

# Governor's Council on Maine's Quality of Place

Minutes of the Thirteenth Meeting, March 25, 2008<sup>1</sup>

Public Utilities Board Room, Augusta

**Note: Next Meeting of the Council will be on Tuesday, May 6<sup>th</sup>, 12 noon, State House Cabinet Room, to present Governor Baldacci with the Council's second and final report at a press briefing, followed by lunch.**

**Present:** John Rohman, Ken Young, Tracy Michaud-Stutsman, Hank Schmeltzer, Mary Kate Reny, David Whitney, Richard Barringer (Chair), Ed Barrett, Martha Freeman, Bruce Hazard. **Absent:** Chuck Lawton, John Marsh, Evan Richert, Eleanor Kinney, Hilary Basset. **Staff:** Jody Harris, John Del Vecchio, Mike LeVert, Kate Reilly, Amanda Rector. **Others attending:** Sarah Giffen, Fred Todd, Jeff Romano, Robert Thompson, Robert Duplessie, James Frank, James Francomano

**Introductions & Greetings:** Richard Barringer opened the meeting at 1:10 p.m. with introductions of Council members, staff and guests; reported that Ed Barrett had hit a deer while travelling to the meeting and would not be attending (Ed is fine, deer is not); especially thanked Bob Thompson for his work with asset based development working group; and reviewed the proposed agenda for the meeting and asked if there were any questions or changes desired. There were none.

Richard distributed a letter from Patrick Strauch (MFPC) received earlier in the day, requesting LURC-related changes in language to the Council's first report to the Governor; and a sheet highlighting legislative issues of interest to the Council. Richard then invited Fred Todd, Planning Director for the Land Use Regulation Commission (LURC), and Sarah Giffen, LURC planner, to present to the Council information regarding planning for development in the Unorganized Territory (UT), including any information they wish to share in response to the earlier presentation to the Council by the Maine Forest Products Council.

**LURC Presentation:** Frederick Todd and Sarah Giffen

Fred Todd stated that he wished to share with the Council the following: a) the main message(s) that LURC is trying to address in the LURC comprehensive land use plan (CLUP), b) the data used in considering plan revisions, c) the sorts of public values that LURC feels are at risk if changes are not made to the old CLUP and the Commission's regulatory process, and d) the role of the comprehensive plan and where the plan fits into LURC's regulatory process.

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<sup>1</sup> Note: The minutes have been prepared by staff of the State Planning Office from notes taken throughout the day; they are intended to summarize a rich set of presentations and conversations, and do not necessarily represent accurately the thoughts and opinions of those cited here.

Fred presented background information on LURC and its role in planning and regulating development in the 10 ½ million acres of Maine's Unorganized Territory. He noted that LURC operates under the guidance of its comprehensive land use plan, which he pointed out is only as useful as it is up to date. The current plan was adopted in 1997, and the revision process was begun two years ago. The Commission released draft proposed revisions to the plan in October 2007.

Fred noted that the process used in developing the 1997 LURC Plan didn't work well because LURC started out seeking public comment on a "blank slate". LURC's intent in putting together the current draft was to prepare a draft as solid and accurate as they could make it, including the Commission's vision for the territory within its jurisdiction. This initial drafting process ended in October 2007 with a draft plan to be reviewed at public workshops in May 2008. Upcoming workshops will be held from northern Maine to Portland. LURC is also meeting on request with interest groups because some felt that the public workshops were not as productive as individual meetings might be.

At the conclusion of the workshops and meetings, LURC staff will summarize and present comments to the Commission over the course of several meetings. A revised draft plan, based on Commission/staff changes, will be presented at public hearings expected to be held in Fall 2008. Once the hearings are held, comments will be reviewed and summarized, and the Commission will prepare a final draft plan suitable for adoption by the Commission. The Commission will request an audience with the Legislature's Joint Standing Committee on Agriculture, Conservation and Forestry for early January, prior to final plan adoption.

Once the legislative review is completed and the Commission adopts the plan, it must be submitted to the Governor for approval. Its implementation will most probably require changes to LURC's rules regarding zoning and development review. All LURC rules must not only go through the APA process, but also be reviewed and approved by the Legislature. One of the regulatory options getting a lot of play is tightening some of the subdivision exemptions. If the plan supports this, any changes to LURC rules must still receive legislative endorsement.

Fred reviewed development patterns and trends in LURC territory. He noted that that of the 8,800 building permits issued by LURC in the last 35 years, at least 72% are located on lots that were created with no Commission regulatory review because the lots either existed prior to 1971 or were exempted from LURC review. He pointed out that approximately 45% of the permitted development that has occurred is fairly compact, as in the Rangeley area such services, as in the Upper Enchanted Lakes area where the 40 acre lot exemption was used to create new, un-reviewed lots (this exemption has since been eliminated).

Approximately 20% of the land area in LURC jurisdiction is protected: 1.6 million acres by easement and 400 thousand acres in conservation ownership. LURC's concern, Fred explained, is the development trends, the sense that the north woods is going to lose some of its current value, even though much of the development is on the fringes. As a

working forest, these development trends pose issues. LURC's current zoning allows single family dwellings on 84% of the jurisdiction. Subdivisions are only allowed in development zones. He pointed out that landowner choice will control development in LURC into the future, just as it has in the past.

Fred stated that we can't assume past landowner choices will be same in future. Newer landowners have much shorter investment timeframes than the previous forest industry landowners. If the newer investments cannot be sustained by returns on forest management practices alone, then the land will be converted to the next highest and best use, which is development.

Fred noted that dispersed or sprawling development in Maine's Unorganized Territory, though not large in absolute numbers, is occurring. He posited the question of what the implications of this dispersing development trend might mean for Maine's overall quality of place. He suggested that an important option to explore is how to concentrate development so as to maintain the relatively undeveloped "interior" of LURC's territory. Fred referred to the term "discordant development" which was offered by a public meeting participant to describe the disproportionate impact that the first unit of development has on an otherwise undeveloped area of LURC territory as compared, say, to the impact of one more house in the town of York.

We may all agree that there is not a lot of new development occurring in LURC territory, Fred said, but there is disagreement on the implications of the development that is occurring. LURC is a public agency set up to protect public values on a privately owned landscape. The Maine Legislature made the decision that leaving development of the north woods solely in the hands of private landowners was not acceptable. "We maintain we don't have the tools to direct where development should occur. What the north woods is today is largely the result of actions taken by private landowners, not by LURC. But land ownership patterns and interests are changing, and I don't think that we can rely on landowner benevolence into the future."

Council member David Whitney asked where LURC stands on the subdivision exemption rule. Fred responded that the Commission hasn't taken a stand. In the 1997 plan, the exemption was raised as a concern and the decision was made to monitor it. The Legislature required all new lots to be filed with LURC; before that, there were no sanctions if new lots were not reported. Barbara Trafton asked if there are any points where LURC and the Maine Forest Products Council are in agreement. Fred responded that there were points of agreement and some are identified in the draft plan, such as the landowner conservation initiatives.

John Rohman asked Fred about comments the Council received indicating that it was premature for the Council to consider development issues in Maine's Unorganized Territory, as included in its December report, since the LURC plan is still under development. Fred noted that if the Council is concerned about the sprawl that is occurring in the north woods, then it might be in appropriate to indicate whether or not

the Council feels that LURC should have tools to deal with it. Tracy Michaud-Stutzman indicated that she feels comfortable with the Council expressing its views.

David expressed comfort in supporting the LURC plan revision process but also expressed discomfort making specific recommendations regarding regulation of development. Barbara said she felt that the report's language supports David's concerns while also calling attention to the issues. The report, for example, recommends working with interested parties and seeking creative means to address issues.

Richard read the Council's Recommendation #3 regarding LURC in the Council report of December 2007. Tracy expressed her feeling that "reassessment" is always an appropriate undertaking, and that she was very comfortable with the recommendation's language. Ken remarked that if the intent is to open this wording up to change, he would argue for stronger language. Ken thought the wording was an appropriate middle ground. Richard asked if everyone was agreeable that the wording as proposed. There was unanimous agreement.

#### **Draft Final Report Review: Jody Harris**

Jody indicated that in the next couple weeks another draft final report will be distributed for Council members to review and comment. She noted that the purpose of today's review was to seek agreement from Council Members on recommendations and to invite members to send to her via email any suggestions or corrections to the document.

Hank suggested that it would be helpful for readers to be able to see all the Council's recommendations in one place rather than having to refer to both the first and second reports. Barbara noted that the recommendation for continuing to invest in open space is missing in the set of recommendations being presented. Richard explained that the 9 recommendations being presented today come from what the Council agreed to do coming out of our first report. Richard explained how the Council decided in January what would be worked on and this was not one of the items identified. He noted that this report can, in a preamble or in laying out the context, say that the open space piece is also a part of the recommendations.

Jody proceeded to review each of the draft recommendations and asked the Council for comments or suggestions for changes. Richard passed out comments received from Rich Rich Pattenaude and Jim Breece of the UMS regarding tourism and, noting that mention was not made concerning the community college system offering a hospitality and leisure program, offered a new recommendation #4 in this regard. Ken will think about alternative language for recommendation # 4 on the tourism industry. John Rohman noted that the craft industry isn't mentioned in recommendation #6, and Tracy added that the correct term is "traditional and contemporary crafts art." Richard noted that Hillary would like to see a change made to wording at the top of page 16 to reference "community planning and and architectural design."

Regarding private land ownership and public access issues, Jody noted that Mike LeVert's paper offers much more support and discussion than is included in the Council's draft report, and will be attached to the report. His report's conclusion is essentially that Maine should support the present landowner relations program, including a public education campaign and symbolic landowner reward (as opposed to financial rewards). Ken suggested that an additional sentence be added to this recommendation explaining why the landowner program is so crucial and why the state should support the program.

Council members discussed the policy language in support of downtown revitalization, and considered what terms are most appropriate to use in the report—downtown, community center, village center, etc... Mary Kate Reny pointed out the critical need for private, municipal and public coordination to make revitalization efforts succeed and sustain themselves.

Jody noted that when Maine Community College System recommendation is added, the total number of recommendations will be 10, and that the report will include case descriptions of Quality of Place investments being made today. Richard pointed out that page 19 lists all the remaining, follow-on tasks from the Council's first report with lead-responsibility assignments and timelines.

### **Next Meeting and Adjourn**

Richard again thanked Jody Harris, Bob Thompson, Kate Reilly, Mike LeVert and Bob Duplessie for all their assistance and support. He then promised Council members that they would soon receive a revised report, minutes from this meeting, and confirmation of the date with the Governor "to deliver the report and celebrate our work and our demise".

Richard discussed with the Council its final gathering in Augusta, to meet with the Governor and present the Council's second report. A press briefing will also be scheduled. Possible dates were discussed and a tentative date of Tuesday May 6<sup>th</sup> was decided upon, subject to confirmation with the Governor's Office. Richard closed the meeting at 3:45 p.m.