PROPOSAL FOR WESTERN MAINE COMMUNITY-GUIDED PLANNING PROCESS
Approved by the Western Maine Community Guided Planning Steering Committee
October 6, 2014

Submitted for approval to the boards of the Androscoggin Valley Council of Governments (AVCOG), theKennebec Valley Council of Governments (KVCOG), the Somerset Economic Development Corporation (SEDC), and the Land Use Planning Commission (LUPC)

A. Background

Recent efforts to improve the effectiveness of land use planning and zoning in the unorganized and deorganized areas of Maine have focused, in part. on the need for more prospective or proactive planning for these areas, particularly in identifying appropriate areas for development.

In May of 2012, the Legislature passed, and the Governor signed, L.D. 1788, *An Act to Reform Land Use Planning in the Unorganized Territory*. Among other provisions, the law called for the Land Use Planning Commission to work with regional planning and development districts to "initiate prospective zoning." The exact text of the law reads as follows:

> ***Sec. 34. Directive to initiate prospective zoning.*** *The Maine Land Use Planning Commission shall initiate prospective zoning in the unorganized and deorganized areas of the State. The commission shall allocate staff resources to prospective zoning in areas prioritized by the commission and shall coordinate prospective zoning in cooperation with efforts of local planning organizations and regional planning and development districts. In the 2013 annual report submitted under the Maine Revised Statutes, Title 12, section 685-H, the commission shall identify the area or areas for which prospective zoning has begun and provide a timeline for completion of these initiatives.*

In this context, "prospective zoning" means planning to proactively direct growth in certain areas of the jurisdiction. Prospective zoning identifies areas within a community or region that are most appropriate for additional growth based on existing development patterns, natural resources, constraints, and future planning considerations.

In the fall of 2012, the Land Use Planning Commission (LUPC) sent out a "Request for Letters of Interest" to counties, planning commissions, and other organizations in rural Maine, to identify who was ready to partner for a successful regional planning effort. Fifteen letters of interest were submitted. In the spring of 2014, the LUPC chose one proposal from the Androscoggin Valley Council of Governments, and another from the Kennebec Valley Council of Governments and Somerset Economic Development Corporation, and combined the two into one community-guided planning effort for Franklin and Somerset counties.

The Land Use Planning Commission lays out the following five tests for a successful planning process:

1. *The process must be locally desired and driven;*
2. *The process must allow for broad participation by all with an interest in the region;*
3. *The resulting zoning must address property owner equity through consideration of the distribution of development subdistricts, both geographically and across large land holdings, within a single ownership;*
4. *Taken together, all community-guided planning and zoning efforts must balance regional uniqueness with jurisdiction-wide consistency in regulatory structure and predictability for property owners; and*
5. *Any plan and zoning proposed must be consistent with the LUPC's statutory purpose and scope and rezoning criteria.*

In the spring of 2014, staff from LUPC, AVCOG, KVCOG, and SEDC met and decided to set up a steering committee to design the planning process. The staff recruited fourteen members for the steering committee, each representing important groups of stakeholders in the unorganized district of Franklin and Somerset counties:

1. Steve Seward, Bingham Selectman
2. Luke Muzzy, Plum Creek Timber
3. Russell Walters, Northern Outdoors
4. Tom Rumpf, The Nature Conservancy
5. Lloyd Trafton, Somerset County Commissioner
6. Janet Peruffo, CSM Real Estate
7. Gordon Gamble, Wagner Forest Management
8. Clyde Barker, Franklin County Commissioner
9. Jay Wyman, Eustis First Selectman
10. Rich Wilkerson, Sugarloaf
11. Alison Hagerstrom, Greater Franklin Development Corporation
12. Betsy Squibb, High Peaks Alliance
13. Alan Michka, Friends of Highland Mountains
14. Don Kleiner, Maine Professional Guides Association

The steering committee met three times. In the first meeting, the group discussed possible focus areas for the planning, and general guidelines for the process. In the second meeting, the group discussed sponsorship and leadership for the effort, and how resources could be assembled to make the process happen. In the third meeting, the group reviewed a draft of the proposed planning process and made changes.

B. The Proposed Focus for the Planning

The unorganized territory in Franklin and Somerset counties covers over 2.4 million acres. The steering committee acknowledged the need for the planning process to create a focus, either by geography or content matter, or both, in order to produce a practical and effective recommendation.

The selection of an area of focus for the effort was a complex question. On the one hand, the steering committee did not want to unduly limit the freedom of the future planning committee, which would have the benefit of extensive public input, from selecting an area of focus. On the other hand, the steering committee understood that the sponsoring organizations (KVCOG, AVCOG, and SEDC) are limited in their resources, and would not be able to make an up-front commitment to conducting an open-ended comprehensive planning process for the unorganized territories. Furthermore, the steering committee also recognized that it will be helpful when recruiting future planning committee members to have a clearly-identified area of focus and a good sense of the tasks and time commitment for the planning committee.

In an effort to balance these varying considerations, the steering committee recommends that:

1) ***The initial area of focus of the planning effort be anticipated land uses needed to support outdoor recreation growth, as well as the zoning changes needed to encourage/allow such uses.*** This includes planning for the facilities, trails, and land uses needed to support economic growth in the area, especially in the "hub" communities.[1] The effort shall take into account other types of potential economic growth that might occur in the future. It shall consider and account for protection of the resources and environmental quality of the area, existing land uses, infrastructure needs, zoning for associated uses, "hub" community impacts, the rights of landowners, the interests of local residents, and the needs of the wood-products industries.

2) ***As the process goes forward, the planning committee be able to identify focus areas for future phases of the Community Guided Planning & Zoning process, such as, for example, manufacturing*** -- provided that it does so in consultation with the general public, and that the sponsoring organizations that will be supporting and staffing the process agree to any revisions.

3) The planning process proceed in two phases:
   - A ***first phase*** (6-9 months) that involves
     a. Appointing the planning committee and subcommittees
     b. Holding public forumes
     c. Refining the area of focus (provided by the steering committee)
     d. Identification of goals for the planning process
     e. Identification of key issues relating to the area of focus;
     f. Outlining the contents of the document/submission that is planned for LUPC at the end of the process. If no additional funds are anticipated, the phase one report should identify concrete measures that could be taken.
   - *A **second phase** (9-15 months) that involves*
     a. Data collection and mapping

[1] For the purposes of this document, a "hub community" is a small town where essential services for the surrounding rural area can be found – such as a post office, churches, restaurants, groceries, gas, lodging, convenience goods, and employment opportunities.

b. Goals, vision, and values development
c. Alternative proposal development
d. Additional public input
e. Draft report development and submission to sponsoring organizations and county commissioners
f. Final report submission to LUPC

4) That in the fall of 2014, the sponsoring organizations:

- ***Initiate phase 1 of the planning process*** *(with a commitment of up to $40,000 to complete this phase.)*
- ***Create milestones for the planning process*** that establish products and dates planned activities
- ***Undertake fundraising to support phase 2 planning activities commencing in the summer of 2015*** (with the understanding that phase 2 will only get underway when funds are in hand)

5) Initial principles underlying the effort include:

- Emphasize quality over quantity
- Preserve the "wood basket" for paper and wood products industries
- Support the revitalization of service centers and hub communities such as Jackman, Eustis, The Forks, Kingfield, ski resorts, etc.
- Preserve connectivity for wildlife habitat
- Allow flexibility for property owners
- Attract and retain young people with economic opportunity, arts and culture, education, etc.
- Provide for a "sustainable" solution – e.g., trails that can be realistically maintained
- Meet the 5 Land Use Planning Commission goals for community planning (see list on page 2)

C. The proposed sponsoring organizations

1) AVCOG, SEDC, and KVCOG will serve as sponsoring organizations for the project

- As sponsors, the organizations will:
    1. Approve the final process document
    2. Appoint the chair and committee members
    3. Approve the final product before it is submitted to LUPC
    (Each organization will set up its own internal review procedures to perform these functions)
- Sponsors will also submit grant applications and undertake other efforts to obtain resources to support the planning process

2) The County Commissioners of Franklin and Somerset counties shall serve as advisors to the sponsoring organizations

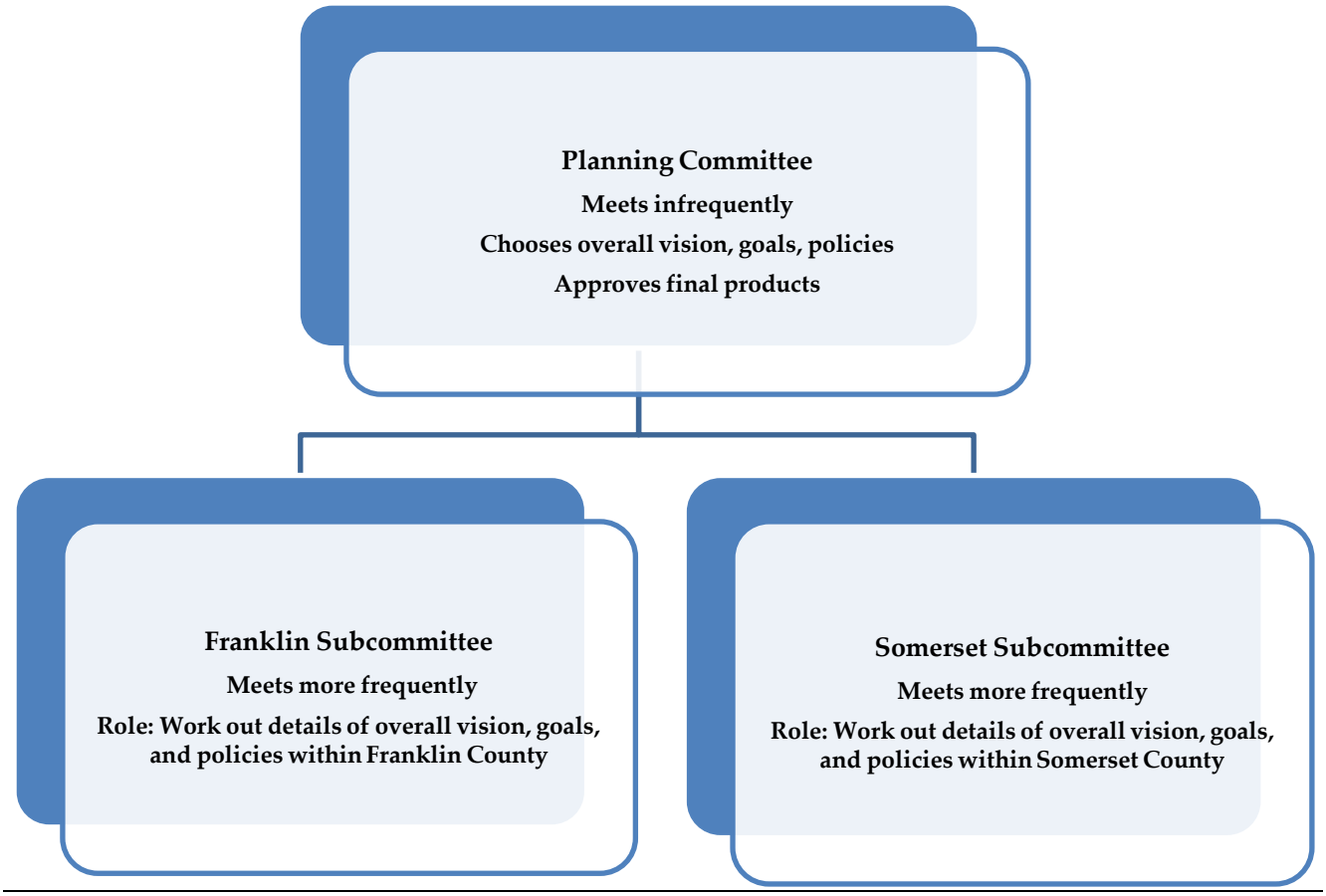
- As advisors, the county commissioners will
    1. Provide representatives to serve on the planning committee

2. Review important documents with the full county commissioner boards and give comments to the planning committee and sponsoring organizations
3. Assist in identifying and soliciting resources to support the effort

D. The proposed planning structure

1) ***A planning committee that consists of the combined members of Franklin and Somerset subcommittees*** *(see chart below for details of structure)*

2) ***Two subcommittees, one in Franklin County and one in Somerset County, that are representative of the range of interests in the unorganized areas of each county.***



3) ***Subcommittees are 10-15 members, and include representatives of (at a minimum):***
   - the county commissioners
   - large property owners
   - wood products interests
   - tourism businesses

- small property owners
- recreation interests
- environmental groups such as the AMC or ATC
- chamber of commerce
- and appropriate number of local residents

4) ***Planning Committee Co-chairs***
   - One chair for each county subcommittee
   - Each serves as co-chair for the Planning Committee
   - Appointed by the sponsors
   - Should be widely respected, with no ax to grind, lend credibility to the effort among the public, and have the time to lead the effort
   - Role is not administrative, but big picture – to make sure that the process is on track, that it is working on things of value, that the right parties are being engaged.

5) ***Staffing***
   - <u>For subcommittees</u>
     a. AVCOG shall provide the primary staff for the Franklin Subcommittee
     b. KVCOG and SEDC shall provide the primary staff for the Somerset Subcommittee
     c. LUPC shall make staff available to help with research, mapping, and understanding of the LUPC statute and rules.

   - <u>For the Planning Committee</u>
     a. ***A Project Coordinator*** shall be designated by the sponsoring organizations. This person could be one of the existing staff of the sponsoring organizations, or could be from the outside. The sponsoring organizations shall work out a financing arrangement to support the efforts of the project coordinator.
     b. The Project Coordinator shall be responsible for organizing the overall effort, for assigning tasks to staff from the sponsoring organizations, for coordinating the efforts of the subcommittees and larger Planning Committee, and for assuring that the process proceeds in an effective and efficient way.

<u>E. Public Input</u>

1) ***Goal:*** provide opportunities for a broad spectrum of residents, property owners, and interested parties to participate, as well as to allow for a respectful consideration of divergent views
2) ***Special Times*****:** Opportunities for more extensive public input (such as public hearings or forums) to be provided at key decision-making junctures of the Planning Committee and subcommittees
3) ***Ongoing:*** All meetings in the process to be publicized in the media, and provide an

opportunity for (at least) brief public comment at some point during the meeting

4) ***Minutes:*** To be taken at every meeting, with results posted on the web.
5) ***Website***: **:** A website to be maintained by the sponsoring organizations that contains all documents involved in the process, and provides an opportunity for public comment and feedback
6) ***Residents:*** A special effort (such as including a notice with the regular mailing from Maine Revenue Services to all residents and property owners) to be made to inform residents of the existence of the planning effort and how they can get involved
7) ***Transparency:*** All proceedings of the group to be in compliance with freedom of access laws of the State of Maine.

F. Coordination with tribes

LUPC staff will coordinate consultation with the tribal governments as needed (a tribal representative was invited to be on the Western Maine Community Guided Planning Steering Committee but did not attend meetings).

G. Decision-making process for Planning Committee and subcommittee meeting

1) ***Recommend a "Modified consensus"*** *(see Appendix A for description)*
   - Requires all members (less one) to agree
   - Advantages of consensus process over a "majority rule" process
     a. Consensus gives more authority to a recommendation when it moves to next step
     b. "Minus one" does not allow one person to have veto power over recommendation
     c. This is the approach Aroostook County has followed successfully

H) Roles of LUPC

- Staff attends committee meetings, provides technical assistance as needed and as resources allow
- Staff and Commission provide input during the planning process with regard to specific ideas and procedures, consistency with the LUPC's Overarching Principles, the statutory purpose and scope of community guided planning, and LUPC's rezoning criteria
- LUPC receives the final report, approves or disapproves, and acts upon the approved recommendations

I) Approval of plan

Before submission to LUPC, the plan to be reviewed by both sets of county commissioners, and approved by the sponsoring organizations.

J) Approval of Community Guided planning process

The county commissioners for both counties to be given a chance to review and comment on the process as described in this document. Following county review, the sponsoring organizations shall review and approve the proposed process and submit it to the LUPC for

its review and approval.

The LUPC shall review the process and approve, or send back to the sponsors for further work. Once approved by the LUPC, the work can begin.

K) Amendments to the planning process

If the Planning Committee wants to amend the process as described in this document over the course of the community-guided planning, it must first, solicit public input; second, submit its request to the sponsoring organizations. At this point, the sponsoring organizations shall request input from the LUPC staff about whether the proposed changes are consistent with the LUPC's Overarching Principles.

If the LUPC staff determines that a serious issue is raised by the change, they may bring the issue to the full LUPC Commission for a determination of whether the change is consistent with LUPC's Overarching Principles.

Following input from the LUPC staff and/or Commission, the sponsoring organizations will act upon the committee's request.

L) Resources

In order to have the resources to proceed to Phase 2 of the planning effort, the sponsoring organizations, county commissioners, and LUPC shall cooperate in seeking additional funding.

Appendix: Description of "Modified Consensus" Process from Wikipedia
(See http://en.wikipedia.org/wiki/Consensus decision-making)

Agreement vs. consent
Giving consent does not necessarily mean that the proposal being considered is one's first choice. Group members can vote their consent to a proposal because they choose to cooperate with the direction of the group, rather than insist on their personal preference. Sometimes the vote on a proposal is framed, "Is this proposal something you can live with?" This relaxed threshold for a yes vote can achieve full consent. This full consent, however, does not mean that everyone is in full agreement. Consent must be 'genuine and cannot be obtained by force, duress or fraud' [17]

Near-Unanimous Consensus
Healthy consensus decision-making processes usually encourage and out dissent early, maximizing the chance of accommodating the views of all minorities. Since unanimity may be difficult to achieve, especially in large groups, or unanimity may be the result of coercion, fear, undue persuasive power or eloquence, inability to comprehend alternatives, or plain impatience with the process of debate, consensus decision making bodies may use an alternative benchmark of consensus. These include the following:

- **Unanimity minus one** (or U−1), requires all delegates but one to support the decision. The individual dissenter cannot block the decision although he or she may be able to prolong debate (e.g. via a filibuster).

Dissent options
When a participant does not support a proposal, he does not necessarily need to block it. When a call for consensus on a motion is made, a dissenting delegate has one of three options:

- **Declare reservations**: Group members who are willing to let a motion pass but desire to register their concerns with the group may choose "declare reservations." If there are significant reservations about a motion, the decision-making body may choose to modify or re-word the proposal.
- **Stand aside**: A "stand aside" may be registered by a group member who has a "serious personal disagreement" with a proposal, but is willing to let the motion pass. Although stand asides do not halt a motion, it is often regarded as a strong "nay vote" and the concerns of group members standing aside are usually addressed by modifications to the proposal. Stand asides may also be registered by users who feel they are incapable of adequately understanding or participating in the proposal.
- **Block**: Any group member may "block" a proposal. In most models, a single block is sufficient to stop a proposal, although some measures of consensus may require more than one block (*see* previous section, "Decision rules"). Blocks are generally considered to be an extreme measure, only used when a member feels a proposal "endanger[s] the organization or its participants, or violate[s] the mission of the organization" (i.e., a principled objection). In some consensus models, a group member opposing a proposal must work with its proponents to find a solution that will work for everyone.

Consensus Process

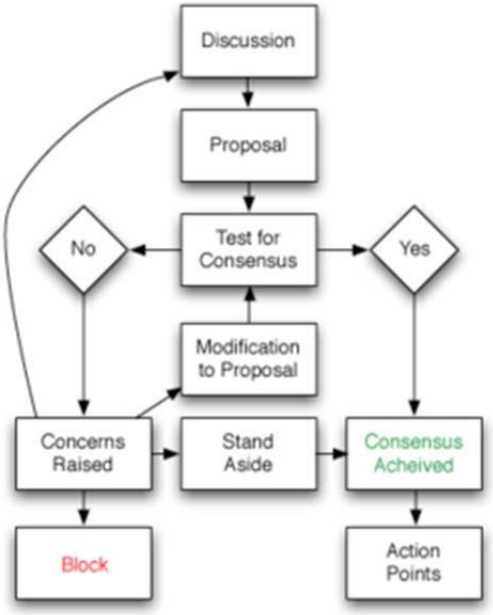
There are multiple stepwise models of how to make decisions by consensus. They vary in the amount of detail the steps describe. They also vary depending on how decisions are finalized. The basic model involves

- collaboratively generating a proposal,
- identifying unsatisfied concerns, and then
- modifying the proposal to generate as much agreement as possible.

After a concerted attempt at generating full agreement, the group can then apply its final decision rule to determine if the existing level of agreement is sufficient to finalize a decision. **Specific models**

Consensus decision-making with consensus blocking

Groups that require unanimity commonly use a core set of procedures depicted in this flow chart.



Once an agenda for discussion has been set and, optionally, the ground rules for the meeting have been agreed upon, each item of the agenda is addressed in turn. Typically, each decision arising from an agenda item follows through a simple structure:

- **Discussion of the item:** The item is discussed with the goal of identifying opinions and information on the topic at hand. The general direction of the group and potential proposals for action are often identified during the discussion.
- **Formation of a proposal:** Based on the discussion a formal decision proposal on the issue is presented to the group.
- **Call for consensus:** The facilitator of the decision-making body calls for consensus on the proposal. Each member of the group usually must actively state their agreement with the proposal, often by using a hand gesture or raising a colored card, to avoid the group interpreting silence or inaction as agreement. The number of blocks is counted to determine if this step's consent threshold is satisfied. If it is, dissenters will be asked to collaborate on a minority position or statement so that any unique or shared concerns with proceeding with the agreement, or any harms, can be addressed/minimized. *This can happen even if the consent threshold is unanimity, especially if many voters stand aside.*
- **Identification and addressing of concerns:** If consensus is not achieved, each dissenter presents his or her concerns on the proposal, potentially starting another round of discussion to address or clarify the concern.
- **Modification of the proposal:** The proposal is amended, re-phrased or ridered in an attempt to address the concerns of the decision-makers. The process then returns to the call for consensus and the cycle is repeated until a satisfactory decision passes the consent threshold for the group.