

# MEMO

## TO: Regional Planning and Governance Subcommittee

From: Sue Inches, John DelVecchio  
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### Introduction to Regional Planning and Governance

Successful efforts to move from local to regional land use planning and governance have come about as a result of mandatory, statute-based change. Voluntary efforts have had limited success.<sup>1</sup>

Maine has many regional units now – water districts, regional councils of government and economic development districts are a few examples. Many regional plans have been prepared on topics such as housing and transportation. Some regional plans are used for narrow purposes, such as the Community Economic Development Strategies which provide justification for federal EDA (Economic Development Administration) funds. Other regional plans gather dust.

There are *three essential elements* that must be present in order for regional planning and governance to work.<sup>2</sup> These are:

1. Clearly defined and established authority.
2. Meaningful public participation
3. An on-going funding source.

### Recent Regional Legislation in Maine

The most notable recent effort was Governor Baldacci's Municipal Service District Proposal, LD 1629, in spring, 2003. Municipal Service Districts were defined as consisting of 5 or more contiguous municipalities, including at least 2 school administrative units, containing at least 20,000 people and 3,000 students (or in rural areas at least 250 square miles and 1,500 students). The proposal would have provided the following incentives for a five-year period:

- \* The State would assume 50% of the general obligation debt owned,
- \* The State would provide a 10% bonus in school funding over a 5 year period,
- \* The state would pay certain county costs (jails, district attorney, courts, and registries) of participating municipalities.
- \* The State would provide technical assistance grants to help form MSDs

Although forming an MSD under this proposal was voluntary and incentive based, it did not generate enough support in the legislature to pass.

There have been other proposals over the years addressing regional efforts involving, in various combinations, combining or sharing responsibilities currently held by State government; municipal government (494 cities and towns); county government (16); as well as regional councils (11), development districts, and other entities and agencies established to foster cooperative planning and community and economic development investments.

## **Existing Regional Programs in Maine**

There are a number of on-going programs and initiatives that support regional planning and investment, including:

- Gateway 1 Project (MaineDOT): Twenty-one towns along Route One in midcoast Maine have signed Memorandums of Understanding indicating that they will participate and adhere to a regional land use planning initiative. Work on this project is on-going
- Fund for Efficient Delivery of Local and Regional Services (DAFS): Grant funds have been made available to towns who can demonstrate tax savings through combining services across town boundaries. \$1.5m in grant awards have been made in the past three years.
- FirstPark, regional industrial park located in Oakland, ME: Thirty-three member towns have agreed to share the costs and the revenues from this regional industrial park. As of 2006, the park was not yet profitable, although new tenants are arriving each year.
- Grass Roots Initiatives: In addition to the state programs listed above, there are a number of grass roots regional projects in Maine. Each of these grew out of a citizen initiative to protect a natural resource area. While none of these have the attribute of governance (regulatory authority, public participation, on-going funding), they do provide guidance on how we might think about regional planning. Examples of these are: the Mt. A to the Sea Project in York County, Saco River Corridor Commission, and the Sagadahoc Region Rural Resource Initiative.

## **Successful Regional Governance Efforts**

Below are snapshots of some successful regional governance efforts:

### **Lobster Zones:**

Seven regional lobster zones were created along Maine's coast in 1996. These zones were mandated by statute and given narrow authority. Each zone has an elected Council. Every commercial lobster license holder has one vote and each zone can decide by referendum on trap limits, and the number of licenses in the zone. Although the fishermen intensely disliked the mandate at first, within three years the zones were accepted and endorsed by fishermen. Lobster

Zones are now expanding their activities voluntarily, including taking positions on political issues and supporting research. The state provides technical assistance and office support to the zones. They have no other funding source.

The lobster zones provide an interesting case example of a mandatory governance change in Maine. Clear authority and ample public input allowed them to be accepted quickly.

### **Cape Cod Commission:**

The Cape Cod Commission was established in 1990 in the face of growing water quality problems and weak zoning and enforcement among towns on the cape. The Commission was established by statute and has permitting authority over Developments of Regional Impact, can designate District of Critical Planning Concern, and can prepare a regional land use plan. The definition of “Developments of Regional Impact” is extensive and includes projects of over 30 acres or 30 units and commercial buildings over 10,000 square feet. The second item, Districts of Critical Planning Concern is of particular interest. Towns can apply for this designation and the Cape Cod Commission can then create and enforce land use regulations in the district. In effect, this gives towns a way to preserve a critical area through the regional authority, even if local politics are against it.

### **Pine Barrens Commission:**

The Pine Barrens Commission was established in statute in 1978 as a way to save an area before it became over-run by development. The Pine Barrens Commission oversees land use in an area comprised of 1.1 million acres, seven counties and 56 towns. The Pine Barrens is the only area in the US where a regional land use map has been accepted and enforced. Property owners whose property fell into low and no-growth areas were allowed to recapture potential development value through a regional “Transfer of Development Rights” program. Those who worked on establishing the Commission and its land use plan describe the early years as a “bloodbath”. But now most New Jerseyans are very proud and supportive of the Pine Barrens Commission.

### **Canadian Regionalization Efforts:**

Canada has been active in studying and exploring options for improving efficiencies through regionalization efforts. Two notable regionalization examples include the Halifax-Dartmouth Region, Nova Scotia (1996) and Metropolitan Toronto, Ontario (1998). The Canadian Journal of Regional Science points out that “the importance of this reform initiative within Canada remains unquestionable. However, the realization of anticipated governance and service delivery improvements (in efficiency, equity, regional planning, economic development, and citizen access) has still not been convincingly demonstrated.”<sup>3</sup>

## **Possible Vehicles for Change**

### **1. Site Law:**

The Site Location of Development Act (Site Law), administered by the Department of Environmental Protection (DEP), is a permitting process for projects over 20 acres in size. Currently, the Site Law is used primarily for mitigating environmental impacts of large projects,

as opposed to determining where projects should be located. One possible strategy is to amend the site law so that the location of developments is based on a local or regional land use plan.

## **2. Large Projects with Regional Impacts:**

Currently large projects – casinos, LNG facilities, large shopping malls – are permitted by a single town, even though the impacts of these projects extend beyond the boundaries of the “host” town. Awareness is growing that costs of these projects are shared regionally. Legislation was introduced this year to allow adjacent towns to be compensated for costs resulting from solid waste facilities. One possible strategy is to introduce legislation that would mandate regional public participation, compensation, and revenue sharing for projects over a certain size. SPO funded a study<sup>1</sup> in 2004 by Southern Maine Regional Planning Commission that presents various options for doing this.

## **3. Regional Land Use Planning:**

SPO conducted a public evaluation of land use planning in 2004-5 that showed strong support for the concept of regional land use planning. In Vermont, regions develop land use plans and local town plans must be consistent with the regional plans. This concept has been put forward by many in Maine's planning community. Regional land use planning could direct public investments and strengthen protection of natural resource areas that span town boundaries. Adequate funding, public participation and legal authority would need to be instituted in order for regional land use plans to have "teeth". For more reading on this topic, see "An Evaluation of the Growth Management Act and Its Implementation" available on the SPO web site at: <http://www.maine.gov/spo/landuse/whatsnew/reviewdocs/FinalGMEvalReport031606.pdf>

## **4. Regional Governance:**

As mentioned above, Municipal Service Districts (MSDs), a voluntary administrative unit of up to five adjacent towns, have been proposed as a way to govern regionally. Even though the proposed MSDs were voluntary, they proved to be too controversial to gain acceptance in the legislature. If this approach is to be tried again, key questions need to be answered. One of these is whether an incremental approach would be more effective than a sea change. If there are laws or services that towns would be more willing to let go of, these could provide the first step towards municipal governance. Another is to think about what "home rule" really means to people. If it means having input into decisions, then more opportunities for input could be created, even with regional governance.

## **Key Questions for Council Consideration**

1. Does the Q of P Council want to recommend *mandatory* changes in governance?
2. What would be the *purpose* of regional governance-should the priority be on cost savings and more efficiency in governing or on regional land use, infrastructure and development? Or some combination?
3. What *authority* would be most suitable for regional governance? For example:
  - Enforcement and administration of building codes

- Administration of the shoreline zoning law
  - Administration and enforcement of clam ordinances
  - A Regional Land Use Plan that identifies where public infrastructure investments should be made
  - Other?
4. What is a "*region*"? Should existing governance structures such as counties or regional councils be enhanced? Or should entirely new jurisdictions be defined? Should regions be based on natural resources such as watersheds or human activity such as labor market areas?
  5. What *incentives* or other support might support regional planning and governance?
  6. Brookings recommended a regional sales-tax that could be used as an incentive to implement a regional land use plan. Does the Council want to pursue this?
  7. Revenue sharing has been cited as a way to reduce competition and create regional equity in large developments. Does the Council want to pursue this?
  8. What strategic steps are most promising for getting from here to there? Is a "sea change" approach best; an incremental approach?
  9. What areas need more research, more information?

## Further Reading and References

Site Law: Administered by Maine Department of Environmental Protection.

Title 38 M.R.S.A. subsections 481- 490-M.

<http://janus.state.me.us/legis/statutes/38/title38ch3secO.html>

Jurisdiction of Regional Councils: Title 30-A M.R.S.A. Chapter 19, subsections 23012342.

<http://janus.state.me.us/legis/statutes/30-A/title30-Ach119sec0.html>

"County Reform is the Best Regionalism Strategy" by Frank O'Hara. Article in the March 24, 2004 issue of the Maine Center for Economic Policy publication: "Choices".

<http://www.mecep.org/view.asp?news=111>

"Regionalism, New England Style" by Evan Richert. Article in the June 18, 2003 issue of the Maine Center for Economic Policy publication: "Choices".

<http://www.mecep.org/view.asp?news=120>

Cape Cod Commission: <http://www.capecodcommission.org/>

New Jersey Pinelands Commission: <http://www.state.nj.us/pinelands/>

"An Evaluation of the Growth Management Act and Its Implementation" available on the SPO web site at

<http://www.maine.gov/spo/landuse/whatsnew/reviewdocs/FinalGMEvalReport031606.pdf>

### Footnotes

1. Southern Maine Regional Planning Commission, "Creating a Process for Reviewing Developments of Regional Impact in Maine", 2004.
2. O'Hara, Frank, "County Reform is the Best Regionalism Strategy'", Maine Center for Economic Policy publication: "Choices", March 24, 2004, Vol. X Number 5.
3. Igor Vojnovic, Dale Poel. "Provincial and Municipal Restructuring in Canada: Assessing Expectations and Outcomes" Canadian Journal of Regional Science, spring, 2000  
<http://www.hil.unb.ca/Texts/CJRS/bin/get.cgi?directory=Spring00/&filename=IntroE.htm>