

**HC  
PC**



# HCPC NEWSLETTER

Hancock County Planning Commission

395 State Street

Ellsworth, ME 04605

phone 207-667-7131; fax 207-667-2099

E-mail: [hpc@hpcme.org](mailto:hpc@hpcme.org) Internet: [www.hpcme.org](http://www.hpcme.org)

Volume XXVV, Issue 3

Fall 2009

## HCPC Executive Board Fiscal Year 2009-2010

Chairman: Roderic Franzius, Hancock  
Vice-Chair: Dave Milan, Bucksport  
Treasurer: Raymond Jones, Gouldsboro  
Secretary: Beverly Sanborn, Cranberry Isles

### Directors:

Dale Abernethy, Castine  
Peter Colman, Blue Hill  
C.W. Comer, Sorrento  
Dale Sprinkle, Surry  
Charlie Wiggins, Sedgwick  
Janet Michaud, County Comm. Representative  
Steve Walton, County Comm. Representative

### HCPC Staff

Thomas E. Martin, Executive Director  
[tmartin@hpcme.org](mailto:tmartin@hpcme.org)  
James H. Fisher, Senior Planner  
[jfisher@hpcme.org](mailto:jfisher@hpcme.org)  
Sheri Walsh, Administrative Assistant  
& Planning Technician  
[hpc@hpcme.org](mailto:hpc@hpcme.org)

*In this issue. . .*

<b>Table of Contents</b>	<b>Page</b>
<b>PLANNING BOARD NEWS</b> .....	<b>1</b>
<b>BROWNFIELD NEWS</b> .....	<b>4</b>
<b>CDBG NEWS</b> .....	<b>4</b>
<b>GIS NEWS</b> .....	<b>5</b>
<b>TRANSPORTATION NEWS</b> .....	<b>7</b>
<b>DATES TO REMEMBER</b> .....	<b>8</b>

## PLANNING BOARD NEWS

*By Tom Martin*

### PREPARING MUNICIPALITIES FOR CLIMATE CHANGE TO BE TOPIC OF HCPC OCTOBER 29 WORKSHOP

The Hancock County Planning Commission is sponsoring a session on steps towns can take to prepare for climate change. The workshop, part of the HCPC's ongoing *Striking A Balance* series, will take place on October 29 from 5:00 PM to 8:30 PM at the VFW Hall, Washington Junction Road in Ellsworth. Pre-registration is required by October 23 and the \$18 fee includes a light supper. For registration information contact Sheri Walsh at the HCPC (667-7131 or [hpc@hpcme.org](mailto:hpc@hpcme.org)).

### What are Some of the Anticipated Trends in Climate Change?

While there is a great variety in climate modeling, a few trends have already been identified. For example, the regional surface sea temperature has increased by almost 2 degrees Fahrenheit since 1970. Ice out dates on Maine's lakes and ponds are now occurring more than two weeks earlier than was the case in the late 1800s. Some plants are flowering earlier. Apple, grape and lilacs flowering dates shifted two to eight days earlier between 1965 and 2001. There has been some rise in sea level. According to tidal gauge records in Portland, sea levels have increased at an average annual rate of 0.07 inches per year since 1912.

Looking to the future, models predict a 2-foot sea level rise by 2100. Warmer seas and higher sea levels could mean that 100-year coastal storms occur every two to three years. Most models predict heavier rainfall in all seasons except for summer when droughts are more likely. Snow melt and spring runoffs are likely to start at an earlier date.

### **What Does this Mean for Municipal Governments?**

The focus of the workshop will be on impacts on infrastructure. For example, continued sea level rises will likely mean increased coastal storm surges. These may affect waterfront facilities such as breakwaters, piers and docks. Sewage treatment plants may be affected by higher water levels since the plants may be more subject to flooding. Certain waterfront facilities may have to be designed to be with higher sea levels and more intense storms in mind.

Increased stormwater runoff from heavy rain events will likely have several implications. Road washouts are expected to occur at a greater frequency. Culverts that are designed to accommodate the currently anticipated 50 to 100-year storm event may have to be strengthened. By the year 2100, according to one estimate, the 100-year storm may be 66 percent more intense than the historical 100-year event for which most storm water facilities are presently designed.

Municipal water supplies may need to find new sources to cope with increased summer droughts. Water demand may increase if more irrigation of crops and gardens is needed. Wastewater collection systems may have to be designed to anticipate greater levels of infiltration and inflow into the sewer mains. Urban flooding may become more intense as stormwater drainage facilities are overtaxed. We urge you to attend to learn more about what is presently expected and what steps can be taken to prepare. If there is sufficient interest, we will hold follow-up events. Feel free to contact Tom Martin if you have any suggestions or comments.

*I have not failed. I've just found 10,000 ways that won't work.*

**- Thomas Edison, inventor**

## **BUILDING CODE NEWS**

### **STATE UNIFORM BUILDING AND ENERGY CODE DEADLINES CHANGED**

In a previous issue we reported that municipalities with more than 2,000 residents with a building code would be required to enforce the new Maine Uniform Building and Energy Code effective January 1, 2010. The 124th Legislature has extended the effective dates for the adoption and enforcement of this code: Here is a list of new key dates:

June 1, 2010: Code to be adopted by Technical Building Codes and Standards Board;

December 1, 2010: Municipal enforcement of new code begins in municipalities with more than 2,000 residents with an existing building code adopted by August 1, 2008;

July 1, 2012: The code must be enforced in municipalities with more than 2,000 residents that did not enact a building code by August 1, 2008.

During 2010, the State Planning Office, in consultation with the training committee of the Technical Building Codes and Standards Board, will develop a training program to assist CEOs and building officials with enforcing the new code. The HCPC staff will keep you posted on latest development.

## **ECONOMY NEWS**

We all know that we are living in tough economic times. Some statistics from the Maine Department of Labor for the Ellsworth Labor Market, which includes most of Hancock County, confirm this fact. In February 2009, the unemployment rate was 12.3 percent. This was the highest ever recorded for the labor market since its boundaries were changed in January 2000. The lowest unemployment rate was 2.1 percent in August 2000. The highest June unemployment rate ever recorded was 7.3 percent in 2009. This compares to the lowest unemployment rate of 2.8 percent in June 2000.

# CASE NOTES

by Made Baker, Esquire, Reprinted from Southern Maine Regional Planning Commission Newsletter, Spring 2009

*Nestle Water North America, Inc. v. Town of Fryeburg*, Maine Supreme Judicial court, March 19, 2009,

## Zoning and Comprehensive Plan Case

**Facts:** Nestle Waters North America, Inc. doing business as Poland Spring Bottling Co. (hereinafter called Poland Spring) appealed to Maine's Supreme Judicial Court to overturn a Superior Court decision affirming a 2007 decision by the Fryeburg Planning Board that denied Poland Spring a permit to build a water loadout facility on property in the Town's rural./residential zone.

The case took a long while to reach the Supreme Judicial Court. It all began in 2005 when Poland Spring applied for a permit from the Town Planning Board (PB) to build a loadout facility. The water was to be pumped from wells in Denmark to the facility located on a 59 acre parcel on Route 302 in Fryeburg. There it would be loaded into trucks for hauling to the nearest Poland Spring bottling plant. The PB reviewed the application carefully and thoroughly and rendered "extensive written findings" and the conclusion that a permit had to be granted because all applicable standards of the ordinance were met. A citizen's group, Western Maine Residents for Rural Living, or WMRRL, together with the Town appealed the decision to the Board of Appeals (BOA). The BOA overruled the PB decision by a vote of 3-2. Poland Spring appealed to Superior Court. That Court ruled that the PB should have addressed what the Comprehensive Plan said in arriving at their conclusion, and therefore remanded the case to the PB. When the PB heard the case in 2007 its membership was very different. The PB decided that the application did not comply with stated objectives in the Comprehensive Plan. Consequently, the PB denied the application at that time. Poland Springs appealed.

**Issues:** Was Superior Court correct in requiring the PB to take into account what the Comprehensive Plan said when considering how to rule the application? And if not, then was the PB decision in 2005 that the project as proposed, did comply with the requirements

of the Fryeburg land use ordinance supported by substantial evidence in the record, and was the decision-making process carried out in accordance with constitutional requirements of fairness and reasonableness?

**Ruling:** The Maine Supreme Judicial Court overturned the ruling of the Superior Court and upheld the 2005 decision of the Planning Board.

1. The Justices looked at the question of applicability of the Comprehensive Plan. They found that the plan had been adopted in 1994. In 1998 the Town enacted the land use ordinance. The Court emphasized that the Plan is to provide a vision of the future while the ordinance is to help implement the vision through regulation. Thus the two are not interchangeable. In fact, the Comp Plan states emphatically that it is NOT an ordinance and it does not include a zoning map. Moreover, the Plan applies to the Town only, not to individuals and specific businesses.

Next the court looked at the applicable ordinance provisions and found NO requirement that the PB apply the Comp Plan in the review of a specific application. Justice Mead, writing for the Court, concluded that the Superior Court had erred in requiring the PB to apply the Comp Plan to this case.

2. Once the Court had dispensed with the Superior Court ruling, the Justices turned their attention to the 2005 B decision. What they found was an extensive record that included substantial evidence to support each finding. The most contentious issue raised in 2005 was whether the PB had been correct to decide that the project would not "unreasonably interfere with adjacent landowners." When the Court examined the Board's analysis of this topic, the Justices found that here too, the Board had made lengthy findings. The PB found the facility was not visible to neighbors, and that there was adequate buffer to prevent noise, fumes, and light from being noticed off site. Moreover, the PB had attached 12 conditions to reduce impact from the facility. Another contentious issue was that of access control and traffic impact. To ensure thorough analysis of this topic, two engineering firms participated. Both firms generally agreed that the project presented no

major traffic concerns. In addition, the PB imposed conditions regulating the hours and frequency of truck trips in and out of the site.

**Comment:** The Court opinion is lengthy. The Justices repeatedly included specific language and/or information from the 2005 PB decision to document why they were upholding that decision. They were clearly impressed with the remarkable thoroughness of the PB's analysis, and the skill with which it was articulated. So was I.

## **BROWNFIELD NEWS**

by Tom Martin

### **Brownfields Site Assessments Are Underway**

Campbell Environmental Group, the consultant hired by the HCPC, has completed its first site assessment on the Gordon's Wharf property in Sullivan. A brownfields site assessment is essentially an evaluation of a property to determine if there is any evidence of contamination. The Gordon's Wharf site was given a "clean bill of health" and the property can now be acquired by the town as a public access site onto Taunton Bay.

HCPC has funds to conduct site assessments for other properties. Priority is given to sites that have a viable reuse, benefit the community as a whole and are supported by the goals of comprehensive plans and other planning documents. All candidate sites are evaluated by the HCPC Brownfields Steering Committee. *There is the potential for another round of brownfields assessment funding, so if you know of a site in your community please contact Tom Martin at the HCPC offices.* Even if we are unable to conduct a site assessment under the current round of funding, we can list additional sites in future grant applications.

*In the space of two days I had evolved two plans, wholly distinct, both of which were equally feasible. The point I am trying to bring out is that one does not plan and then try to make circumstances fit those plans. One tries to make plans fit the circumstances.*  
- **General George Patton** (1947).

## **CDBG NEWS**

by Tom Martin

### **Proposed 2010 Program Rules Released, More Funding Available This Year**

The Maine Office of Community Development has released the proposed Program Statement for the 2010 fiscal year. The Statement summarizes the draft grant guidelines for the various CDBG (Community Development Block Grant) application categories. The major change from last year is that the proposed funding has increased from about \$9.9 million in 2009 to \$12.8 million for 2010. A detailed description of the program has been mailed to all municipalities and is also available on our web site: <http://www.hcpcme.org/comdev.html>.

The CDBG program funds activities such as upgrading substandard housing, improving public facilities and infrastructure, social services, eliminating blight, revitalizing downtowns and creating or retaining jobs. Projects funded under this program must primarily benefit low and moderate-income (LMI) people, eliminate slums and blight or address an urgent need according to CDBG guidelines. In most cases, projects that benefit an entire town (such as a fire station or salt sand storage shed) are eligible for funding only if at least 51 percent of the households in town are LMI. The only Hancock County towns to meet this threshold are Amherst, Aurora and Osborn. Other towns are limited to projects that either serve a portion of a town (such as a water district) or are targeted primarily at a low to moderate income clientele (such as job creation or housing rehabilitation). For details on the income requirements contact Tom Martin.

### **How Can the HCPC Help?**

The HCPC is available to meet with towns to explain the details of the application process. Specifically, we can help determine if and how a potential project might qualify for CDBG funds. We can explain potential sources of matching funds, how to organize public outreach meetings and to conduct income surveys to determine if a given

## CDBG Application Deadlines

Program	Letter of Intent Due Date	Application Due Date
Public Facilities	December 4, 2009	January 22, 2010
Public Infrastructure	December 4, 2009	January 22, 2010
Economic Development (Round 1)	February 12, 2010	March 26, 2010
Economic Development (Round 2)	May 28, 2010	July 16, 2010
Economic Development (Round 3)	August 13, 2010	September 24, 2010
Downtown Revitalization	January 22, 2010	March 5, 2010
Community Enterprise	January 22, 2010	March 5, 2010
Housing Assistance	February 19, 2010	April 2, 2010
Public Service	March 19, 2010	April 30, 2010
Non-Profit Development	N/A	March 19, 2010
Community Planning	N/A	May 14, 2010
Urgent Need	N/A	Beginning on March 19, 2009

project meets the income guidelines. We can also assist in the writing of applications. Our staff has been involved with the CDBG program for nearly 30 years and knows the program well.

### INITIAL DEADLINES:

Most programs have a two-step application process: a letter of intent and a full application. The initial deadlines for the various applications are shown in the table below. *Remember, all deadlines are 4:00 PM at the front desk of the Maine Office of Community Development in Augusta. It is not sufficient to have applications postmarked. Faxed and e-mailed copies are not accepted.*

The time to begin preparing for the upcoming round of applications is now. The HCPC staff is available to help you identify potential projects and discuss the steps you need to take to submit a competitive application. We will be happy to meet with any town to provide an overview of the program.

At minimum, you need to do the following:

1. organize a citizen advisory committee and conduct public outreach activities;
2. obtain cost estimates for the project;
3. secure matching sources of funds;
4. determine if your project will meet the low to moderate income thresholds. Current income guidelines can be found at: <http://www.hpcme.org/comdev/cdbg/CDBG2009LMIGuidelines.html> Be sure that any income survey you conduct is consistent with the Maine Office of Community Development requirements. Contact Tom Martin at the HCPC for details.

## GIS NEWS

by Jim Fisher

### Geographic Information: Tools for Small Towns

The pace of evolution in geographic information systems (GIS) and computer aided mapping (CAM) has been dramatic, and if possible accelerating. The element of change that is most significant for local governments, particularly local governments with limited staffing and fiscal capacity, is the emergence of powerful, easy to use, web-based mapping.

The era of paper maps for planning ended in the 1980's, though many towns in Hancock County continue to maintain tax maps only on paper. HCPC joint the transition to 100% digital mapping in the early 2000's and has not produce a hand drawn map in almost a decade. We are in the midst of preparing numerous shoreland zoning maps this summer and fall, and are doing these with a combination of data layers provided by the Maine Office of GIS and layers that we are creating in-house. All of these layers are being combined on computers in our

office for posting on our website ([www.hcpcme.org](http://www.hcpcme.org)) and printing on our large-format color printers.

Until recently these maps were delivered to towns on paper and as Adobe Acrobat PDF files that can be opened on any computer that has the free Acrobat Reader software. Several internet giants have entered the online mapping business and are changing what we can provide to towns and what towns can do on their own.

- Multi-layer PDF** – Adobe Acrobat Reader (version 8 and above) now includes a multi-layer format option. This enables our office to provide maps to towns with many informational layers that can be turned on (made visible) as needed. A shore land zoning map can include wetlands, parcel lines, aquifers, flood zones, roads, and more. Seen all at once the maps would be too cluttered to decipher. Users such as planning boards can now turn on what they need, zoom into the property of interest, print an 8 ½ \* 11” map and use this in their deliberations. No training is necessary.

- Multi-layer Geo-PDF** – This format is still under testing, but promises to add another GIS feature that has not been available in the past. The PDF file has, until now, presented images without any specific map references other than what is printed on the picture. Geo-PDF file include map information such as latitude/longitude or other references that put the image in a widely used map projection. This format will enable users to combine layers knowing they fit the planet in a meaningful way. As such, measurements like distance and acreages become possible. The “National Map” a consolidated USGS topographic map of the entire country is being published in this format.

- Google Maps** – Google has evolved from its origins as a web-search engine into one of the most influential technology companies of our times. It was natural that a search company would be engaged in helping people find places on maps too. The online tools, however, go well beyond earlier programs for

finding nearby restaurants. HCPC is adopting Google technologies in many of our current initiatives. Our first plunge was to create an online-interactive historic map of Castine. Visitors to our website can zoom in on specific houses in the historic district, click on the roof tops and learn about the architectural style, year built and first owners among other things. We included photographs of the houses. Google went a step beyond providing a street level view of the entire historic district. We will be providing future maps online for a variety of planning initiatives that will be similarly interactive. We will be interacting with the street level view enabling you to virtually drive around a development proposal and look at it from various angles before anything is built.

- Google Earth** – For people how want to go further, Google provides free, downloadable software that enhances Google maps with three dimensional terrain, many layers of information in addition to those that we provide and tools that allow you to change the angle, direction, and proximity of your view. The Maine Department of Environmental Protection has created a website where the post many layers of environmental information in the Google Earth/Google Map KMZ format.

- Arc Explorer** – ESRI Corporation, who produced the data standard for professional GIS mapping in Maine has a free browser that enables towns or other organizations to build, view and print maps using data provided by HCPC and the Maine Office of GIS. This program has a learning curve, but allows greater customization of maps. A new version of Arc Explorer is being released this year.

HCPC continues to provide high-end geographic information systems analysis for town governments. At the same time, we are joining the statewide effort to put interactive tools in your hands. Visit our website where you will find examples of all of the techniques listed

above. New tools are sure to emerge in the months ahead.

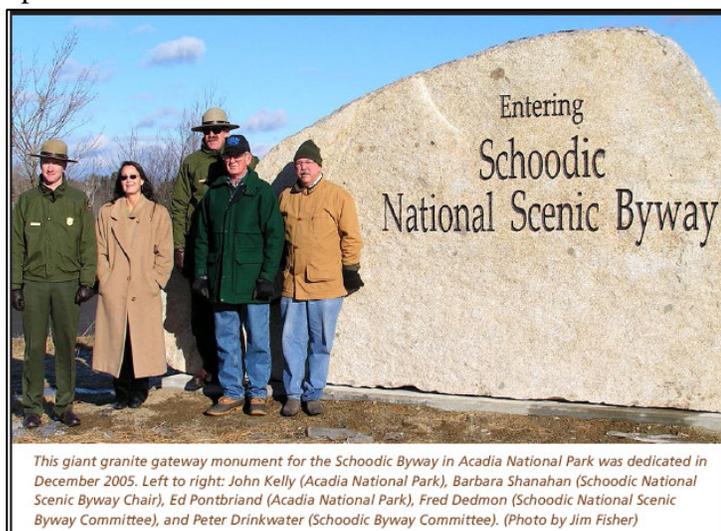
## **TRANSPORTATION NEWS**

*by Jim Fisher*

### **Schoodic Byway**

The Schoodic Byway continues to flourish. This summer the Maine Department of Transportation has continued roadway improvements in Wither Harbor and Gouldsboro along Route 186. Cyclists now have adequate space for the final leg of the peddle around the Acadia National Park Schoodic Loop road. Road improvements continue up to South Gouldsboro. This November the remaining section of Route 186 will be put out for bidding, with construction anticipated in 2010. Paved shoulders along most of Route 186 between Route 1, Winter Harbor and Prospect Harbor will improve safety and comfort for autos and bicycles. These improvements are not financed with byway grants.

Byway funds are making other significant improvements. These include managing vegetation to preserve and improve scenic vistas at our turnouts in Sullivan and Gouldsboro, replacing Acadia National Park Signage, installing interpretive signs in Winter Harbor and printing scenic byway brochures. We are focused now on working with Gouldsboro to incorporate a byway gateway in an improved public space next to the town office.



This giant granite gateway monument for the Schoodic Byway in Acadia National Park was dedicated in December 2005. Left to right: John Kelly (Acadia National Park), Barbara Shanahan (Schoodic National Scenic Byway Chair), Ed Pontbriand (Acadia National Park), Fred Dedmon (Schoodic National Scenic Byway Committee), and Peter Drinkwater (Schoodic Byway Committee). (Photo by Jim Fisher)

(Photo reprinted from [HFC on Media](#), a publication of the National Park Service. Photo was taken by Jim Fisher).

## **Acadia –Dark Skies**

HCPC continues our work with the Acadia All American Road and several towns throughout the county to encourage properly shielded outdoor lighting. The benefits include preserving dark skies, reducing energy consumption and improving driver and pedestrian safety at night. The Acadia Byway was featured at the National Scenic Byway Conference in Denver for their work to reduce light pollution. The Bar Harbor Chamber of Commerce, Island Astronomy Institute among others are sponsoring a Night Sky Festival from September 17 through September 21<sup>st</sup>. Information is available at [www.nightskyfestival.org](http://www.nightskyfestival.org).

### **Preparing for Bicycle and Pedestrian Grants**

Now is the time to work on bicycle and pedestrian plans for your town. The Maine Department of Transportation will be issuing requests for proposals in the spring of 2010 for transportation enhancement and Safe Routes to Schools grants. Towns that have adopted bicycle and pedestrian plans stand a much better chance of receiving funding through these programs. HCPC has limited state support to assist your town or school to prepare plans and grant proposals. The time for planning has begun. Contact Jim Fisher ([jfisher@hpcme.org](mailto:jfisher@hpcme.org)) for more information.

### **Scenic Assessment Update**

*by Jim Fisher*

HCPC is wrapping up a summer assessment of scenic views in Hancock and Washington Counties in collaboration with the State Planning Office and the Washington County Council of Governments. This study identifies, maps, photographs and rates well over 200 coastal scenic areas as seen from public places. Our online report will provide users with ready access to the locations, images and rating for the sites, including interactive maps and downloadable summary pages for each site. We hope that this service will be helpful for towns, tourism organizations, local land trusts and other organizations as are seek to preserve and promote some of our most valuable coastal assets. You can

visit our website anytime at [www.hcpcme.org](http://www.hcpcme.org) and link to the scenic assessment page. Please let us know if we missed any important scenic places in your town.

## **DATES TO REMEMBER**

Striking a Balance Workshop  
Preparing Municipalities for Climate Change  
Thursday, October 29<sup>th</sup>  
VFW Hall Washington Junction Road, Ellsworth  
6:00 – 8:30 PM

---

### **March**

---

**Hancock County Planning Commission is a partner with local and county government to: protect our heritage and resources, plan for the future and promote a sound economy for the people of Hancock County.**

**Fall 2009 Newsletter**

<p>NONPROFIT US POSTAGE PAID PERMIT NO. 95 Ellsworth, ME 04605</p>
--

**Change Service Requested**