



# HCPC NEWSLETTER

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### HCPC Executive Board Fiscal Year 2015-2016

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## PUBLIC INPUT NEEDED

### **Input Sought on National Park Service Transportation Plan**

The National Park Service has launched a two year planning process to “determine how best to provide safe and efficient transportation and a variety of high quality experiences to visitors within Acadia while ensuring the protection of park resources and values.” While the park boundaries and popular venues have changed little in recent decades, tourism patterns and awareness of environmental impacts have evolved. Big changes include the arrival of cruise ships that drop more than a thousand visitors without cars for very short visits, the steady shift to shorter vacations and the growing reliance of society on mobile communications and computing systems, most recently in the form of smart phones.

HCPC is providing input from a regional perspective and encourages towns to voice their concerns, even if your town is not adjacent to park land. Two outreach meeting remain in the first phase. They will be held from 6:30 – 8:00 PM at MDI High School on Wednesday, July 29 and Peninsula School in Gouldsboro on Thursday, July 30. You can also contact John Kelly Park Planner at Acadia National Park PO Box 177 Bar Harbor, ME 04609-0177 or 207-288-8703 for more information.

# **PLANNING NEWS**

by Tom Martin

## **Supreme Court Case Hartwell v. Town of Ogunquit (2015 Maine 15) Emphasizes the Importance of Planning Board Following Town Ordinances**

### **Overview:**

This case addressed both procedural and substantive issues. Wayne Perkins sought approval to convert his garage into a lobster pound, an allowed use in that zoning district. Since cooked lobsters were to be sold on the premises, there was some question whether it should have been classified as a restaurant, which was not a permitted use in that district. The board approved Perkins's application without requiring that Perkins comply with certain requirements in the zoning ordinance and without making necessary factual findings.

The Hartwells, abutting landowners, sought judicial review. The superior court vacated the board's approval of Perkins's site plan review application. The Supreme Judicial Court affirmed, holding (1) the board did not have the power to waive any of the mandatory provisions of the Ordinance in this case; and (2) there were inadequate factual findings from the board regarding Perkins's use of the property, and therefore, the cause must be remanded for further factual findings regarding the lobster pound's proper use classification.

### Procedural Issue

The court stated if an ordinance requires an applicant to comply with certain standards and has no provision for waiver, the planning board "has no authority to disregard or waive the requirements of the ordinance" for some applications and not for others. The court expressed its sympathy regarding the limited resources of municipal governments and the efforts of often-volunteer municipal officers with no formal legal training. However, the court does not have the authority to ignore the language of Ogunquit's zoning ordinance.

The court suggested that if town wanted to avoid undue burdens for applicants with relatively minor applications that it establish a simplified review process for such cases. It also suggested that the town enact waiver provisions.

### Substantive Issue

The substantive issue is whether certain uses by Perkins would convert a permissible retail lobster pound into a prohibited restaurant. "In the absence of factual findings by the board and in the face of an ongoing dispute regarding the lobster pound's actual use, the court appears to have found and relied on facts that were not found by the board to be true or accurate, including allegations that Perkins advertised the business as a restaurant and sold dinner kits, clams, chips, and soda." The ruling continues; "the record ...is devoid of any factual findings by the board at the time of its final approval ...regarding Perkins's use of the property, including the scope of Perkins's authorized use or any findings addressing the factual allegations of the abutters. See Carroll v. Town of Rockport, 2003 ME 135:¶ 30, 837 A.2d 148:

When an administrative board or agency fails to make sufficient and clear findings of fact and such findings are necessary for judicial review, we will remand the matter to the agency or board to make the findings. Without factual findings, a court is unable to review a substantive issue.

For the complete ruling, see:

[http://www.courts.maine.gov/opinions\\_orders/supreme/lawcourt/2015/15me51ha.pdf](http://www.courts.maine.gov/opinions_orders/supreme/lawcourt/2015/15me51ha.pdf)

## **What Can We Learn from this Case?**

### 1. Follow the requirements of your ordinances.

If you find they are unreasonable, make amendments. Any land use ordinance requires ongoing monitoring since some provisions may result in loopholes and others may be unduly restrictive.

2. Have provisions for waivers. Not every condition will apply to every application. Be sure to have findings of fact for every waiver granted.
3. Have a simplified review process for minor developments. Small changes in footprints or changes that do not generate significant off-site impacts do not need the same level of a review as mini-mart.

## Is No Shoreland Zoning News Good News?

In our last newsletter we reported that the shoreland zoning guidelines had been amended. DEP has since provided general training on these changes. No deadline has been set for towns to amend their ordinances. DEP Shoreland Zoning staff had anticipated working closely with towns in drafting the amendments. Due to staff changes, there is presently no one staffing the Eastern Maine Shoreland unit. While referrals can be made to staff in other parts of the state, the response time may be slowed due to a heavy workload. HCPC will keep towns apprised of available technical assistance.

## **CDBG NEWS**

*by Tom Martin*

### **Tighter Funding Means Preparing a Tighter Application**

As someone who has worked with the Community Development Block Grant program for over 35 years, I have seen many well-written applications not get funded. Hancock County towns are competing with towns across the state, many of whom face worse economic conditions than we do. This means our towns have to demonstrate their need and support for the application in very clear terms. Here are some general suggestions. *Feel free to contact me for more information. I am available to meet and discuss specific steps your town might take to prepare a strong application. HCPC has extensive experience with the CDBG program.*

### 1. Show why you can't fund through other sources

Explain what other sources you have sought and why you are unable to borrow the money. Discuss your borrowing history and the fiscal condition of the town. For example, if you are planning to pay for other infrastructure projects, describe how that affects your need for CDBG funds. Document how many tax liens you have and discuss the overall economic status of the town.

### 2. Discuss all threats to health and safety

General comments that water pressure is inadequate are enhanced by quotes from the fire chief that indicate current pressure compared to the recommended standard used by fire fighters associations. If there have been boil water orders, indicate how many and what degree of contamination. Pay particular attention to the needs of the elderly, disabled, and low income population.

### 3. Show strong citizen support

An application will receive more scoring points for citizen participation if you start the process early. If you don't already have an advisory committee, create one. Recruit low income people to serve. Hold a series of meetings with residents. Spread the news of meetings through press releases, posters and social media.

## **Update on Proposed Rockweed Rules**

The Rockweed Working Group continues to meet. It is in the process of identifying criteria for seasonal and permanent closures of rockweed harvesting areas. These criteria address three situations in which harvesting could have a negative impact on:

1. the rockweed resource itself;
2. the quality of the harvested product; and
3. valuable wildlife and natural resources within the rockweed habitat.

For more information see:  
<http://www.maine.gov/dmr/rm/rockweed/Workgroup/RockweedMeetings.htm>.

## **BROWNFIELDS NEWS**

*by Tom Martin*

### **Four Environmental Site Investigations Completed**

HCPC's brownfields consultant has prepared four Phase I environmental site assessments. These assessments are the first step in determining the extent and severity of contamination. In some cases, only minor remedial action may be needed. Other properties may require substantial clean-up.

The sites investigated were the Corea Navy Station, the old tannery site in Hancock, a welding shop in Surry and a former construction vehicle maintenance facility in Ellsworth. The Surry and Ellsworth sites have potential buyers that will create jobs. There is also the potential for a major facility to locate at the Corea site. The brownfields program not only removes unsafe environmental conditions, but also makes underutilized properties available for reuse.

If you have a potential site in your town, contact Tom Martin for more information. Remember, even a small site might benefit from a site assessment. Former brownfields sites in Hancock County have been reused as recreational trails, public docks, successful businesses, and an aquaculture operation.

### **A Sample Brownfields in Hancock County**

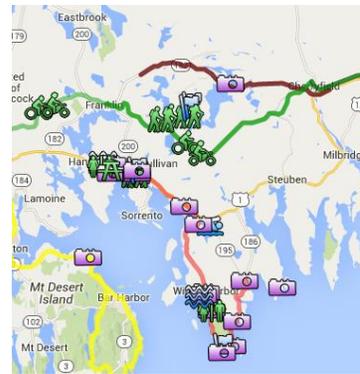


## **TRANSPORTATION NEWS**

*by Jim Fisher*

### **Schoodic Ped, Pedal, Paddle Program**

With the arrival of summer and the departure of black flies, many of us are dreaming of outdoor adventures. We are fortunate to live in a region rich in trails and waterways. While the vast majority of tourists head for Mount Desert Island and Acadia National Park, residents and visitors looking for more remote opportunities are learning about a growing number of trails and recreational areas being created throughout Hancock County.



The Schoodic Ped, Pedal, Paddle initiative has been awarded a grant from the Betterment Foundation to support emerging outdoor recreational opportunities in the Schoodic area. This initiative unites

several programs including the [Schoodic National Scenic Byway](#), [Black Woods Scenic Byway](#), [Acadia National Park](#), the [Maine Bureau of Parks and Lands](#), area land trusts, local governments and the [Down East Sunrise Trail](#). This wider region includes Hancock, Sullivan, Gouldsboro, Winter Harbor and Maine Public Reserve Lands in Townships 9 and 10 SD.

Putting it all together there are more than twenty-five thousand acres of recreational lands, days of hiking trails, mountains, lakes, streams, plus salt-water bays and open-ocean.

HCPC will be working with more than a dozen organizations and town governments to facilitate visitor information, itinerary planning, school programs, outing clubs and other programs that combine outdoor physical activity with nature-based education. We invite your input on regional assets, program opportunities and concerns.

# SOLID WASTE NEWS

by Tom Martin

## Food Recovery Hierarchy: A New Approach to Organics Management

HCPC has spent considerable time promoting composting. It is now taking a more comprehensive approach to food management following the US Environmental Protection Agency's Food Recovery Hierarchy. These steps are ranked order of preference.

### 1. Source Reduction/Prevention

Preventing food waste before it is created. This involves more careful monitoring of food purchases and use. HCPC is working with Healthy Acadia in training workers in food serving establishments to learn new ways to reduce waste. One option is to use food monitoring software such as LeanPath®. For more information, see: <http://www.leanpath.com/>

### 2. Feeding People

Donating fresh, wholesome food to those in need. Hancock County already has a network of food pantries. Thanks in part to Gleaning Initiative, Healthy Acadia is collecting surplus food from local farms and delivering it to pantries and other emergency food service providers.

### 3. Feeding Animals

Feeding safe, fresh food scraps to animals like pig farms. Several restaurants in Hancock County are delivering food scraps to local pig owners.

### 4. Industrial Uses

Rendering fats, oils, and grease and turning it into products or biofuel. Food-derived

biofuels are being used by a few individuals in the region.

### 5. Composting

Turning food waste into a valuable soil amendment. HCPC is continuing to promote various forms of composting from backyard leaf and yard waste to shellfish residuals. Presently it is working on a venture to compost mouse bedding locally from Jackson Lab.

### 6. Anaerobic Digestion

Turning food waste into renewable energy and a valuable soil amendment.



## 2015 HOUSEHOLD HAZARDOUS and UNIVERSAL WASTE 2015 COLLECTION EVENTS

There are at least three collection events occurring this summer. *Please note that contrary to what we reported in earlier newsletters, there will be no change in paint disposal arrangements for this year's collections. We will inform towns of any changes anticipated for 2016.* Watch the HCPC web site: [www.hcpcme.org](http://www.hcpcme.org) for additional announcements or changes. The events are:

### 1. Universal (Electronic) Waste:

**Date and time:** July 25, 2015 from 7:00 AM to Noon.

**Location:** Ellsworth Home Depot parking lot.

**Sponsor:** Ellsworth Noontime Rotary

**Items accepted:** household electronic devices such as televisions, computers, printer, and florescent lights and other mercury-containing items such as light switches and thermostats. For a complete list, see:

[http://www.electronicsew.com/?page\\_id=18](http://www.electronicsew.com/?page_id=18)

**Participation Requirements:** Open to everybody. No pre-registration is needed.

**For other information:** contact Jen Saunders [jennifer.saunders720@yahoo.com](mailto:jennifer.saunders720@yahoo.com) or 266-1553.

### 2. Greater Ellsworth Household Hazardous Waste and Universal Waste Collection:

**Date and time:** August 15, 2015 from 9:00 AM to 1:00 PM.

**Location:** Ellsworth High School.

**Sponsor:** Hancock County Planning Commission

**Items accepted:** include, but are not limited to. acids, adhesives, solvents, chemicals (pool & photo) Cleaners (Oven, Drain, etc.) oil-based paint products, lighter fluid, gasoline, and universal waste. For a complete list, see: [www.hcpcme.org](http://www.hcpcme.org)

**Participation Requirements:** The collection is open to households in participating towns, which will be listed at: [www.hcpcme.org](http://www.hcpcme.org). Households must pre-register with their town offices and bring a copy of the registration form with them on the day of the collection.

**For more information:** contact Sheri Walsh (667-7131 or [swalsh@hcpcme.org](mailto:swalsh@hcpcme.org))

### 3. Greater Mount Desert Island Collection

**Date and time:** September 26, 2015, Outer Island Trucks: 9:00 AM to 10:00 AM. All others: 10:00 AM to 1:00 PM

**Location:** MDI High School (front lot)

**Sponsor:** Acadia Disposal District and Mount Desert Island League of Towns

**Items accepted:** include, but are not limited to. acids, adhesives, solvents, chemicals (pool & photo) Cleaners (Oven, Drain, etc.) oil-based paint products, lighter fluid, gasoline. Universal waste is accepted from all towns except Bar Harbor. Sponsors reserve the right to accept or reject waste and to limit amounts. To date organizers have never had a problem with accepting all waste brought to the event.

**Participation Requirements:** open to the towns of Bar Harbor (HHW only), Cranberry Isles, Frenchboro, Lamoine, Mount Desert, Southwest Harbor, Swan's Island, Tremont, and Trenton. Others are on a pay as you go basis.

**For more information and registration forms:** contact Tony Smith at 276-5743 or [director@mtdesert.org](mailto:director@mtdesert.org).

## COMPOSTING NEWS

### COMPOST BIN SALE

Our annual compost bin sale has just wrapped up. If you would like to have one please contact our office at 667-7131 and we will help you locate one.

We have a limited number of kitchen pails available. You may purchase them at our office for \$8 each.



# **GRANT NEWS**

## **Maine Historic Preservation Grants**

The Maine Historic Preservation Commission anticipates awarding approximately \$80,000 in 50/50 matching grants in 2015 for the preservation and restoration of historic buildings statewide. Eligible historic buildings are those that are listed in the National Register of Historic Places either individually or as contributing resources in a National Register listed historic district.

Eligible applicants are limited to state agencies, county governments, municipal governments, educational institutions, and private non-profit institutions as defined by the Internal Revenue Service. Projects must be directed by persons with professional credentials as defined by the Department of the Interior, and must be completed by September 1, 2016.

The deadline for application is June 19, 2015. The Commission's Grants Manual provides information about eligible projects and expenses, as well as the project selection process, including selection criteria.

[More information including grant application.](#)

## **Conservation and Recreation Funding Opportunity**

The National Park Service Rivers, Trails, and Conservation Assistance Program is now accepting applications for 2016 Projects supporting community-led conservation and recreation projects.

The National Park Service helps communities create close-to-home recreation opportunities and conserve natural resources. The [Rivers, Trails, and Conservation Assistance](#) program is accepting applications through August 1 for help with a wide range of community-led projects.

National Park Service staff can help local leaders:

- Develop close-to-home parks and greenways
- Community-led visioning, planning, and design
- Facilitate public involvement
- Build sustainable partnerships
- Engage youth through outdoor recreation skill-building and conservation stewardship
- Plan for trails, landscape conservation, water trails, river restoration, green transportation, and tourism

If you have an idea for your town, contact HCPC or go directly to the NPS program website where you can review the [application process](#) and explore [current projects](#). The program in Maine is run by [Burnham Martin](#) and [Julie Isbill](#) based in Brunswick. Check out [this short video](#) for more ideas.

## **Planning Partnership Initiative (PPI) Has Matching Funds Available**

MaineDOT is offering to match local funds for planning projects. The Planning Partnership Initiative Pilot (PPI) Pilot was developed to respond to time-sensitive locally initiated planning and feasibility studies in between MaineDOT's annual Work Plan cycle.

Some examples of eligible planning projects include economic development, land use and transportation planning, cost estimating for transportation projects, and conceptual rendering of transportation alternatives.

State and federal share will be capped at \$25,000 and generally require a minimum 50% third-party share. Projects will be selected based on local financial commitment, promoting safety, supporting economic development, improving mobility and other transportation benefits.

You may contact Jim Fisher at HCPC for more information or go directly to the MaineDOT Scoping Division Director at 207-624-3300.

# Grants for Culvert Upgrades Available

## Apply Today

The Department of Environmental Protection is inviting proposals for projects to implement public infrastructure improvements at stream crossings, including culvert upgrades.

Eligible recipients may apply for grant monies for improvements to public infrastructure. Project proposals must address improvements, modifications, repairs or upgrades to existing culverts or stream crossings.

## Important Dates

### FY1—First Round:

- Applications available — Since May 29, 2015
- Submission due date — July 15, 2015
- Grants Awarded — Sept. 1, 2015

### Second Round:

- Applications available — Oct. 5, 2015
- Submission due date — Nov. 16, 2015
- Grants Awarded — Jan 5, 2016

### Third Round:

- Applications available — Jan 4, 2016
- Submission due date — Feb. 15 2016
- Grants Awarded — April 4, 2016

### FY2—First Round:

- Applications available — March 28, 2016
- Submission due date — May 9, 2016
- Grants Awarded — June 22, 2016

## Criteria

Applicants must describe how the proposed project meets the following criteria:

- Benefits water quality

- Improves habitat for wildlife, fish and other aquatic life (such as through the replacement of blocked or poorly sized culverts or stream crossings)
- Improves public safety by reducing risk of infrastructure failure (such as culvert washouts)
- Includes provisions for climate resiliency (such as flood protection, prevention and control at the project site and downstream)

## Eligible Recipients

Eligible recipients for Stream Crossing Public Infrastructure Improvement funds are individuals, businesses, municipalities, unorganized and deorganized townships, counties, soil and water conservation districts, regional planning commissions, watershed districts, and incorporated nonprofit organizations with federal tax exempt status [501(c)(3)]. State and Federal agencies are not eligible recipients. Grant awards cannot be given on culvert replacements that have already occurred.

A portion of the grant money may be used to cover design and engineering services related to the infrastructure improvements, up to a maximum of 8% of the grant award.

## How to Apply

To download a copy please visit the DEP web site at:

[www.maine.gov/dep/land/water\\_bond\\_rfp.html](http://www.maine.gov/dep/land/water_bond_rfp.html)

For questions or additional information, please contact Leslie Anderson at:

[leslie.anderson@maine.gov](mailto:leslie.anderson@maine.gov).

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**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.**

**Summer 2015 Newsletter**



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**Change Service Requested**