court system, and with state officials.

Trained in legal procedures, code officers can represent their municipalities in court, saving legal fees. What's more, properly-enforced codes help Please see *CEO* on page 5

state codes. In states where building codes have been implemented successfully, a centralized entity integrates and oversees the various codes. These states also have greater resources for technical assistance and training, which add to their effectiveness.

The state agency group will consider how well Maine's current statutory codes work and the impact they have on affected parties. It will tackle questions such as: Who should administer Maine's codes and keep them updated? What is the

Please see *Future* on page 3

## Director's Column

By Martha Freeman



The [Brookings report](#) asserts that Maine's quality places are scarce and valuable assets in today's economy. The challenge we face is how "to achieve sustainable prosperity for Maine people without wrecking the place!" This

spring Governor Baldacci created a diverse and nonpartisan council to consider how we might make "Quality of Place" an added framework for community and economic development.

"Quality of Place" refers to those characteristics that make a region distinct and attractive, including its natural and built environments, civic traditions, cultural amenities, and recreational opportunities.

Maine's natural setting plays a key role in its Quality of Place. Our landscapes provide visual appeal and support recreation, wildlife, and production. The Council recognizes that leveraging these natural settings to attract residents, visitors, and businesses requires infrastructure. Without well-managed access to natural resources, their full economic value may not be realized.

Quality of Place reflects the entire region in which one lives, works, and recreates. Businesses assess Quality of Place within the region where employees will live, not just the worksite. Tourists and retirees also select destinations regionally. The Council believes that Quality of Place initiatives must be pursued regionally.

Please see *Director* on page 6

"Promulgation of the new model codes offers a huge opportunity for Maine. The state should do the job right."  
–Brookings Institution, *Charting Maine's Future*

## Legislative Highlights

The following bills may be of interest to municipal officials:

[Ch. 192](#) Solid Waste Information (LD 1313) implements recommendations from the Solid Waste Policy Task Force. By substituting an annual solid waste management advisory council for the policy review task force that met every five years, updating the solid waste capacity report annually instead of every other year, and lengthening the time for the state to notify the legislature of the need to develop additional disposal capacity from four to six years, the bill makes solid waste policy and data more timely.

[Ch. 39](#) Bond Referenda (LD 1796) authorizes bonds for action by the voters in November 2007. Among other items, it includes \$20 million for the Land for Maine's Future Program with funds earmarked for working waterfront protection (\$3 million) and water access acquisition and farmland protection (\$1.7 million each). It also includes \$7.5 million for upgrades at state parks and historic sites, \$5 million for grants to municipalities to help revitalize their riverfronts, and \$1.5 million to recapitalize the Municipal Investment Trust Fund.

[Ch. 247](#) Comprehensive Planning and Land Use Ordinances (LD 1803) removes the requirements that communities must have consistent comprehensive plans in order to exercise certain land use controls; puts a 12-year sunset date on comprehensive plans; shortens the state comprehensive plan review timeline; and provides that towns without a village or densely-settled area can be exempt from having to designate a growth area.

[Ch. 343](#) Recycling Cellular Telephones (LD 1717) requires retailers of cellular telephones to collect used cellular phones for reuse, recycling, or proper disposal effective October 1, 2007.

Please see *Highlights* on page 5

## Sharing a CEO

Many towns in Maine employ part-time code officers. However, as development increases and laws and regulations change, codes issues become more complex and time-consuming. Towns with part-time CEOs face high turnover rates, demand for more coverage, and the need for more highly-trained CEOs.

More and more towns are looking at sharing a full-time CEO. The Androscoggin Valley Council of Governments (AVCOG) studied the costs and options for sharing CEOs among multiple communities. The work was done with a state regional efficiency grant.

Their study shows how the decades long practice of individual CEOs contracting separately with multiple towns for part-time service does not work as well in

*"A well qualified CEO can be a tremendous asset to a community. The costs of dealing with complaints, addressing problems after-the-fact, and potential environmental costs can outweigh any training costs."*

*—Androscoggin Valley Council of Governments*

today's environment. It points out both benefits and drawbacks of sharing a full-time CEO:

### Benefits:

- Well-trained CEOs and improved competency resulting in fewer complaints and errors
- Less turnover due to improved training and better compensation and benefits
- Improved continuity and oversight

### Drawbacks:

- Potentially more cost due to oversight/overhead
- Difficulty in scheduling
- Complexities of serving different towns with different ordinances and expectations

Depending on local needs, there are several options for formal sharing including contracting with a lead town, developing an interlocal agreement, or sharing

through a council of governments. Regardless of the method used, there are several considerations for making the arrangements more effective:

1. Under state law, CEOs must be sworn municipal officials for each town in which they work;
2. Towns can recoup their costs for permitting and inspection through fees. The AVCOG study provides a model for analyzing costs to develop fee schedules that support the CEO;
3. Increasing complexity of regulations, escalating size and location of development, growing number of abutters, and development becoming more contentious all necessitate greater training and skills for CEOs; and
4. Codes that vary among towns make it difficult not only for the code officer, but for the builders and contractors. It can increase costs of enforcement and slow building projects. Sharing towns that adopt the same building code can foster more efficient codes enforcement.

AVCOG's study can be found on-line at:

[www.maine.gov/spo/sp/regional/articles.php](http://www.maine.gov/spo/sp/regional/articles.php).

### *Future from page 1*

appropriate balance between ensuring public safety and reducing cost for consumers? What would it cost to make the code mandatory? What are funding options?

The work group is planning to conduct focus groups to learn more about stakeholder concerns and will create a web site for working papers. It will develop a draft proposal for public input in the late fall. For more information, contact [amy.cole-ives@maine.gov](mailto:amy.cole-ives@maine.gov).

A final report is due to the Legislature's Business, Research and Economic Development committee on February 15, 2008.

### REGIONAL EFFICIENCY GRANTS FUNDED

The Legislature put \$500,000 in the [Fund for the Efficient Delivery of Local and Regional Services](#) which provides grants to groups of municipalities that want to collaborate on regional service delivery. The Department of Administrative and Financial Services administers the grant program. They expect to issue a request for proposals in early November 2007 with proposals due in February and awards made in March 2008.

### MUNICIPALITIES NEED TO REPORT CONSERVATION EASEMENTS FOR STATEWIDE REGISTRY

P.L. 2007 c. 412 changes the state's enabling legislation for conservation easements. It calls for the State Planning Office to create and maintain a statewide registry of conservation easements and directs all parties, including municipalities, that own (or "hold") conservation easements to register the easement with SPO and to report annually on any transfers of ownership or amendments to the easement. SPO is in the process of designing a reporting system. More information will be available later in the year.

### PLACE AND PROSPERITY

In its 2006 report, *Charting Maine's Future: An Action Plan for Promoting Sustainable Prosperity and Quality Places*, the Brookings Institution asserts that Maine's quality places are scarce and valuable assets in today's economy. At the request of the Governor's Council on Maine's Quality of Place, staff at the State Planning Office investigated the intellectual underpinnings of that claim. They also considered why and how Maine might consider "quality of place" as a new framework for economic development. ["Place and Prosperity"](#) (PDF 180K) summarizes their findings and conclusions.

### INFORMED GROWTH ACT PROVIDES FUNDS TO MUNICIPALITIES FOR DEVELOPMENT STUDIES

Maine's Informed Growth Act requires developers to pay the cost of conducting an economic impact study for any retail development proposal that exceeds 75,000 square feet. Municipalities are to consider the economic impact of the proposed development when permitting such a project. SPO's role in administering the law is to handle the fees and identify consultants. Under the new law, the developer deposits a fee with SPO who, in turn, disburses to the municipality enough to cover the costs of the study, public notice, and related municipal staff support. SPO must also develop a list of qualified consultants that can carry out the studies. In August, SPO will begin the rule-making process to set the criteria for selecting consultants. Answers to some FAQs are available at SPO's web site at: [www.maine.gov/spo](http://www.maine.gov/spo).

### COMPREHENSIVE PLAN RULE STATUS

Based on public comment received during rule-making, SPO is making changes to the proposed rule, Chapter 208, the criteria and process for reviewing local comprehensive plans for consistency with state law. SPO will post the revisions shortly and expects to adopt the rule by September 20 to coincide with the effective date of the related statutory changes to the Growth Management Act. For more information: [www.maine.gov/spo/landuse/](http://www.maine.gov/spo/landuse/)

### IDEAS FOR NEWSLETTER

The State Planning Office would like your ideas for future newsletters. Are there topics you would like to see addressed? Ideas for regular columns? Suggestions for program information? Is the frequency of the newsletter sufficient to provide timely information? What would make the newsletter more informative? Please send your thoughts to [jody.harris@maine.gov](mailto:jody.harris@maine.gov).

**MEET SPO STAFFER: LANA CLOUGH**

Lana Clough heads up the state code enforcement officer training and certification program, and has served the program since 1990. "I love Maine. I like working with people, and I highly respect the code officers and the important job they do. So this is a great job for me!" Lana is a University of Maine graduate and a certified Maine code officer.

**CEO from page 1**

avoid complaints and legal challenges from inconsistent enforcement. In fact, the course on legal issues and enforcement techniques is one of the most popular workshops offered by the State Planning Office.

The Maine code enforcement officer training and certification program is ably-administered by two SPO staffers: Lana Clough and Sue Baker. It offers an annual schedule of training workshops designed to meet certification and recertification requirements. As resources allow, the program also conducts advanced workshops for seasoned code officers who want more specialized training. Certification exams are offered every month at the State Planning Office in Augusta. For more information: [www.maine.gov/spo/ceo/](http://www.maine.gov/spo/ceo/).

**Highlights from page 2**

[Ch. 405](#) Municipal Education Foundations (LD 702) permits municipalities to accept endowments for education and directs SPO to establish a template for municipalities to use to establish foundations.

[Ch. 406](#) Host Community Benefits (LD 1431) expands host community benefits to any immediately contiguous town or township with demonstrable impact from a new solid waste disposal facility and establishes a dispute resolution process for host community agreements when parties cannot agree.

[Ch. 412](#) Conservation Easement Reform (LD 1737) ensures the long-term protection of conservation easements by establishing a statewide registry at SPO (see related article).

[Ch. 414](#) Blue Ribbon Commission on Solid Waste (LD 1908) restricts state-owned disposal facilities from accepting out-of-state waste.

[Ch. 347](#) Informed Growth Act (LD 1810) requires an economic impact study for all proposed retail stores over 75,000 square feet at the developer's expense and gives municipalities a procedure for conducting the study (see related article).

[Resolve 46](#) Maine Model Building Code (LD 677) asks for a specific recommendation on how the state model and rehabilitation codes will be implemented (see related article).

**Codes Success in Washington County: A Case Study**

Municipalities in Washington County have increased their certification rate of local code officers from approximately 81% in 2000 to 97% in 2007. The high rate in Washington County points to greater longevity in code officers there and the resulting skill of experienced personnel.

What accounts for Washington County's success? One person —Judy East, Director of the Washington County Council of Governments. Judy offers an on-site presence in one of Maine's remotest counties. She promotes state training programs, encourages attendance, and even proctors certification exams in her office in Calais. Her persistence has paid off.

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This newsletter is prepared by the Maine State Planning Office. It is designed to provide municipal officials with topical information about the Office's resources, programs, and staff.

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Page 6

### ***Director from page 2***

As an economic development strategy, Quality of Place entails an effort to enhance a region's distinct and attractive characteristics. Successful initiatives align a region's unique assets with promising and realistic market opportunities. The Council refers to this as asset-based economic development.

Quality of Place strategies are appealing because they directly enhance the well-being of local residents. Most often it is our downtown and village areas where Mainers live, shop, and work. The Council perceives many of our downtowns to be at risk.

The Council will focus on four areas: protecting large landscapes, pursuing regional planning and governance, implementing asset-based economic development strategies, and building vibrant downtowns. The Council will report on its effort this fall. For more information: [www.maine.gov/spo/qualityofplace/](http://www.maine.gov/spo/qualityofplace/).

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*Would you like to receive this newsletter electronically?  
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