

# **The Maine Manual for Conservation Commissions**

Prepared by

The Maine Association of Conservation Commissions

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## INTRODUCTION

This handbook has been prepared to provide basic information that every conservation commission member needs to carry out a commission's responsibilities. While the contents will apply to most cities and towns, an individual municipality may have an ordinance or charter provision that imposes different requirements.

Any person using this manual should always check the current version of any statutes, ordinances, or codes referred to in the handbook. The references included in the handbook are intended to provide general guidance to the reader rather than to serve as a substitute for detailed investigation.

The basic organization of the 1984 manual has been maintained. We have however, added one new section, Chapter 8, Communications. Each section has been numbered to make information easier to find. The manual as a whole will be updated also from time to time as needed and new pages will be sent to MEACC member commissions to replace outdated information.

This is the fourth edition of the manual. The handbook was originally prepared in 1967 by Cliff Goodall. It was updated in 1975 by Sterling (Tad) Dow, the former executive director of the Maine Association of Conservation Commissions. The third version was written in 1984, primarily by Rebecca Warren Seel, a staff attorney at the Maine Municipal Association and a past president of the MEACC Board of Directors.

The current edition has been extensively revised by former Executive Directors Susan McPherson and Bob Cummings, and edited by volunteers from the MEACC Board of Directors. Any errors are the responsibility of MEACC and not the responsibility of any previous authors. Funding for the updating and printing of this fourth edition of The Maine Manual for Conservation Commissions was generously provided through a grant from The Davis Conservation Foundation.

This manual seeks to provide guidance to Conservation Commissions and other grassroots organizations and individuals. Extra copies are available at cost from MEACC. Users are encouraged to copy sections they find particularly pertinent and distribute them to anyone who may find them valuable. We only prohibit commercial use of these materials.

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# CHAPTER 1

## WHAT IS A CONSERVATION COMMISSION?

There are as many answers to this question as there are towns, cities, and plantations in Maine. Basically, a conservation commission is a municipal advisory board that is created by a town, city or plantation through its legislative body (i.e. town meeting or municipal council). The commission has a few duties that are required by state law.

But most of what commissions do in the real world is to voluntarily undertake a variety of environmental, recreational and land use activities. Commissions build trails, work with school children, monitor development, protect their town's special wild places, and generally work to keep Maine communities attractive places to live, work and raise our families. Commissions watchdog and maintain the natural resources of a community, working with town officials, planning boards and private organizations.

The conservation commission has been called "the environmental conscience of the community." In many municipalities this may be the role that provides commission members with their greatest sense of accomplishment.

Conservation Commissions exist, "to identify conservation problems, to lay the issues before the people, to organize public support and then to take the initiative to solve the problem," as Stewart Udall, the former secretary of Department of Interior, once wrote.

"It matters little what the rallying cry is: whether it be a unique rock formation to be kept inviolate, a little stretch of trout stream to be saved from conversion into a concrete conduit, or a tiny patch of lady slippers which can be depended upon to gladden the observer's heart every spring," Udall added.

"The good that can and will come of this approach is beyond the power of description. We don't need to strive for huge gains. We can improve the quality of our environment in baby steps as well as giant steps."

## CHAPTER 2

### THE BIRTH OF A COMMISSION

#### **2-1 The Statute:**

The basic authority for a municipality to establish a conservation commission is found in the Maine Statutes, Title 30-A, Maine Revised Statutes Annotated (MRS), section 3261, which provides rules for establishing conservation commissions and spells out their duties. The municipal officers may appoint at least three, but not more than seven, conservation commissioners. Members shall be appointed initially for terms of one, two and three years, such that the terms of approximately 1/3 of the members will expire each year. Their successors shall be appointed for terms of three years each. Members shall serve until the appointment of their successors.

This statute does not require a municipality to create a commission, but provides a possible framework within which to act if a commission is created. A municipality may also establish a conservation commission under its general home rule powers.

#### **2-2 Proposing a Commission:**

The decision by the legislative body to create a conservation commission may be initiated by the municipal officers (i.e. selectmen or council) or by the citizens of the community. In a community governed by a charter, the procedure by which citizens may propose such action probably will be outlined in the charter. But the first place to start the process is simply to ask a council member or selectperson to propose a commission.

Where there is no charter, the general laws of the State allow the voters of a municipality to petition the municipal officers for a town meeting or referendum election to consider establishing a conservation commission. Title 30-A, sections 2522 and 2528, respectively, spell out the number of signatures needed on the petition and how the municipal officers must respond to the petition. But use petitions only as a last resort. Start by simply asking town officers to place an article in the next town meeting warrant. A few towns insist on formal petitions before placing articles in the Town Meeting Warrant. Most don't.

Any person in any municipality who wants his or her town, city, or plantation to establish a conservation commission should contact the Maine Association of Conservation Commissions for assistance. MEACC can provide materials to show to other people in the community and can send a representative to a public meeting of interested citizens to explain how commissions work in other municipalities in Maine.

The person organizing the meeting should encourage the selectmen, town council, town manager, planning board, and recreation committee to attend, as well as members of the general public. People attending this meeting are likely to support the creation of a conservation commission and speak in favor of it at the meeting when the commission question comes to a vote.

#### **2-3 Wording and Adopting The Proposal**

A proposal to create a conservation commission should be adopted by the legislative body in ordinance form. In communities that have a charter, usually the proper ordinance adoption procedure will be outlined there. Towns without a charter and governed by general law should follow the procedure outlined in Title 30-A, section 3002. But you probably won't need to read the law yourself. Some one in your town office almost certainly has that knowledge — or at least has a copy of the Municipal Clerk's manual, which is published by the Maine Municipal Association and provides the details you will need. The procedure isn't complicated. In a town, the ordinance needs to be posted as part of a warrant calling for a town meeting.

An article similar to the following should be included by the municipal officers in the warrant:

Art. \_\_\_\_\_. Shall an ordinance entitled "An Ordinance to Establish the (municipality) Conservation Commission" be enacted?

An ordinance similar to the following should be printed below the warrant article or posted next to the warrant. This is not a "model" ordinance. It is only an example of what some communities have used. It should be revised as necessary to meet the needs of a given town, city, or plantation. The full scope of commission activities is discussed in Chapter 4.

## AN ORDINANCE TO ESTABLISH THE (municipality) CONSERVATION COMMISSION

### Section 101. ESTABLISHMENT

There is hereby established a Conservation Commission consisting of five (5) members, serving without pay, to be appointed by Municipal Officers pursuant to 30-A M.R.S.A. Sec. 3261.3

### Section 102. DUTIES OF THE CONSERVATION COMMISSION

Such Commission shall conduct research and give advice as to the protection, development and use of the natural resources located within the Town. It shall seek to coordinate its activities with existing municipal agencies, commissions, departments, and conservation bodies organized for similar purposes and may advertise, prepare, print, and distribute books, maps, charts, plans, and pamphlets which, in its judgment, it deems necessary.

It shall prepare and keep an index of all open areas, publicly or privately owned, within the municipality including but not limited to open marsh lands, bogs, fens, swamps, and other wetlands for the purpose of assimilating and retaining information pertinent to the proper utilization, protection and potential development or use of such open areas and may recommend to the municipal officers or any municipal body or board or any body (private, political or public), a program for the better utilization, protection, development or use of such areas. It shall keep records of its meetings and activities, shall make an annual report to the municipality to be published as part of the annual municipal report, and may employ such personnel as may be approved by the Town.

The Commission, with the approval of the Town, may acquire land or interest therein in the name of the municipality for any purposes set forth in 30-A M.R.S.A., Sec. 3261, and accept gifts of land, money, or easements for conservation or park purposes.

The Commission shall, prior to making any recommendations pursuant to this section, submit its recommendations to the Town Planning Board at least 30 days in advance. Nothing in this section shall be construed to conflict with or usurp any duties, powers, or functions of other municipal personnel or agencies.

A proposal similar to the ordinance appearing above could be used to create a commission in a municipality governed by a charter that designates its town or city council as the legislative body. The proposal would be introduced by a preamble similar to the following unless other specific language is required by the charter:

Be it ordained by the Council of (municipality), County of \_\_\_\_\_, State of Maine, as follows: (here reprint the text of the ordinance)

#### **2-4 Continued Existence**

Once established, a conservation commission legally will continue to exist even though it may become inactive or all of its members resign. The procedure for legally ending the existence and authority of a conservation commission is to repeal the ordinance which established it.

#### **2-5 Choosing the Members**

Once the municipality has established a conservation commission, the municipal officers must appoint people to serve, unless this authority has been delegated to someone else by charter or ordinance. If an informational meeting was held prior to the vote creating the commission (as discussed earlier in this chapter), the attendance list from that meeting might be a good place for the municipal officers to start in trying to come up with names. Ideally, commission members should represent different areas of the community, different ages and sexes, different educational backgrounds, and different skills, but this is not always easy — especially in very small towns. Whoever is appointed should have a strong interest in local conservation issues. The municipal officers also should appoint people who can work well with others and who are willing to attend meetings and devote the necessary time to commission projects.

Unless a local ordinance or charter provision prohibits it, the municipal officers legally may appoint people to serve on the commission who are not residents of the municipality. State law generally requires only that people holding local offices be 18 years of age, residents of the State, and citizens of the United States. A municipality may vary these rules by charter. Politically, though, the municipal officers may feel that they should appoint only residents of their town, city or plantation.

#### **2-6 Associate Members**

According to Title 30-A, section 3261, on the recommendation of the commission, the municipal officers may formally appoint people to serve as associate members of the conservation commission for terms of one, two or three years. Though associate members do not necessarily have the right to vote on official commission business, many commissions routinely allow votes from whoever attends a meeting and shows a willingness to work to further the projects of a



commission. That way, the volunteers needed to carry out a project, have a direct voice in the formation of the project. If nothing else, a commission will find it useful to learn early on whether there is enough interest among the active environmental volunteers to carry out a proposal. Some commissions allow the chair to appoint alternate members to temporary full membership if needed to achieve a quorum.

There is no limit on the number of associate members. People, of course, may volunteer their time to work on conservation commission projects without being formally designated as an “associate member.” The main benefit to having them appointed is to lend some official status to their involvement and encourage a stronger commitment to the commission’s work. And of course, active associate members generally graduate to become full appointed members. Always send your complete roster of members, associate members and active volunteers to the Maine Association of Conservation Commissions so we can put them on the mailing list for our newspaper *Grassroots*.

### **2-7 Oath of Office**

Upon being appointed to serve on the conservation commission, a new commission member must be sworn into office before he or she may begin to conduct the commission’s business. Generally, the town, city or plantation clerk will notify a new commission member that he or she has been appointed and schedule a time to pick up a certificate of appointment and take an oath of office. However, if it is not possible to arrange to be sworn in by the clerk, a commission member may be sworn in by any person with authority to administer an oath (such as a notary public, a dedimus justice, or an attorney) and file a certificate with the clerk.

### **2-8 Incompatible Offices**

A person appointed to the conservation commission may not hold another municipal office that is “incompatible” with the conservation commission position. Offices are “incompatible” if the duties of each are so inconsistent or conflicting that one person holding both would not be able to perform the duties of each with undivided loyalty and objectivity. When a person accepts and takes an oath of office for an office which is incompatible with one already held, the courts have ruled that the person automatically vacates the first office as though he or she had actually resigned.

In the absence of a statute or ordinance prohibiting two specific offices from being held by one person, only a court can “rule” that two offices are incompatible. However, it is likely that a court would find that one person may not serve simultaneously as selectman and conservation commissioner, since commission members are appointed by the municipal officers. It also is possible that a court would find that a person may not serve as both a conservation commission member and a planning board member, since the commission’s general role as “environmental watchdog” necessarily includes monitoring and commenting on the planning board’s activities.

### **2-9 Vacancy**

When a permanent vacancy occurs on the conservation commission, the municipal officers have the authority to appoint someone to fill the position for the remainder of the term. If the vacancy occurs because a commission member’s term has expired and the municipal officers have neither reappointed that person nor appointed someone else, then the person who was holding the

position before the term expired may continue to hold office legally until the municipal officers act.

If a vacancy occurs, the commission should try to recommend names for the municipal officers to consider in filling the position. If the appointment process seems to be taking too long, the commission should keep in touch with the municipal officers to remind them that they need to act quickly so as not to hamper the commission's work.

### **2-10 Removal**

The municipal officers have the authority to remove a conservation commission member after giving notice to the commissioner and holding a hearing. However, removal must be for "just cause." An example of "just cause" might be where a commission member never attends commission meetings but refuses to resign his or her office. Another example might be a commission member authorizing expenditures or making decisions on behalf of the Commission or the municipality without authority. "Just cause" is something more than a personality conflict or a philosophical difference of opinion on environmental matters.

## CHAPTER 3

### GETTING DOWN TO BUSINESS

#### **3-1 Organizational Meeting**

Ideally, the municipal officers, the clerk, town or city manager or other municipal official will set up an initial meeting of the commission members once all the members have been appointed. If such a meeting has not been arranged within a reasonable time after the members have received notice of their appointments, someone on the commission should take the initiative to get a list of the names and phone numbers of the other members from the clerk and call an organizational meeting of the commission.

At the first meeting members should become acquainted, discuss their interests, and decide what kinds of things the commission should do. Though the titles and duties of officers are optional, a chair, vice chair, secretary, and treasurer should generally be elected by vote of the members at this meeting. A meeting schedule and meeting location should be established as well. Making these preliminary decisions as soon as possible will help the commission gain and maintain momentum.

#### **3-2 Officers' Duties**

The choice of a good chair is critical. The chair must be someone who generally will be available for meetings and who can organize meetings and projects, communicate well with other municipal officials, run an orderly and well-directed meeting, and keep all commission members enthused and involved by delegating responsibilities to them which best suit their interests and skills.

The secretary's role also is important. The state law that allows commissions to be formed, requires the commission to keep records of all its meetings and activities and to file an annual report for publication in the municipality's annual report. The secretary should be a person who has good organizational and writing skills to ensure that the commission maintains accurate and complete records of its business. The secretary generally is the custodian of the commission's records; though in some commissions this activity is handled by the chair.

The vice chair will conduct the meetings in the absence of the chair. In most commissions an informal working relationship develops between the chair and vice chair. Work loads are divided to their mutual agreement, so that the burden of keeping the commission on track is lessened.

The treasurer (a function sometimes assumed by the chair) is responsible for administering the commission's municipal budget and any grants or contributions received by the commission. He or she should become familiar with the accounting and billing procedures required by the municipal officers and the municipal treasurer.

### **3-3 Meeting Place**

Ideally, the commission should always meet in a public building in the community, such as the town offices, the fire barn, or the local school. This is because under Maine's "Right to Know Law" (Title 1, section 401), commission meetings must be open to the public. Since the commission is an official municipal agency, the public has a right, and should be encouraged, to attend the commission's meetings. It is very difficult for the public to attend a commission meeting when it is being held in a private home. Some town halls can become extremely difficult to heat in the winter, and the prospect of a warm fire with coffee at hand is very attractive. Nevertheless, one of the basic rules must be that the commissioners have their meetings accessible to the public.

### **3-4 Meeting Schedule**

A regular schedule of meetings is desirable for several reasons. If the commission meets on the first and third Tuesdays of every month, for example, the public gets used to the schedule and it is easier for them to attend. A regular meeting time also makes it easier for the commissioners to attend since they can plan far in advance for it.

Regular attendance by the commissioners is vital to the success of the commission. Obviously, if certain members never show up, no matter how dedicated they may be, the work of the commission is going to be limited. If a majority of the commission is lacking, then no action can be taken at all by the commission.

Many commissioners find that meeting every other week or twice a month, whichever the case may be, is the most productive type of schedule. The commission should keep in mind that if it meets as a body only once a month, that amounts to twelve times a year. It is very difficult to keep the momentum of an active program going with so few meetings. There appears to be a direct correlation between the amount of activity of a particular commission and the number of times that it meets during the year. The more active commissions meet more often. Some commissions even meet as often as once a week, with emergency meetings in between.

In the summer some commissions find it desirable to reduce the frequency of meetings. This may be a necessity, particularly if certain commissioners depend upon the summer months for their livelihood. It is not desirable to stop meeting altogether in the summer. Projects will arise and problems will come before the commission that must be attended to. In addition, commission members should keep their activities going, although it may be on a more limited basis than at other times of the year.

### **3-5 Meeting Time**

Commissions generally meet in the evening, which makes it easier for the general public to attend. However, whatever best suits the commission is the best time. Some commissions prefer to meet at the same time that the selectmen or planning board meet. This allows them to communicate back and forth if necessary. Others prefer to meet at separate times.

### **3-6 Meeting Attendance; Quorum**

While it is only necessary for a majority of the membership to be present for a quorum, there is much commission action that requires input from the entire membership. The best person in town will be the worst conservation commissioner if he or she cannot attend the meetings.

One way to encourage commissioners to come to meetings is to end the meetings at a reasonable hour and on time. Another method of keeping attendance up is a telephone call from the chair or secretary to the members the day before or the day of the meeting just to remind them of the meeting. Send out an agenda with the date on it. Agendas alert commissioners that important things need to be accomplished and that their presence is needed.

If the commission is plagued with poor attendance, it may want to consider asking for an amendment to the conservation commission ordinance stating that a certain number of unexcused absences automatically creates a vacancy in a member's position.

To increase the number of associate members and interested people who come to commission meetings, the secretary should note the name and address of every person who comes to a meeting for the first time. If that person is then put on a postcard or agenda mailing list for future meetings, the associate membership will grow. While this does involve an expense of postage, the amount is not great.

Likewise, a notice in the local newspaper about the meeting may increase attendance by the general public.

### **3-7 Meeting Agenda**

In order to run a well-organized and effective meeting, the chair should prepare an agenda beforehand and distribute it before the day of the meeting, if possible. The agenda should be as specific as possible about the matters to be taken up and should be given to the local press to use in their announcement of the meeting. The agenda should at a minimum follow this outline:

1. Call to order by the presiding officer.
2. Secretary's report
3. Treasurer's report (if any).
4. Committee reports
5. Old business
6. New business
7. Adjourn

Under secretary's report the secretary should provide the minutes of the previous meeting to all commission members. The chair should take note of any items he or she may want to bring up on the agenda.

Under treasurer's report, if there is money in the commission treasury, the treasurer should at all times have an up-to-date report as to the status of those funds. The treasurer should also report on any bills that the commission may owe and any money that may be owed the commission, as well as the status of the commission's overall financial needs.

Under old business the chair should have listed all the items that have been discussed at previous meetings and are as yet unfinished. Beside each item he or she should note the name of the person who will report on that item.

Under new business the chair and members should bring up any matters that have not previously been discussed at commission meetings including telephone calls, discussions with town officials, new projects, new programs available to commissions, etc.

If the commission plans to devote a portion or all of its meeting to a special guest or a presentation, it is best to put that at the top of the agenda so as not to delay any persons who have come especially for the event. If there are new people attending the meeting, the chair should begin the meeting by asking them if they have any special items they would like to discuss with the commission. Often a person will come to a conservation commission meeting with a particular complaint or project in mind. It is courteous to deal with these before the commission starts its formal meeting.

### **3-8 Using Volunteers and Publicity**

Get a lot of people involved in your commission's work. Many projects which commissions undertake need large numbers of people. Examples are river clean-up, litter drives, junk car surveys, and shade tree planting programs. By encouraging broad public participation, the commission's working membership increases, potential commissioners serve an "apprentice" role, and good public relations are created throughout the community.

Active commissions find that they have too much work to be handled adequately by the members meeting once or twice a month. Therefore, they enlist volunteers. Some commissions in Maine have as many as 25 associate members. All of these people work in different areas of commission activity. One commission found that when it took a count it had 75 ongoing projects of various sizes. There is no way that the members of the commission alone could handle the workload. However, through the use of the 15 associate members, the commission was able to keep an active program going.

How do you entice volunteers? The answer lies in publicity and public relations. (see Chapter 8 for more on this subject) Publicize your activities. Find a friendly newspaper reporter, who will write about your projects and your successes. Make it easy for people to attend your meetings. Commissions that make it clear to the public when, where and at what time they meet are likely to draw people to their meetings. This is especially true if the commission publicizes two or three items that will be on the agenda for the upcoming meeting. This can be done through newspaper articles, posting notices around town, sending a press release to television and radio stations which run public service announcements, and sending a notice to local clubs and neighborhood groups. Once a commission begins to attract a few people to its meetings, these people should always be asked if they would like to serve as associate members. Or at least help out on a particular project. Generally, people who are interested enough to attend commission meetings will be glad to volunteer. This, in turn, will stimulate their interest and get them more involved. It will also enable the commission to see whether these people could be potential commissioners. The secretary should be sure to get the names of new people who attend and add them to the list of people who receive special notice of commission meetings.

How does one achieve good publicity and good public relations? First, don't be afraid of the press. Many commissions, when they are initially formed, prefer not to have the press on hand. This is because the commission feels it is groping and searching for direction while it attempts to establish priorities and does not want to have the press noting its every move. Nevertheless, a

commission is an official municipal agency and as such, its meetings are open to the public and the press. You may even find that the presence of a reporter will encourage you to run a more businesslike meeting. If the press does a news story on what the commission is doing, this will stimulate interest in its activities. The result will be people attending the meetings.

But you are more likely to experience a dearth of press coverage, rather than too much. In many areas of Maine there are no reporters that cover local meetings. But occasionally, a part time correspondent is available to file stories on meetings. Get to know this correspondent. Feed him or her news about your commission. Everything you submit won't be printed. But occasionally, you'll hit the jackpot. The commission should call or write to this correspondent after each meeting and give him or her a short report about what the commission is working on. Generally speaking, these correspondents are only too happy to have news of this sort. The responsibility for getting news to the newspaper lies with the commission. It is wise to appoint one commissioner to do publicity. This person should be able to write a short and effective paragraph which can be forwarded to the correspondent.

If everything else fails, resort to letters to your newspaper editors to get your story printed. Letters are newspapers great untold secret. They get more readership than almost anything else newspapers print these days. Don't write to complain. Write to inform and explain. Write about the things you do, and the ideas you have. Write about the importance of grassroots environmentalism. All too frequently conservation commissions do not have enough visibility in the community. When budget time comes, many people in town want to know what the commission is and what it has done to deserve funding. If this is the case, it only indicates that the commission has not taken good advantage of the local newspaper. Remember, newspaper coverage and newspaper letters are free!

### **3-9 Public Nature of Commission Meetings and Records:**

Action may be taken by a commission only by majority vote. It is very important for the commission to always remember that the business it conducts is the business of the public and not of a private organization. Under what is commonly called the Maine "Right to Know" law the conservation commission is a public body whose meetings are public proceedings. Any time a majority of the commission gets together to discuss conservation commission business, whether in a town building, a coffee shop, or a private residence, there is a public meeting at which the general public has a right to be present. If the meeting is one at which the commission members will be making decisions of any kind, the commission must give prior notice of the meeting in ample time to allow the public to attend and which is reasonably calculated to notify the general public within the municipality. A good rule of thumb is that the notice be given at least a week in advance stating where and when the meeting will occur.

Publicizing the meeting through the newspaper, radio or television is the best way, but posting notices in public places around the community where people are likely to see them may be the only practical alternative. For regular meetings, a notice appearing in the town's annual report which states the day, time and place is another method which could be used. A method which is adequate for one town may not be adequate for another.

If there is a real emergency which requires the commission to meet and act before ample notice to the public can be given, the Right to Know Law states that the commission may give

notice by contacting representatives of the media instead of the general public. The same methods used to notify the members of the commission must be used to notify the media.

But in this as in all other matters, common sense must be used. Technically, three commissioners getting together on the spur of the moment to visit a proposed subdivision, or perhaps the site of a proposed hiking trail, is a meeting that triggers the full requirements of the Right to Know law. But these kinds of activities occur thousands of times a year by all kinds of public bodies. If you recognize the spirit of the law, if you encourage public participation and public knowledge of your commission activities, you won't get into serious trouble.

But don't make decisions at an informal get together. The business of a public body generally must be conducted in a public meeting. Consequently, any time the commission wants to make a decision, whether by consensus or by a formal vote of the members, it must do so at a public meeting preceded by public notice. Polling the members by telephone is not a legal method for conducting commission meetings.

It also is not legal for one member of the commission to act alone on behalf of the commission without having been authorized to do so by a majority vote of the commission at a public meeting preceded by public notice. Maine statutes require that when a group of three or more persons is authorized to act, they must act by majority vote.

Any commission meeting minutes, correspondence, reports, project products, or similar materials are public records. Whoever has custody of the conservation commission's records must give access to those records if someone wants to inspect and copy them at a mutually convenient time. The custodian of the records must make a reasonable effort to find time to allow such an inspection.

The statute requires that the commission's records be protected and preserved from destruction or damage and that a record book, when completed, be given to the town or city clerk for safekeeping in a fireproof vault. Whenever the secretary of the conservation commission changes, any commission records in that person's possession should be turned over to the new secretary.

### **3-10 Parliamentary Procedure**

Generally, it will not be necessary for the commission to conduct its meetings in accordance with strict parliamentary procedure, such as Robert's Rules of Order. In fact the members probably will feel more relaxed and willing to participate in discussions if the chair runs a relatively informal meeting.

It may not even be necessary to make formal motions in order to reach a decision; sometimes it works better to conduct business by informal consensus. However, the chair should require motions and conformance with parliamentary procedure when a discussion involves a controversial issue or when necessary to prevent commissioners from rambling and unnecessarily prolonging discussions at a meeting. Nor should the secretary be any less accurate and detailed in the minutes of informal meetings. In fact, the more informal the meeting, the more important it will be for the secretary to keep detailed notes of the discussion, since without formal motions and votes it will be more difficult to determine exactly what decision the commission has made.

### **3-11 Annual Report**



The conservation commission is required to submit an annual report for inclusion in the municipality's annual report. Either the chair or the secretary generally prepares the report, with input from the other commissioners, using the minutes of the year's meetings as a guide. The report should summarize the commission's activities over the past year. The municipal officers should tell the commission what form should be used and when it must be completed. By the way, send a copy of your annual report to the Maine Association of Conservation Commissions, so that your successes can be reported in *Grassroots*, the MEACC newspaper, and used to help us develop a "cookbook" that tells commissions how other commissions have carried out projects..

### **3-12 Conflict of Interest**

Although the issue of conflict of interest may not arise very often in the context of conservation commission decisions, commissioners should be aware of the test for determining when a commission member must abstain from voting and participating in discussion.

A commission member who has a direct or indirect financial interest in any question on which he or she must vote as a conservation commissioner must make full disclosure of that interest on the record and must abstain from voting or attempting to influence a decision in his or her capacity as a commission member.

If a commission member who has a legal conflict of interest fails to abstain from the discussion and from the vote and fails to note the nature of his or her interest in the record of the meeting, a court could declare the vote void if someone challenged it. Even if no legal conflict of interest exists, a commissioner would be well advised to avoid even the appearance of a conflict in order to maintain the public's confidence in the commission's work.

### **3-13 Liability**

Commissioners generally are immune from personal liability in the performance of their official duties under both State and Federal law as long as they act in good faith and do not act negligently or outside the scope of their authority. The two laws which govern liability of municipal officials such as conservation commission members are a State statute called the Maine Tort Claims Act (Title 14, section 8101 et seq) and a federal statute called the Civil Rights Act of 1871 (42 U.S.C.A. § 1983). There is one exception to this blanket immunity. Commission members are exposed to potential personal liability if they willfully violate the Right to Know Law.

### **3-14 Assistance from the Town Office or City Hall Staff**

The conservation commission is an official part of the municipal government structure. Members should consider themselves as such and find out what clerical services, supplies, and legal services and other types of technical assistance are available to town or city boards. If this information is not automatically provided to the commission, the commission should take the initiative and ask the manager, clerk, or selectmen. Does the municipality provide its letterhead stationery to the commission or must the commission buy its own? Will the town office staff type up and mail out minutes of the commission's meetings and commission correspondence? Does the commission have a right to use the town office telephone for long distance calls? May the commission use the services of the town or city attorney, Maine Municipal Association, and the regional planning commission? What is the procedure for submitting a budget request? How should the commission pay its bills? Start off on the right foot and ask a few questions. Trying to

operate in isolation of the rest of the municipal government will only lead the commission into making legal and political mistakes. It may also foster an impression of the commission as “the enemy” rather than as a group of municipal officials trying to do the job that the public created them to do.

### **3-15 Liaison With Planning Board**

At least one member of the commission should attend all planning board meetings. This can either be done by the same person on the commission or by rotating the task around to various members. In any case, the important thing is to have some representative on hand at all planning board meetings to act as a liaison between the two boards. The person can report back to the conservation commission as to what the planning board is doing and can report to the board about the projects the commission is involved in. This task is extremely important. The commission should contact the planning board soon after the first meeting to notify the board that a commissioner will regularly sit in on the board’s meetings. Both boards are working toward the same overall goal of the best and wisest development of the town. They should keep in close touch.

In addition to regular planning board meetings, commissions should also attend site reviews of development projects in the town. The commission members attending the site review should immediately write down their suggested findings of facts and decision for submission to other commissioners and to the chair of the Planning Board. Also include a summary of the reasons for your recommendations. The decision rests entirely with the Planning Board. But it is appropriate that the Planning Board weigh input from all interested parties, including the commission.

Another important area in which the commission can be of valuable assistance to the planning board (or the comprehensive planning committee, if a separate board) is in the preparation or updating of the town or city’s comprehensive plan, in the review of subdivision proposals, and in the preparation of open space plans.. See Chapter 5 for more detail.

### **3-16 Relationship With Municipal Officers**

Conservation commissions from the start must build a good working relationship with the municipal officers. Commissions which have had support and input from the municipal officers are far better able to achieve their goals than those that have a bad working relationship. Again, as in the case of the planning board, it is incumbent upon the commission to establish this relationship. Generally speaking, the most effective method is through good communications.

There are several ways to go about this, but initially the commission should meet with the selectmen or council and seek their advice as to what they think the commission should be doing. Then, on a regular basis thereafter, the commission should either meet with them or submit in writing to them a brief review of commission activities. In some communities, the commission is able to have the minutes of its meetings typed up in the town office and circulated to the various town boards.

The key is for the municipal officers to be kept abreast of the types of projects the commission is working on and the status of those projects. There is nothing more embarrassing to a selectman than to be asked about a project that the commission is working on and to have no knowledge of it. So make it a point to keep the municipal officers posted on a regular basis and to

ask them if there are projects they may have on their minds that the commission can undertake. Some commissions find it helpful to assign a liaison person to attend all Council or Selectmen meetings and to give a brief report of commission activities.

Support of the commission by the selectmen or council can be critical at budget time. Any advance work that the commission has done to solicit their support for budget items will pay off at the town or council meeting. The commission which chooses to go its own way may soon find that its recommendations are rejected.

There are some situations where the commission is unable to get the support of the municipal officers from the start. In such cases, the commission should do all it can to keep communications open and constantly solicit them for ideas and work projects. When they begin to realize that the commission can assist them in carrying out their jobs, their attitudes may change.

Similarly, a commission which immediately takes on as its first project the outright opposition of some major development proposal in town without adequate factual information may be jeopardizing its entire future relationship with the municipal officers and townspeople. The commission should take a stand on major issues, but it is extremely important that positions be well documented and well thought out.

If the commission members and the municipal officers find themselves in disagreement over whether what the commission is doing is legal, the commission should attempt to persuade the municipal officers to seek an independent legal opinion from the municipality's private attorney or from the Maine Municipal Association legal department (if a MMA member). This could be done by requesting an opinion or by having the attorney attend a joint meeting of the commission and municipal officers.

When a lack of cooperation or support from the municipal officers stems from philosophical differences, personality conflicts, or the like, perhaps the commission could arrange a joint meeting with the municipal officers and ask an independent third party to attend who has some skills in resolving those kinds of problems or who has knowledge of how other municipalities have worked out similar problems. Perhaps the regional planning commission, councils of government, the Maine Association of Conservation Commissions, or the Maine Municipal Association can help resolve these conflicts. Maybe even a faculty member from a nearby college or university, or a member of a State or federal agency would donate his or her services. Sometimes, a resident of the municipality who normally does this sort of thing for a living will donate some time in the interest of better government. In any case, at least seek some outside sources which could help iron out some of these differences.

# CHAPTER 4

## COMMISSION DUTIES AND AUTHORITY

### **4-1 Conservation Commission Enabling Statute**

A basic list of duties and legal authority that a municipality may delegate to its conservation commission is found in Title 30-A, section 3261.

**1. Parks.**

The commission may have the care and superintendence of the public parks and, subject to the approval of the municipal officers, direct the expenditure of all money appropriated for the improvement of those parks. Nothing in this law shall be construed to require a municipality which has previously created a park commission under prior law to establish a conservation commission, and any such park commission heretofore established may continue to operate as originally established. (See Title 30-A MRSA, sections 3263 to 3264.)

**2. Land Use Research:**

The commission shall conduct research, in conjunction with the planning board into the local land areas.

**3. Coordination of Conservation Organizations:**

The commission shall seek to coordinate the activities of conservation bodies organized for similar purposes.

**4. Publications:**

The conservation commission may advertise, prepare, print and distribute books, maps, charts, plans and pamphlets which it considers necessary. (Note: This authority may hinge (1) on receiving money for the purpose through a budget appropriation by town meeting or council or (2) the receipt of a private donation or a private, State or federal grant.)

**5. Open Space:**

The commission shall keep an index of all open areas (publicly or privately owned) within the municipality, including open marsh lands, swamps and other wetlands, for the purpose of obtaining information pertinent to proper utilization, protection, development or use of such open areas.

The commission may recommend to the municipal officers or any municipal body or board, or any public agency a program for the better utilization, protection, development or use of such areas. That may include the acquisition of the land or acquisition of conservation easements, restricting the use of the land.

Any public agency of the State of Maine conducting planning operations with respect to open areas within a municipality having a conservation commission shall notify such conservation commission of all plans and planning operations at least 30 days before implementing any action undertaken.

As used in this section, “open areas” means any space or area, the protection of which would maintain or enhance the conservation of natural or scenic resources, or related public values. Open areas include land needed to protect natural streams or water supplies, conserve swamps, wetlands, beaches or tidal marshes, enhance the public values of nearby parks, forests, wildlife preserves, nature reservations or sanctuaries, enhance public recreation opportunities, preserve historic sites, implement the plan of development adopted by the planning board, or otherwise promote orderly development.

**6. Land Acquisition:**

A conservation commission may acquire land in the name of the municipality for any of the purposes set forth in this section with the approval of the legislative body.(either town meeting or town or city council, as the case may be.) However, it is wise to consult other town agencies, such as the recreation committee or department to establish priorities.

**7. Gifts:**

A commission may receive gifts in the name of the municipality for any of the commission’s purposes and shall administer the gift for those purposes subject to the terms of the gift. (Note: Normally, State law requires the legislative body to accept gifts on behalf of the town or city. So the conservation commission has more authority than other municipal committees or officials in this regard.)

**8. Records; Reports:**

A commission shall keep records of its meetings and activities and shall make an annual report to the municipality to be published as part of the annual municipal report.

**4-2 Other State Statutes**

In addition to the authority granted in the enabling statute, conservation commissions may be given other authority by their town meeting or council pursuant to specific State laws.

**1. Public Shade Trees:**

According to Title 30-A, section 3263, “all public shade trees may be under the care and control of conservation commissioners in municipalities . . . The conservation commissioners may have the powers and duties of tree wardens in regard to those trees.” (Note: See Title 30-A, sections 3281-3284 for State law regarding public shade tree care and removal.) If your town already has an agency dealing with public shade trees, the commission should work closely with that group, even to the extent of making members associate members of the conservation commission

**2. Energy/Recycling Commission:**

Municipalities may delegate the duties of an energy commission to the conservation commission, rather than creating a separate committee. Some of the duties listed in the energy commission law include: study and recommend energy policies to the municipal officers, body or board and to the planning board, to reduce energy consumption in the municipality by encouraging energy conservation and better energy management; to promote efforts to increase community energy self-sufficiency through the development of safe, efficient and renewable energy resources; to provide leadership and direction for local energy conservation education; to work with other public and private organizations

to secure funding and other resources for local energy projects and employment; to coordinate their efforts with those of other local, regional and State organizations.

If the commission assumes the role of energy commission, it shall keep records of its meetings and energy activities and shall make an annual report to the municipality to be published as part of the annual municipal report. The commission shall also notify the Department of Economic and Community Development of its formation.

While acting as energy commissioners, the commission may promote and conduct research, in furtherance of its purposes, in conjunction with the planning board. The law cites, in particular: public transportation, van pools and car pools; recycling; solar power; cogeneration; hydro-electric power; energy audits; energy conservation and other activities that will make the municipality more energy self-sufficient through the utilization of renewable energy resources.

Even if the town or city has not formally designated the conservation commission as an energy commission, the conservation commission should not hesitate to become involved in energy related projects. The intent of the Legislature was to encourage municipalities to take a positive step toward dealing with energy problems by formally designating a municipal committee to perform that function. It did not intend to prevent energy related activities in municipalities which did not take the action outlined in this statute.

#### **4-3 Local “Home Rule” Ordinances and Charter Provisions**

In Maine, municipalities have relatively broad power to adopt charter and ordinance provisions using what are called their “home rule” powers. These powers are granted to municipalities both in the Maine Constitution and in Title 30-A, section 3001 of the Maine statutes and read as follows:

Maine Constitution, Art. VIII, Part 2.

Section 1. Power of municipalities to amend their charters.

The inhabitants of any municipality shall have the power to alter and amend their charters on all matters, not prohibited by Constitution or general law, which are local and municipal in character. The Legislature shall prescribe the procedure by which the municipality may so act. Under these home rule provisions, the power or duties which can be given to a conservation commission by municipal ordinance will depend on whether there is a State statute which has expressly or implicitly preempted local ordinance authority on that particular subject. Generally speaking, most statutes do not preempt local ordinances which expand the duties of a conservation commission. (Plantations do not have home rule powers.)

Consequently, commissions should not view Title 30-A, section 3261 (the section authorizing conservation commissions) as an exclusive list of their powers. However, if the commission wants to be given more authority by ordinance, it should work with the municipal officers to seek the advice of an attorney to determine whether the town or city can legally grant the commission the desired powers. See Chapter 5 for further discussion of this issue.

#### **4-4 Spending Money**

Generally, before any money can be spent by the commission, the legislative body must “appropriate” it for that purpose. This is true regardless of whether the money comes from the general tax revenues of the town or city, from revenues generated by a commission project, or from a state or federal grant. However, cities and towns vary widely in their practices, so check with your municipal officials before assuming that you can’t spend the money you raise independently.

An “appropriation” by the legislative body for the commission’s annual budget can be very specific (for example \$50 to print a newsletter) or it can be a lump sum appropriation (perhaps., \$500 to use as the commission sees fit). Once the money has been earmarked for the commission’s use, it will not generally be turned over directly to the commission to invest and spend according to its own procedures. Instead, the municipal officers and the treasurer generally will retain central control over investment of the money and disbursement from the commission’s account, just as they do with most or all of the other municipal boards and departments. This is to ensure that any expenditure is legal and accounted for in accordance with State-mandated municipal accounting procedures. But consider asking either through an ordinance or town policy that money appropriated to the commission be carried forward if not spent in the year it is appropriated.

In a community operating under general statutes rather than a charter, any bill incurred by the commission usually must be approved on a warrant for payment signed by the municipal officers before the treasurer can pay them. In approving the bills, the municipal officers’ role is to ensure that the expenditure generally falls within the scope of the budget appropriation which the legislative body made for the commission. They should not “second-guess” the wisdom of every decision made by the commission.

#### **4-5 Grant Applications**

The Maine statute states that “a municipality may apply for, accept and appropriate State grants for any purpose for which State grants are available to municipalities.” When the term “municipality” is used in a statute without mentioning specific municipal officials, it means that the legislative body of the municipality must authorize a particular official or group of officials to apply for and accept the grant money on the town’s or city’s behalf. The “legislative body” is the town meeting in a municipality which operates strictly under the general laws of the State rather than a town or city charter. In a charter community, the legislative body usually is the town or city council, but this will depend on the specific terms of the charter. Generally speaking a Board of Selectmen is an administrative board, rather than a legislative board, though Legislators from time to time amend state laws to give some legislative duties to Selectmen, thus blurring the lines somewhat.

Unless the legislative body has expressly authorized the commission to apply for State funds, the commission does not have that power. However, to provide flexibility, it is probably wise for the town to grant a commission such authority in the ordinance that creates the commission in the first place. Municipalities that use the sample ordinance printed earlier in this manual will have already authorized their conservation commissions to apply for grants. Once the commission has decided how much money it needs and has prepared a proposal to submit to the State, the commission or someone authorized by the commission should meet with the municipal officers (i.e., the selectmen or council) to discuss the proposal with them and ask them if it is

necessary to first have a town meeting or municipal council vote. This is also true if the conservation commission wants to apply for a federal grant.

#### **4-6 Contracts/Hiring Professional Assistance**

As with grant applications, the conservation commission should have prior approval from the legislative body before it enters a written or verbal contract with a person or company to do work for the commission — whether it is an agreement with the State university for the services of a work/study student, with a logging company to do work on the town forest, with a consulting firm to prepare maps, or with a printing company to print a publication. The commission can request this authority either as part of the approval of its annual budget by the legislative body or by making a separate request at some other time during the year. It is probably easiest to make the request as part of the ordinance creating the commission, or as part of the commission's annual budget, especially in town meeting communities where a special town meeting would have to be called if the request were made later in the year.

#### **4-7 Gifts**

As was noted earlier, the conservation commission has independent authority under State law to accept gifts on behalf of the town or city. No vote of the local legislative body is necessary here, as would normally be the case with gifts made to the municipality or to one of its committees. Generally, once the gift is received, it will be earmarked in the town or city treasurer's books as being part of the commission's budget but the money will be physically invested by the treasurer with the other funds of the town or city unless prohibited by the terms of the gift. The gift will not lapse into the town or city general fund if unspent at the end of the year; the balance of the gift should be carried forward each year until the entire amount has been used by the commission. Such a gift to the commissions cannot legally be diverted by the town to other purposes. According to Title 30-A, section 3261, the commission decides how to use the gift, bearing in mind the terms of the gift. However, in order for the money to be disbursed to pay bills, the commission usually must ask the municipal officers to sign a treasurer's warrant for that purpose pursuant to Title 30-A, section 45603, absent a charter or ordinance to the contrary.



#### **4-8 Taking Official Positions on Issues**

If the commission members feel strongly that the conservation commission should take a formal position on some environmental issue, such as proposed State legislation or a proposed development application submitted to the State, generally speaking the commission may do so. However, any oral or written testimony presented by the commission should make it clear that the commission is not speaking on behalf of the municipal officers or the legislative body — that the commission is speaking on its own behalf in its capacity as an official branch of local government that has been charged generally with keeping watch over the natural resources of the community.

The commission should be aware that it may suffer certain negative political consequences if it takes a stand which the municipal officers or townspeople oppose. Before taking a position that is likely to be controversial, the commission should be especially careful that it knows all the facts.

#### **4-9 Contacting State, Federal, or Other Agencies for Information**

Generally, it is both appropriate and efficient for the conservation commission to have the authority to contact various agencies directly when in need of information on a particular topic that the commission is researching. However, the commission may be wise to check with the municipal officers or manager to see if there are any local restrictions on how such requests for information must be made. If such restrictions do exist, or if they have been imposed only on the conservation commission, it might be useful for the commission to arrange a meeting with the municipal officers to iron out any differences and to see if the restrictions could be lifted or at least modified to allow the commission to operate efficiently.

#### **4-10 Petitioning for a Town Meeting**

The conservation commission may find sometimes that it has a particular project or an issue on which the commission needs either the support of the municipal officers or a vote of the legislative body (Town Meeting) before it can proceed. Occasionally municipal officers may not voluntarily give their support or even agree to place an article in a town meeting or election warrant. As a last resort the commission may circulate a petition to put the question to a town meeting or referendum vote.

Title 30-A, sections 2522 and 2528 spell out the requirements for such a petition and vote. Again, this may have certain liabilities for the commission in their future relationship with the municipal officers, but may be necessary when the commission has exhausted all other avenues. A petition circulated and submitted pursuant to either of these State laws generally will force the municipal officers to call a special town meeting or election, especially when waiting for the next regularly-scheduled town meeting or municipal election would frustrate the purpose of the petition.

An alternative would be to circulate and submit a petition which is signed by as many voters as possible in support of the project or issue being pursued by the commission but which is not intended to force the municipal officers to call a special meeting or election. Such a petition is designed to pressure the municipal officers into “voluntarily” supporting the commission by demonstrating a widespread endorsement by the community.

# CHAPTER 5

## COMMISSION PROJECT IDEAS

### 5-1 Establishing Priorities

At the first two or three meetings of the commission, members should be making some sort of rough assessment of the municipal needs that the commission can address. Some commissions are established for very specific reasons. Examples of this would be a commission set up to take on the responsibility of shoreline zoning, or to take over the shade tree program for the municipality. In some cases, however, commissioners arrive at their first, second, and third meetings with little knowledge or direction as to what they should be doing and how they should be doing it. Commissions finding themselves in that position should feel free to contact the Maine Association of Conservation Commissions for help in assessing their community needs.

While some projects may seem obvious to the commissioners, a priorities list should be established before the commission actively starts to spend time and energy on specific projects. In order to draft a priorities list, commission members at their initial meetings can have a “brainstorming” session or two. This involves each commissioner tossing out his or her ideas for commission projects with no judgments being made as to the merits of those ideas. Each commission member should come up with two or three answers to the question, “What should our conservation commission be doing?”

While this is being done, the secretary should be noting the different ideas in list form. Generally, it is very easy to compile a list of at least a dozen items. Then, before their next meeting, the commissioners should talk with their husbands and wives, fellow workers, school officials, neighborhood groups, civic organizations, sportsmen’s clubs, and townspeople generally, to pick their brains as to what the commission should be doing. The net result at the following meeting will be a longer list, started by the commissioners and expanded by others. The commission should also make a point early in its career to meet with the selectmen or council and with the planning board, either at the same time or on a separate occasion. The purpose of these meetings is to repeat the question to these other municipal officials: “What do you think the conservation commission should be working on?” After this process has been completed, it is very likely that the average commission will have a list of from 40 to 100 items — all projects or problems that deserve attention.

There is a secondary benefit to this project list procedure. All the people to whom the commissioners talk will remember that their opinion was solicited by the commission. This is good public relations. People like to be asked their opinion. The effect is that at a later date, when the conservation commission needs some support, some of those who were involved in this initial “brainstorming” may be there to voice their support of the commission.

After this list of projects has been drawn up, the commission should stop the brainstorming procedure and set priorities. The commissioners should keep in mind that the list is flexible — some items will be added to it and others dropped. In any case, the commission should go through the projects in order to make a determination as to which one has the highest priority, which one has the second highest, and so forth.

First, the commission should strike off the list as many projects as the majority of commissioners feel are either not within its jurisdiction or may be too large to be dealt with by a newly-formed commission. Examples of these two situations might be the beautification of the town common when there is already an active garden club in town or the solution to the town's solid waste problem which will involve extensive work with other towns, regional and state officials. A majority vote of the commission is the easiest way to handle the different items. It is neither essential nor wise to get unanimous agreement on each item. If the commission tries to do so, it may take an extremely long time to put the list into workable condition.

After eliminating the items which the commission members feel do not belong on the list at the time, there will remain a series of projects varying in importance and degree of difficulty. Some will require money. Some will require much involvement by other people. Some will require a great deal of time. Some will require outside technical help. One final consideration is the degree of difficulty and controversy.

As a new commission, it may be wise to get a few successes under your belt before you undertake that really big project. A few smaller projects that are well done and successfully completed will not only make your fellow commissioners feel good, it will help build your commission's credibility in town. With these considerations in mind, commissioners should try to decide which item on the list is the most important for them to tackle and label that item as Number 1, ranking the remaining projects in descending order.

This does not mean that several different items cannot be accomplished at the same time. It only means that the commission now has input from its own members, other municipal officials and townspeople as to the direction in which the commission should be heading.

In addition to the public relations benefit previously mentioned, commissions that go through this process of drafting a grocery list and turning it into a priority list will avoid any unnecessary duplication of effort by other agencies or organizations. As required by State law, commissions should be coordinating all conservation efforts within the municipality. There is no better way to start this coordinating role than to touch bases with the different organizations and officials in the community when the commission first draws up its work list.

## **5-2 Obtaining Community Input**

Conservation commissions should constantly evaluate the needs of the community. In addition to "brainstorming," the commission may want to develop and circulate a survey or questionnaire.

Surveys can go to the entire community or to a sampling of the community, whichever is most feasible. The survey consists of a number of questions asking for answers either to be written or in multiple choice form. The latter is more effective in getting a high percentage of return. These surveys can be copied at low cost and then distributed either through the mails or by the use of volunteers such as Boy Scout troops delivering them door-to-door, or as a handout at the corner grocery store. One of the most effective methods of assuring response is to indicate on the survey that it will be picked up on a certain day. This has worked quite successfully in some Maine towns, with returns running as high as 70-80%. Commissions which have used surveys and questionnaires in the past include Freeport, Orono, Poland, Hermon, Litchfield, Sweden, Dresden,

Waterford, Bremen, North Berwick, Bridgton, Harrison, Monroe, Phippsburg, Dixfield, Mechanic Falls, Lisbon and Winter Harbor.

### **5-3 General Projects**

There are a number of general projects which both new and old commissions should consider doing. Some of these projects are designed to get the commission “plugged in” to the structure of municipal, regional and state government — making the commission aware of the different agencies surrounding it and these other agencies aware of the commission. Several of these projects are listed below.

#### **1. Coordinating Conservation Activities of Various Groups.**

Establish the commission as a coordinating and reviewing agency for all municipal projects affecting natural resources. Ask key boards and commissions to designate a member to meet with the conservation commission regularly. Meet with the local water supply officials at least once a year. Community water problems are often caused by indifference and delay. Find out the facts and back constructive action before problems develop.

Consider organizing conservation clubs in local schools. What the students learn they will be eager to tell others.

Contact the planning board about ways the commission can be of assistance in reviewing subdivisions; contact the comprehensive planning committee about helping with the preparation or updating of the town or city comprehensive plan. The Conservation Commission should be especially qualified to do the natural resource inventory portion of a comprehensive plan, since a prime responsibility of a commission is protection of natural resources. The planning board and comprehensive planning committee may welcome the commission’s help.

#### **2. Providing and Obtaining Conservation Information and Providing Education.**

Establish the commission as a clearinghouse for local, State, and national conservation information. Start with the agencies listed in Chapter 7 and request their current and future publications. This material may be put on a special shelf in the public library or town hall for the benefit of anyone in the community. Make a list of all organizations (and their officers) within the community who have an interest in conservation programs.

Become involved in the activities of the County Soil and Water Conservation District. By so doing, the commission can avail itself of assistance from soils, land use, and engineering specialists.

Sponsor at least one community-wide meeting on conservation each year. Enlist support from private organizations in such an undertaking, utilizing outside panelists and/or slide programs if necessary.

Check with school officials to determine if conservation and environmental education in general is needed in the school system. Materials and guides are available at little or no cost from public and private agencies. However, it usually requires local interest and initiative to see that they are used properly in the school system.

Work with the local parent/teacher organization in this endeavor. Find an interested teacher, if possible.

### **3. Conducting or Updating a Natural Resource Inventory of Your Town.**

Start with a large town wide map and mark the approximate locations of important wetlands, waterfowl areas, unusual geographic features, deer wintering areas, historic sites, waterfalls, unusual plant colonies and historic places.

How do you get this kind of information? One source is townspeople themselves. Look first to school science and mathematic teachers. Some are experts. Many more have knowledge of experts. Most towns also have avid bird watchers or wild flower hobbyists, who can provide information or have knowledge of folks who can. Some dedicated hunters and fishermen have special knowledge of natural phenomenon. If your community has an avid animal trapper, seek out his special knowledge. Wild animals are wary. Only a person with unusual knowledge of wildlife habits and habitat can trap animals successfully. Gain the confidence of a successful trapper and you may discover a wealth of information about the kinds and range of animal life in your community.

Hold meetings in public buildings or homes in each section of town and ask people to list those natural areas in their neighborhoods that they think important. You'll quickly find yourself involved in a game of show and tell.

Augment this local information with records from state and federal agencies. Biologists from the Department of Inland Fisheries and Wildlife can supply you with a wealth of wildlife habitat information. A "natural areas" program in the State Planning Office has been transferred to the Department of Conservation. But the records of rare plants and geologic features should still be on file and available to conservation commissions.

Once you have gathered the information, publish a regular series of informational leaflets on the natural resources or wildlife of your community. Local materials for adult or classroom use are rarely available, and the average citizen knows next to nothing about his or her own community resources.

Submit short paragraphs on a conservation topic for a weekly or monthly column in the local newspaper. Publish a brief newsletter periodically. This can be a sheet which can be distributed by mail, door-to-door, through civic groups and neighborhood organizations, or by leaving stacks in local stores and public buildings.

### **4. Researching the Availability of Land for Public Use.**

Investigate the amount and location of tax-acquired land in the municipality and its suitability for public use. The information is usually available at the assessor's office. Land of this type frequently offers a low-cost opportunity for worthwhile conservation projects.

Look into the possibility of providing public access points to ocean frontage, major rivers, lakes and ponds. Water frontage is at a premium almost everywhere in Maine and prompt action is often necessary to reserve points of access for the townspeople. Research of old municipal road records and old deeds sometimes reveals still legal public rights of ways to the shore. Remember, the waterways were once the primary arteries for commerce. Public roads commonly began at the shore and ended at the shore.

In the coastal town of Phippsburg, an ancient ferry landing provides access to the shore for townspeople fishing for striped bass and blue fish. An old coal depot used by coastal steamers is the primary public access to the town's most productive clam flats.

Encourage schools to develop and utilize tracts of nearby land and water as outdoor laboratories. This is particularly important where new schools (or additions) are either being planned or are actually under construction.

#### **5-4 The “Watchdog” Role**

Since an important role of many commissions is that of “environmental conscience” of the community, commissioners should always be aware of State law and local ordinance violations that will cause harm to the natural environment.

A conservation commission is not empowered to police a violation, but it does have a responsibility to report violations to the selectmen or council or to the appropriate State or local code enforcement officer. Violations sometimes are brought to the attention of the commissioners through the phone call of a nearby landowner. Other times the commission members themselves may observe a violation as they drive around the community. In reporting a possible violation, commission members should supply as much information as they can regarding the nature of the violation, its exact location, the name of the landowner, and/or the person conducting the violation, the time and date of the violation, the law being violated, and so forth.

However, commission members should remember that they have no legal right to enter private property to investigate a violation without the permission of the landowner. In many cases, all the commission will be able to do is try to observe the violation from the road and check the assessor’s records to determine who owns the property.

Before undertaking this enforcement role, the commission should consult with the municipal code enforcement officer to inform him or her of the commission’s intention and to determine what information about a violation the CEO needs. If the CEO and the commission do not work as a team, the commission’s efforts may serve to hinder successful ordinance enforcement by the CEO.

#### **5-5 Local Ordinance Preparation**

Either on its own initiative, at the request of the town meeting or municipal officers, or in conjunction with the planning board, the conservation commission may want to try its hand at drafting a local ordinance to deal with an environmental problem which is not adequately addressed by any existing local, State, or Federal law. Before spending a lot of time on such a project, though, the commission may want to “sound out” the municipal officers and the planning board to determine their level of support. The commission also should encourage input from the public.

In drafting an ordinance, the commission should be aware of certain State law and constitutional limitations. Under Maine law the legislative bodies of towns and cities (but not plantations) may enact ordinances dealing with subject areas in which the State Legislature has not expressly or implicitly denied municipal regulatory authority. This is called municipal “home rule” ordinance power and was discussed earlier in this manual. The commission should consult with the town or city’s private attorney, a regional planning commission attorney, or with the legal department of the Maine Municipal Association to determine whether a subject which the conservation commission wants the town or city to regulate by ordinance falls within the municipality’s home rule authority.

Although a “one-liner” (for example, “No building may be constructed without a permit.”) may seem like an effective, simple-to-understand kind of ordinance, it would not contain enough detail to make it legally enforceable. If the commission becomes involved in preparing an ordinance, the members should use the following checklist to ensure that the ordinance has certain basic provisions:

- Statement of statutory authority.
- Statement of purpose.
- Definitions section.
- Basic requirements/prohibition.
- Designation of person or board to make decision on applications.
- Application fees, if any required.
- Standards to guide the person or board in deciding whether to issue or deny a permit or other necessary approval.
- Standards to guide imposition of conditions on approval.
- Right to appeal, to whom, and within what time frame.
- Designation of who enforces the ordinance and procedures to follow.
- Period after which a permit expires if substantial work has not been completed.
- Penalty section.
- Severability clause explaining what happens to the rest of the ordinance if part is held invalid by a court.
- Section dealing with effect of other inconsistent ordinances.
- Effective date.

Yes, we know. If you are not familiar with the legal languages of ordinances, these instructions won't be of much help. But one way to begin is to read existing ordinances in your town or other towns for a guide to proper language. The commission should contact neighboring municipalities, the regional planning commission or council of governments, Maine Municipal Association, or the Department of Economic and Community Development for examples of ordinances.

If you are still puzzled call MACC, or an attorney with special knowledge of municipal government practices and requirements.

Aside from the difficulties with drafting language that will meet the legal standards required by the courts, a secondary problem is drafting ordinances that do what needs to be done, without imposing unnecessary burdens on citizens and seasonal residents. When developing the basic requirements of an ordinance, the commission should try to keep in mind all the probable types of activities which the municipality would want to regulate through the ordinance and all of the problems which might be associated with a particular activity. As difficult a job as this will be, it is very important that an ordinance “cover all the bases” since the municipality will not be able to control an activity through an ordinance if it is not covered by the provisions of that ordinance.

But also try to have the ordinance solve real problems, rather than imaginary problems that have little or no chance of happening in the real world. In your attempt to cover all potential

problem areas, don't make the ordinance so complex that you scare away potential supporters. Deal with the potential for serious impacts on your community. Remember, every ordinance can (and should) be amended as new problems arise.

Copies of any ordinance adopted by the legislative body must be on file with the municipal clerk and must be accessible to any member of the general public. Copies also must be made available to any member of the public requesting them. The clerk must post a notice regarding the availability of ordinances. The municipality may legally charge a reasonable fee for copies.

It is very important for an ordinance to contain fairly specific standards of review if it is an ordinance which requires the issuance of a permit or the approval of a plan. The standards must be something more than "as the Board deems to be in the best interest of the public" or "as the Board deems necessary to protect the public health, safety and welfare." If an ordinance gives a local board or individual official basically unlimited discretion in approving or denying an application, it creates two Constitutional problems. First, it violates the applicant's constitutional rights of equal protection and due process because (1) it does not give the applicant sufficient notice of what requirements he or she will have to meet and (2) it does not guarantee that every applicant will be subject to the same requirements. It also essentially gives the official(s) involved the power to determine standards on a case by case basis, which the courts call an "improper delegation of legislative authority."

A second constitutional limitation to keep in mind when drafting an ordinance is that the ordinance cannot be so restrictive that a landowner is deprived of all reasonable, economically viable use of the property being regulated. Otherwise, the ordinance results in a "taking" and cannot be enforced unless the municipality compensates the landowner. However, bear in mind that the courts tend to err on the side of the public interest when it rules on taking matters. A *taking* doesn't occur just because the value of property is decreased. When a sand dune that had been washed away in a storm rebuilt itself several years later, the Maine Supreme Court ruled that the owner could be prohibited from rebuilding his cottage because the owner still had a valuable use of the land remaining, i.e. he could still legally place a travel trailer or tent on his beach-front lot.

The procedure for adopting an ordinance should be available in your town office. If not, contact the MEACC or the Maine Municipal Association.

If the conservation commission feels strongly that an ordinance should be submitted to the voters for approval but the municipal officers will not voluntarily include an article to that effect in a town meeting or election warrant, it is possible for the conservation commission to circulate a petition and force the issue as was discussed earlier in Chapter 4. However, the commission should be aware that such an action may carry serious adverse political consequences for the commission, possibly causing the commission to "win the battle but lose the war."

In a few communities, the conservation commission has proposed an ordinance which would create a more formal requirement for commission input in certain decisions. The Scarborough Zoning Ordinance provision regarding construction in sand dune areas requires the Planning Board to consult with the Conservation Commission to ascertain the effects of any proposed action. Several towns require conservation commission review of wetland permits.



The Maine Department of Economic and Community Development in Augusta has a collection of land use ordinances adopted by some Maine municipalities. The regional planning commission or council of governments serving the commission's town or city also should have sample ordinances from other communities in the region and may be in a position to assist commissions with drafting, particularly if the town or city is a dues-paying member. Likewise, commissions from towns or cities belonging to Maine Municipal Association can obtain sample ordinances and review of a proposed ordinance by one of the staff attorneys. (See Chapter 7 for more information about these sources of assistance.)

### **5-6 Testimony at Public Hearings**

There are a number of local and state hearings occurring in a municipality or elsewhere in the state which involve environmental considerations. The conservation commission should make it a policy to state its position at these hearings. This position should be put in writing as well as presented verbally. The position may be in favor, in favor with conditions, neutral, or in opposition. As an official municipal agency, conservation commission testimony at a public hearing carries more weight than that of an individual. The position that the commission takes on any issue should be factual and well-prepared by the commissioners before being voted upon by them. But, the commission should make it clear that it is not representing the community as a whole or the municipal officers (unless authorized to do so).

Testimony should be related to the law involved. It is not enough to say you are opposed. You must say what provision of the law covers your opposition for your testimony to be most effective.

The commission should appoint one of its members to keep a close eye on the local newspapers for hearing notices, preferably a conservation commissioner who regularly subscribes to the daily or weekly paper. The commission should also check with the town or city clerk periodically since copies of applications submitted to the Department of Environmental Protection often are sent to the clerk for public comment before a decision is made.

In many cases conservation commissions have not known about a project or an upcoming hearing until it was too late. Sometimes other municipal officials do not advise the conservation commission of an upcoming hearing because they forget or possibly because they fear the commission will be opposed to the project. If the commission gives factual testimony, it will demonstrate that the commission is a responsible group.

Any commission which is considering submitting testimony at a hearing before the State Board of Environmental Protection would be well-advised to contact the attorneys at either the Natural Resources Council of Maine in Augusta or the Maine Audubon Society in Falmouth for pointers on how to present testimony to the Board, how to prove that the commission has "standing" to appear before the Board (where necessary), what kind of evidence should be presented, and so forth. Both of these organizations have a great deal of experience before the Board and are usually willing to share their knowledge.

### **5-7 Recreation**

Generally speaking, conservation commissions concentrate on the acquisition and proper use of public open space. Recreation programs probably are best run by a separate town

recreation committee. Such committees exist alongside conservation commissions in many towns. The recreation committee and the conservation commission complement each other in that one runs the programs while the other acquires or develops the land for recreation use. In many cases, the best use of a piece of publicly owned land is no development at all. Wilderness areas or areas undeveloped for formal recreation use greatly enhance the town's passive recreation opportunities as well as preserving some lands undeveloped for decisions by future generations.

### **5-8 Self-Education**

Commission members should make every effort to educate themselves about the technical and legal resources available to them. The commission can contact the public and private agencies and organizations noted in Chapter 7 to request copies of their publications. Those agencies and organizations also may be able to send a representative to attend a commission meeting to answer questions for the commission about a particular environmental issue or to assist the commission with a project.

Attending regional and statewide meetings and conferences is another good way for commissioners to learn about environmental issues. In order to receive notice of such meetings, it is important for the commission to keep the Maine Association of Conservation Commissions, the regional planning commission or council of governments, and the Maine Municipal Association informed about the names and addresses of commission members, since many environmental conference organizers depend on lists maintained by these organizations when mailing notices of a conference to conservation commissions.

Through such continuous self-education efforts, the commission will be better able to deal with environmental problems because the commission members will know to whom they can turn for help. It also will give the commission a better sense of whether municipalities in other parts of the State are experiencing similar problems and provide an opportunity to exchange ideas on possible solutions.

### **5-9 Neighboring Conservation Commissions**

A conservation commission is an official municipal agency. As such, its responsibilities go to the borders of the municipality and not beyond. Nevertheless, commissions can get together on a regional basis to work on regional problems. Since environmental problems have no respect for political boundaries, commissions working as a unit in a particular region can often accomplish far more than the individual efforts added separately. This may be especially true for projects such as solid waste management, shoreline zoning, recreation trails on abandoned road and railroad rights-of-way, and watershed management.

In addition to helping solve regional problems and projects, the commissions that meet with neighboring commissions will find that they have similar problems. Regional meetings are a way to share ideas and solutions. Less active commissions may find themselves motivated by more active ones. Methods of dealing with particular problems in one town often surface through a discussion of the experiences of a neighboring town.

The Maine Association of Conservation Commissions maintains a complete record of the names and addresses of commission members. (See Appendix C) Conservation commissions desiring to meet with neighboring commissions can contact the Maine Association of Conserva-

tion Commissions for the latest update of commissions in their region. If you think it useful, we'll also send a representative to assist in any way you think might be useful.

### **5-10 Specific Conservation Commission Projects**

The following is a listing of 100 representative projects carried out by Conservation Commissions in Maine. Additional examples of local projects can be found in the Case Studies section of MEACC's website, [www.meacc.net](http://www.meacc.net).

1. Conducting Natural Resource inventories.
2. Publishing newsletters.
3. Filming local environmental issues for broadcast on cable television.
4. Providing the high school library with conservation materials.
5. Developing an outdoor school study area and nature trails.
6. Running a conservation photography contest for students.
7. Sponsoring a local environmental education course.
8. Essay contest for school children.
9. Ecology fair held with high school.
10. Environmental information center set up in municipal buildings.
11. Teacher training program set up to introduce environmental education
12. Environmental movie program sponsored in schools.
13. Old school bus converted to mobile environmental lab.
14. Persuading a town to restrict fishing in local brook to children and the elderly.
15. Constructing a fish way on river.
16. Hazardous Waste and Pesticides collected and shipped to a safe disposal facility.
17. Creating a booklet on town's history with funding from private foundation.
18. Persuading town to earmark snowmobile fees for conservation commission.
19. Developing maps of a community's natural resources.
20. Junk cars inventoried
21. Index created of vacant urban lots.
22. Important natural and historic areas identified.
23. Historic buildings surveyed.
24. Tax lien lots set aside as open space.
25. Conservation easement secured from large landowner.
26. Land options obtained on historic areas.
27. Pond acquired in center of urban area.
28. Tidal marshes preserved from development.
29. Town cemeteries surveyed and located.
30. Public land surveyed and made available as site for a commercial fish pier.
31. Town-owned land found near center of town.
32. Town lands surveyed for boundary definition.

33. Land Trust organized.
34. Regional project organized to preserve 750 acres of wetlands.
35. Easements acquired to create a green belt around town.
36. Old dump site reclaimed.
37. Town pier renovated.
38. Wilderness pond protected through easement and acquisition.
39. Riverbanks land purchased in urban renewal project.
40. Land fund set aside for future acquisition.
41. Beautification of town office property conducted.
42. 50 acres of shore front property purchased for town, including town pier
43. Conservation easement obtained on large timbered lot.
44. Prepare land use ordinance and Comprehensive Plan.
45. Help draft shoreline zoning ordinance with planning board.
46. Convinced town to place a moratorium on development of camping areas.
47. Gather the data needed for shoreline zoning.
48. Assist with subdivision review by planning board.
49. Strategy developed to protect town's wetlands.
50. Sign ordinance drafted and passed by town.
51. Developed historic district ordinance.
52. Boundary lines on town-owned woodlands established.
53. New trees planted using federal revenue sharing money.
54. Nature area established along river in urban area.
55. Town forest land acquired.
56. Town park landscaped.
57. Town beach developed with necessary facilities for convenient public use.
58. Dune grass planted on town beach.
59. Municipal forest established by ordinance.
60. Swimming and parking facilities established at pond.
61. Park kept intact through work with DOT.
62. Recruited National Guard to help with local park.
63. Park developed on land leased from paper company.
64. Possible points of coastal public access researched.
65. Employing a law school work/study student for legal research.
66. Access to great pond in town researched.
67. Survey done of town landings.
68. Testimony presented at DEP hearings regarding power plant.
69. Testimony given on impact of development on nearby trout brook.

70. Regional meetings held on issues of wetlands, tree growth tax law, and woodlots.
71. Highway bypass alternative recommended to DOT.
72. Needs of citizens assessed through questionnaire.
73. Questionnaire circulated to determine recreation needs.
74. Litter census taken in accord with state plan.
75. Public opinion poll taken on use of open space.
76. Tennis courts constructed.
77. Skating rink built.
78. Park playground equipment purchased.
79. Boat launching ramp built.
80. Abandoned railroad bed designated for recreation trail.
81. Summer recreation program sponsored.
82. Local club formed to deal with snowmobile problems.
83. Canoe trail with landing established.
84. Bicycle-walkway established along mile stretch of river.
85. Nature trails established.
86. Little League baseball field developed.
87. Roadside litter drive conducted.
88. Soils along pond studied for septic disposal suitability.
89. 5,600 old license plates recycled.
90. Newspaper drive coordinated with Boy Scouts.
91. Town-wide recycling project established.
92. Use of sewage sludge on farmland promoted.
93. Town clean-up conducted involving paper and junk cars.
94. Water table survey conducted which led to formation of a lake association.
95. Engineering study done to develop plan for landfill site.
96. Litter containers set out along lake shore.
97. River clean-up achieved by three towns working together.
98. Motorboat horsepower limited on local ponds.
99. Water quality testing program undertaken.
100. Successfully agitated for river classification upgrade.

## CHAPTER 6

# BUDGETS AND FUNDING

The focus of this chapter is the preparation of the annual conservation commission budget request and sources of outside funding which the commission should consider pursuing. Information relating to the commission's general authority regarding spending money, submitting grant applications, entering contracts, hiring professional consultants, and accepting gifts appears in Chapter 4.

### **6-1 Municipal Budget Appropriation**

Although many commissions receive little or no money from the town or city budget for their projects, this should not discourage a commission from requesting municipal funding for worthwhile and well-planned projects. In addition to seeking project funding, the commission should consider asking for basic operating expenses (e.g., MEACC dues, postage, mileage, telephone, stationery), unless such expenses can be covered out of some general account established by the town or city for all boards and commissions.

Whether the commission wants basic operating funds, special projects funds, or both, its chances of receiving money from the town or city will be greatly increased if the commission can document how it calculated the amount of money being requested, exactly how it will be used, and how the town or city will benefit from the project or expenditure.

The commission should talk to the municipal officers, or the municipal manager or administrator soon after the commission is organized to learn how the budget process works — deadline for submission, format, hearings, adoption, and so forth. This may differ from one community to another. The commission should be sure to attend any budget committee meetings, public hearings, and the town meeting or council meetings when the budget is discussed or approved. Members should be prepared to lobby for the commission budget and to answer any questions that may be raised. It may also be wise for the commission to enlist other residents of the community to attend these meetings and to speak in favor of the commission's budget.

Once the annual budget of the town or city is passed, the commission probably will be unable to persuade the municipal officers to call a special meeting to raise more money from taxation for the commission if the commission finds that it needs more money than it originally budgeted. Although it is usually legally possible for the town or city to raise money from taxation at a special town meeting or council meeting held prior to the commitment of taxes to the tax collector, most municipalities have a standing policy that they will only raise money from taxation at the annual budget meeting. Consequently, the commission should plan carefully for its budgetary needs before making its annual request; otherwise, the commission will have to persuade the municipal officers to call a meeting to approve the transfer of surplus funds for the commission's use, which probably will be very difficult.

### **6-2 Small Grants Program**

From time to time the Legislature and the Congress create small grants programs that are available through a variety of state agencies.

### **6-3 Bureau of Outdoor Recreation Funding**

The State Bureau of Parks and Lands administers a federally-funded program called the Land and Water Conservation Fund. Though congress has recently severely restricted the use of this fund, money may eventually again become available for community recreation projects including those involving land acquisition for passive or active outdoor recreation. For more information, commissions should contact the State Bureau of Parks and Lands.

### **6-4 Maine Historic Preservation Commission**

The Maine Historic Preservation Commission administers several federal programs that from time to time has provided funds on a matching basis to groups conducting historic properties surveys or to groups conducting planning and educational projects in historic preservation. For more information, contact the MHPC at State House Station 65, Augusta, ME 04333.

### **6-5 College or University Students**

A number of conservation commissions have been able to stretch their limited dollars through the use of college and university work/study students from undergraduate, graduate, and law school programs. Work/study students are compensated in part by the school and in part by the municipality (e.g., 80%/20%, 50%/50%, etc.). If commissions have a project in mind which involves legal research, mapping, water testing, writing, or some other skill which a work/study student might have, the commission should contact the financial aid office of the nearby colleges or universities to see about the availability of interested students.

Sometimes, even if there are not work/study students available, the commission may find a student who can receive course credit for working on a Commission project. The commission should contact the department chair of whatever department ties in most closely with the project (perhaps biology, geography, or law).

### **6-6 Recycling, Cans, Bottles, Plants, Household Goods**

Though raising money through collecting returnable bottles and cans will not make the commission rich overnight, it may bring in enough revenue to pay for the printing of a short newsletter or some other low-cost project. Negotiate with your local redemption centers. Some will pay a premium to non profit groups, especially if you are willing to do some of the sorting and processing. Most towns now have municipal programs for recycling newspapers and magazines. But if your town does not, this may also be a possible source of funds. But check the market before you begin and try to arrange for interim storage. The price paid for scrap paper varies widely. When prices are down, it may cost more to collect the scrap than you are likely to earn. With storage, you can wait for the market to rise. The commission must coordinate any plans to become involved in recycling with whatever solid waste management and recycling program the municipality is conducting, if any.

Many commissions find recycling of household goods a profitable source of funds. Books, small appliances, sturdy used furniture, and pots and pans find a ready market at commission-sponsored yard sales and auctions. The hard part is gathering and storing the stuff to be sold. The actual day of the sale is usually a fun time, a morning of talking with friends and neighbors about conservation commission projects — while making money to carry out those projects. To ease the

collection effort try to get permission to erect a recycling shed at a convenient spot, perhaps at your landfill or transfer station or recycling bin, where materials can be left. Otherwise use a phone network, word-of-mouth and the usual publicity methods.

All dedicated gardeners from time to time have to thin their perennial beds. This offers conservation commissions another chance to raise money, while spreading beauty and environmental improvement. Just arrange a garden tour and plant sale. Everyone wins. Gardeners get to play show and tell. Neighbors get an inexpensive supply of plants. And the commission gets needed funds. Finally, of course, commissions can organize more commercial tree and plant sales, using materials from a variety of sources.

Check with your town officials before conducting fund-raising projects, however. Money earned may have to be deposited with your municipal treasurer for disbursement to the commission in accordance with normal procedures.

### **6-7 Private Foundations**

Although submitting grant proposals to private foundations may strike the commission as being beyond its level of expertise, it may be worth pursuing. The State Library and some local libraries have copies of foundation directories listing Maine foundations and those in other states. The directories indicate the types of projects which the foundation has funded in the past, among other things. Publications also are available which provide some guidance on how to prepare a foundation grant application.



# CHAPTER 7

## PUBLIC AND PRIVATE AGENCIES

### 7-1 Municipal Agencies and Organizations

In many cities and towns, there are local agencies and organizations with which the conservation commission should be in touch. The commission should check to see if its town or city has any of the following groups: recreation committee, park commission, tree warden, board of health, local churches, garden club, chamber of commerce, local nature club, historical society, local land trust, local improvement society, 4-H club, school environmental clubs, local lake association, neighborhood associations, school curriculum coordinator, public works department, local sportsmen's club, local men's/women's club or civic organization.

At some early point in its first year, a conservation commission should open up communications with some or all of these groups. As in its relationship with the municipal officers and the planning board, if the commission assumes its coordinating role responsibly, unnecessary overlap and duplication will be eliminated with these other groups as well. Good communications will increase good working relations with these various groups, which will mean that their support for commission projects is more likely at budget time. It also will provide opportunities for the commission to conduct environmental education programs and involve new people in its activities.

### 7-2 Regional Agencies

At the regional level, there are several agencies of which conservation commissions should be aware. These agencies are regional planning commissions or councils of government, soil and water conservation districts, the soil conservation service, and the Cooperative Extension Service of the University of Maine.

#### 1. Regional Planning Commission/Council of Governments

These regional agencies, designed to serve in an advisory capacity to local planning boards, may be able to provide much useful information and technical assistance to conservation commissions. Mapping facilities, project review, shoreline zoning procedures, planning assistance, comprehensive plan assistance, flood-plain information, open space and recreation planning, and subdivision regulations are only a few of the many services available to member municipalities. (Non-member communities may be able to obtain assistance for a fee.)

#### 2. Cooperative Extension Service

This service is a part of the Division of Cooperative Extension Research and Public Services at the University of Maine at Orono. Funded from federal, State (university), county and local sources, its function is to help Maine people improve their economic and social conditions through its informal educational programs. This is done through technical field assistance and publishing a wide variety of educational materials. Tel. 1-800-287-0274. There are offices of Cooperative Extension serving every county in Maine, with specialized staff based primarily at the University of Maine at Orono.

The extension offices are:

**Androscoggin/Sagadahoc**, 133 Western Avenue, Auburn 04210-4927. 1-800-287-1458.

**Aroostook** - 13 Hall St., Fort Kent 04743-7131 (northern). 1-800-287-1421.

**Aroostook** - Houlton Rd. PO Box 227, Presque Isle 04769-0227. 1-800-287-1462.

**Aroostook** - Central Bldg, PO Box 8, Houlton, 04730-0008 (southern). 1-800-287-1469.

**Cumberland** - PO Box 9300, Portland 04104-9300. 1-800-287-1471.

**Franklin** - 145A Main St., Farmington 04938-1727. 1-800-287-1478.

**Hancock** - Boggy Brook Rd., RR 5, Box 5084, Ellsworth 04605-9540. 1-800-287-1779.

**Kennebec** -125 State St., Augusta 04330-5692. 1-800-287-1481.

**Knox-Lincoln** - 235 Jefferson St. PO Box 309, Waldoboro 04572-0309. 1-800-244-2104. **Oxford** - 9 Olson Rd. South Paris 04281-6402. 1-800-287-1482.

**Penobscot** - 307 Maine Ave. Bangor 04401-4331. 1-800-287-1485.

**Piscataquis** - 59 East Main St., Dover-Foxcroft 04426-1396. 1-800-287-1491.

**Somerset** - Norridgewock Rd. PO Box 98, Skowhegan 04976-0098. 1-800-287-1495.

**Waldo** - RR 4 Box 4645, Belfast 04915-9627. 1-800-287-1426.

**Washington** - 11 Water St., Machias 04654-1017. 1-800-287-1542.

**York** - RR 2 Box 1678, Sanford 04073-9502. 1-800-287-1535.

3. See later subsections for discussions of Soil Conservation Service and Soil and Water Conservation Districts.

### 7-3 State Agencies

At the State level there are many agencies concerned with different aspects of the environment. These are listed with a brief description about some of the areas in which they can be of value to the local conservation commission. But be warned. State government in recent years have been under a constant state of flux. Some agencies and programs have been abolished under the guise of saving money. Others have been split or partially abolished. The following listing is accurate to the best of our knowledge as of February 1997.

1. **Department of Conservation**, State House Station 22, Augusta, Maine 04333. Phone, 287-2211. Fax, 287-2400. Web site: <http://www.state.me.us>. Bureaus in this Department include:  
Bureau of Parks and Lands (287-3061); Bureau of Forestry (287-1061); Bureau of Natural Resources & Mapping (287-2801); Land Use Regulation Commission (287-2631). These bureaus are directly responsible to the Commissioner of the Department.

- A. **The Bureau of Parks and Lands** administers monies under the Land and Water Conservation Fund. The Bureau can supply information on this program.
- B. **The Bureau's Division of Public Lands** manages the State's public lots and the Coastal Islands among other things. Both the division of parks and the division of lands have scattered undeveloped ownerships across the state, which may be available to some commissions for the development of trails and other outdoor recreation facilities.
- C. **The Bureau of Forestry** administers the Urban Forestry Program (formerly the Shade Tree Program) through the Urban Forester. Technical assistance is available for planning and developing shade tree programs and drafting local forest practices ordinances. Commissions should contact the Urban Forester or a district forester. They can supply information on woodlot management, tree farming, town forests, and so forth. Commissions should make contact with their district forester to learn how he or she can help them. Check the telephone book under "Maine, State of." The Bureau also has an insect and disease laboratory in Augusta. Regional offices are located in Island Falls, Old Town and Augusta.
- D. **The Natural Resource Bureau** has maps related to surficial and bedrock geology and aquifers, which are sometimes valuable to commissions doing land use planning work.
- E. **The Land Use Regulation Commission (LURC)** has responsibility for planning and zoning the unorganized territories of the State, approximately 10.5 million acres. Consequently, LURC does not become directly involved in the municipalities (organized townships). As far as conservation commissions are concerned, there is some overlap with plantations, which are under LURC jurisdiction. Commissions located adjacent to unorganized territories should be alert to possible LURC decisions that may affect their regions.
- F. **Maine Conservation Corps:** Phone, 287-6107. Fax, 287-3611. E-mail, [corps.conservation@state.me.us](mailto:corps.conservation@state.me.us).  
 Most important to Conservation Commissions, the Department of Conservation is responsible for the Maine Conservation Corps, which provides public service jobs to low income young people and promotes volunteer opportunities with natural resource agencies. Much of the work is on public lands, but from time to time, the agency works on projects in local communities. The Maine Conservation Corps also administers the AmeriCorps program in Maine, in which college students work part time on public service projects, including a trail on a mountain in Bethel created by the Bethel Conservation Commission. The department also runs the State Environmental Resource Volunteer Effort (SERVE/Maine).
- G. **Maine Natural Areas Program.** Phone 287-8044. E-mail, [mnap@state.me.us](mailto:mnap@state.me.us). This program, which formerly was done by the State Planning Office, conducts inventories and monitoring to document the location and status of rare and endangered species, unusual natural features and other "natural areas." Web site: <http://www.state.me.us/doc/mnap/home.htm>.

2. **Department of Environmental Protection.** State House Station 17, Augusta, Maine 04333, Phone, 1-800-452-1942. Web site: <http://www.state.me.us/dep/mdephome.htm>.  
The Department bureaus administer air, water and land use laws statewide. The department is responsible for administration and enforcement of the Coastal Wetlands Act; Site Location Act; Great Ponds Act; Hazardous Waste, Septage, and Solid Waste Management Act; Protection of Waters Act; Protection of Air Act; and Oil Discharge Prevention and Pollution Control Act. Pamphlets explaining each of these laws are available from DEP's Augusta office. The Department also has available information relating to businesses which recycle certain types of materials and used motor oil. The Lakes Division can help with monitoring water quality of many lakes around the State. The DEP also has periodicals which conservation commissions can receive at no cost, on request. Write to the Department and ask to be put on the mailing list. Finally, the department assists towns in administering shoreline zoning ordinances and assists with the training of municipal employees.  
Conservation commissions with questions or information about violations should contact the department in Augusta or the regional DEP offices in Presque Isle, Bangor, and Portland.
3. **Department of Inland Fisheries and Wildlife.** State House Station 41, Augusta, Maine 04333 (Tel. 287-5244). Web site: <http://www.state.me.us/ifw/homepage.html>.  
This Department administers the Stream Alteration Act. It also has a network of wardens throughout the state who help enforce fish and game laws, water safety laws, and the Great Ponds Act. A list of wardens is available from the Department.  
The Department's regional fish and wildlife biologists are extremely knowledgeable and generally are willing to help commissions by providing information. The addresses and phone numbers of the regional offices are available at the Department of Inland Fisheries and Wildlife. The department also publishes a Fish and Wildlife magazine. The E-mail address of the magazine is [mag.mfw@state.me.us](mailto:mag.mfw@state.me.us).
4. **Department of Marine Resources,** State House Station 21, Augusta, Maine, 04333 (Tel. 624-6550).  
This Department enforces laws governing the coastal waters and the tidal wetlands of the state. There are wardens all along the coast who have power to summon violators of marine and marine fishing laws, as well as the Coastal Wetlands Law. A list of wardens is available from the Department. The Department also has area biologists who can provide information to commissions. In addition, the Department oversees local shellfish conservation programs, and operates a water quality laboratory in West Boothbay Harbor. The Department is empowered to lease underwater areas for aquaculture.
5. **Department of Agriculture, Food, and Rural Resources,** State House Station 28, Augusta, Maine 04333 (Tel. 287-3871). Web site: <http://www.state.me.us/agricultural/homepage/htm>.  
The Department has information about farmland preservation and soils best suited to agricultural use. Also the State Soil Scientist is under the Department of Agriculture. The Soil Scientist directs the work of the Soil and Water Conservation Districts, which are

concerned with flood plains, flood control practices, soils, erosion and sediment control. The scientist also works closely with the Natural Resources Conservation Service (formerly the Soil Conservation Service (SCS)). The NRCS is funded by the federal government and shares the offices of the Soil Conservation Districts. Conservation commissions may secure basic information regarding soil suitability and limitations from the nearest Maine Soil & Water Conservation District/Natural Resources Conservation Service office, including technical plans, soils maps, standards information, and field assistance regarding soil, water and related natural resources management.

Conservation commissions are encouraged to contact the offices of the local SWCD and NRCS to establish the basis for receiving such free or nominal cost services. The districts include:

Androscoggin Valley SWCD, PO Box 1938, Great Falls Plaza, Auburn, 04241, Tel. 783-9196, Fax: 783-4101 (Includes Androscoggin and Sagadahoc Counties).

Central Aroostook SWCD, 99 Fort Road, Presque Isle, Maine 04769 Tel. 764-4153, Fax: 768-3407.

Cumberland County SWCD, 381 Main St., Suite 3, Gorham, Maine 04038, Tel. 839-7839, Fax: 839-7834.

Franklin County SWCD, 2 Park Street, Farmington, Maine 04938, Tel. 778-4279, Fax: 778-5785.

Hancock County SWCD, RR 5, Box 508W., Ellsworth, Maine 04605, Tel. 667-8663, Fax: 667-8463.

Kennebec County SWCD, 40 Western Avenue, Room 408C, Augusta, Maine 04330, Tel. 622-8250, Fax: 622-8221.

Knox-Lincoln SWCD, 191 Camden Road, Warren, Maine 04864, Tel. 273-2005, Fax 273-2228.

Oxford County SWCD, 1 Main St., South Paris, Maine 04281, Tel. 743-7019, Fax: 743-9442.

Penobscot County SWCD, 28 Gilman Plaza, Bangor, Maine 04401, Tel. 941-8973 or 947-6622, Fax: 990-1957.

Piscataquis County SWCD, 1073 West Main Street, Suite 7, Dover Foxcroft, Maine 04426, Tel. 564-2321, Fax: 564-2570.

St. John Valley SWCD, 96 Market St., Fort Kent, Maine 04743; Tel. 834-3311, Fax: 834-6435.

Somerset County SWCD, 7 High Street, Skowhegan, Maine 04976, Tel. 474-8324, Fax: 474-0638.

Southern Aroostook SWCD, RR 3, Box 45, Houlton, Maine, 04730, Tel. 532-2087, Fax: 532-0663.

Waldo County SWCD, 69 Northport Avenue, Belfast, Maine 04915, Tel. 338-2320, Fax: 338-3069.

Washington County SWCD, PO Box 121, Machias, Maine 04654, Tel. 255-3995, Fax: 255-6817.

York County SWCD, 160 Cottage Street, Sanford, Maine 04073, Tel. 324-7015, Fax: 324-4359.

. 6. The **Board of Pesticides Control**. Phone, (287-2731) is part of the Department of Agriculture and regulates the use of pesticides for agriculture, home use, roadside use, mosquito control, and so forth. It also licenses pesticide applicators. In addition, the Board oversees the law relating to the disposal of pesticide containers.

7. **State Planning Office**, State House Station 38, Augusta, Maine 04333 Phone, 287-3261. Fax , 287-6489. E-mail, spalach@state.me.us. The web site is at: [www:http://www.state.me.us/spo/spohome.htm](http://www.state.me.us/spo/spohome.htm). The Office provides technical assistance relating to a variety of conservation matters. It also oversees the State Coastal Program and the Great Ponds Task Force. The Coastal Program encourages federal, state and local management of resources and provides technical assistance to coastal cities and towns.

8. **Department of Human Services**, State House Station 11, Augusta, Maine 04333 (Tel. 287-5338).

The Division of Health Engineering in the Department's Bureau of Health is responsible for all aspects of the State Plumbing Code (including licensing of site evaluators and local plumbing inspectors). Health engineering also deals with health and safety programs, water programs, drinking water, and waste water. Its staff provides technical assistance by telephone and letter.

Copies of the Plumbing Code are available from the Division's Plumbing Control Program. The plumbing code is enforced by the town or city through the local plumbing inspector.

9. **Department of Economic and Community Development**, State House Station 59, Augusta Maine 04333 (Tel. 287-8458).

This department works with Planning Boards and local governments on land use regulations related to economic development. It also performs some of the functions of the old Office of Energy Resources, which has been abolished.

10. **Department of Transportation**, State House Station 16, Augusta, Maine 04333 (Tel. 287-2551).

The Department oversees the State "Billboard Law" and works with towns and cities in the development of sign ordinances. It promulgates regulations regarding screening for junkyards. It also has information on the roadside spraying program.

Conservation commissions should be receiving notices of the improvements to roads in their towns or regions from DOT. Any commission not being notified should contact DOT.

11. **Bureau of Taxation**, Department of Finance and Administration, State House Station 78, Augusta, Maine 04333 (Tel. 287-2011).

The Bureau provides bulletins explaining many property tax laws, including the Farm and Open Space Tax Law and Tree Growth Tax Law.

12. **Maine Historic Preservation Commission**, State House Station 65, Augusta, Maine 04333 (Tel. 287-2139).  
The Commission assists groups to preserve the architectural, historic and environmental heritage of the people of Maine, and to promote the cultural, educational and economic benefits of these historic resources. Among other responsibilities, the Commission assists local groups with conducting surveys of community historic resources.
13. **Land and Water Resources Institute**, University of Maine at Orono, University of Maine, Orono, Maine 04473. A wide range of environmental information is available from this office.
14. **Casco Bay Estuary Project**, 312 Canco Road, Portland, ME 04103. Phone, 780-4820. Fax, 780-4913. This project works with communities in the development of land use maps from satellite data and provides information on the protection of water quality in Casco Bay through the control of upstream pollution. E-mail: BBSMITH@payson.usmacs.maine.edu. Information is also available at the Portland Press Herald Bay Net site: <http://www.portland.net/ph/baynet/baynet.htm>.
15. **Marine Law Institute**, University of Maine School of Law, 246 Deering Avenue, Portland, 04102. Phone: 780-4474. Fax: 780-4913. Web site: <http://www.law.usm.maine.edu/mli/mli.htm>.

#### 7-4 Federal Agencies

1. **Environmental Protection Agency** (Region 1 Office), John F. Kennedy Federal Building, Boston, Massachusetts 02203. Web site: <http://www.epa.gov/ecoplaces/part2/region1/site3.html>.  
This regional office of the federal agency covers the six New England states. It has responsibility for administering federal air and water pollution control laws, and is also involved in a number of other environmental areas such as hazardous waste and hazardous materials. Conservation commissioners can receive the monthly periodical of the Region 1 office at no cost. Write to Director, Public Affairs Office, US EPA Region 1, JFK Federal Building, Boston, MA 02203.
2. **Resource Conservation and Development Projects**. These federally funded regional projects offer low cost loans, technical assistance and, in certain instances, outright funding for local or regional projects.  
Any community in York, Cumberland or Oxford counties can get more information on the Threshold to Maine, RC&D project by writing to 587 Spring St., Westbrook, Maine 04092 Tel. 856-6109.  
In the mid-coast area, including parts of Waldo, Knox, Lincoln and Sagadahoc counties, the "Time and Tide" RC&D project may be of assistance. Conservation commissions can write to Route 1, Waldoboro, Maine 04572 Tel. 832-5348.  
In Washington and Hancock counties, the "Downeast" RC&D is located at Tenaco Bldg., Route 182, Cherryfield, Maine 04622 Tel. 546-2368.  
In northern Maine, the St. John-Aroostook RC&D project may be contacted at Ballard Bldg., Presque Isle, Maine 04769 Tel. 764-4126.

3. **Department of the Interior, Fish and Wildlife Service**, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158. A Gulf of Maine Project is located at 4R Fundy Road, Falmouth, ME 04105. Phone, 781-8364. E-mail, R5ES\_GOMP@mail.fws.gov. Their web site can be found at: [www:http://www.fws.gov/~cep/mainecp.html](http://www.fws.gov/~cep/mainecp.html). The Gulf of Maine project works to identify important coastal habitats and works with land-use agencies, local, state and federal.

The Service acquires land for wildlife habitat to be included in National Wildlife Refuges. Such as: Petit Manan N.W.R.; Rachel Carson N.W.R.; Moosehorn N.W.R.; Pond Island N.W.R.; Franklin Island N.W.R.; Seal Island N.W.R.; and Carlton Pond Waterfowl Production Area. The Friends of Rachel Carson Wildlife Refuge can be contacted by writing to PO Box 427, Ocean Park, ME 04063.

4. **The National Guard**. Units of the National Guard have sometimes been useful in construction projects, removing abandoned cars, earth moving activities, and generally performing work requiring heavy equipment. Many conservation commissions have taken advantage of this resource in Maine. To contact the Guard, look for the nearest unit in the telephone book under Maine, State of.
5. **Federal Emergency Management Agency**. Office of Federal Insurance and Hazard Mitigation, Boston, Massachusetts (Tel.1-617-223-2617) or Washington, D. C. (Tel. 1-800-424-8872).

This Agency administers the federal flood insurance program. It assists local officials with the interpretation of local flood hazards ordinances, with the amendment of those ordinances, and with interpreting and changing boundaries on local flood hazard maps.

6. **U. S. Army Corps of Engineers**, Regulatory Branch, New England Division, 424 Trapelo Road, Waltham, Massachusetts 02154 (Tel. 1-800-343-4789). The Maine office is at RR 2 Box 1855, Manchester, ME 04351. Phone, 623-8367. Fax, 623-8206.  
The Corps administers the Clean Water Act of 1977, Section 404 (33 USC 1344) which requires a permit for most activities involving the discharge of dredge or fill material into certain tidal and non-tidal waters and adjacent wetlands.

#### **7-5 Private Environmental Organizations**

There are many private environmental organizations in the State. Some work at the state level, some at the regional level, and some at the local level. Certain statewide and regional organizations are listed below. Conservation commissions can write to these organizations asking for information about them and their programs. The Maine Association of Conservation Commissions can supply names to contact for most of these organizations. In addition, commissions may contact the State Planning Office (287-3154) for the most recent edition of its "Directory of Natural Resources Organizations."

1. **Maine Association of Conservation Commissions**; PO Box 702, Bath, Maine 04530  
Phone, (443-2925). (E-mail, [macc@clinic.net](mailto:macc@clinic.net))

MEACC is a non-profit corporation dedicated to helping municipalities establish strong, active conservation commissions and providing technical support for commissions.



2. **Maine Coast Heritage Trust**, 169 Park Row, Brunswick, Maine 04011 (Tel. 729-7366); Summit Road, Northeast Harbor, Maine 04662. E-mail: ckelley@mchtme.org.  
This is the primary organization dealing with the conservation easement as a tool for the protection of land. It also assists local land trusts.
3. **Congress of Lake Associations**, PO Box 458, Hampden, Maine 04444 (Tel. 862-5253). COLA is principally concerned with the protection of Maine's lakes and ponds through lake associations, legislative action and agency cooperation.
4. **Conservation Law Foundation, Inc.**, 119 Tillson Avenue, Rockland, ME. 04841. Phone, 597-8107. Fax, 596-7706, E-mail, dsosland@clf.org. Advocates for resource conservation in courts of law and the courts of public opinion.
5. **Natural Resources Council of Maine**, 271 State St., Augusta, Maine 04330 (Tel. 622-3101). E-mail: jberk@nrcm.org.  
NRCM is a statewide membership organization which deals in major statewide and regional issues through legislative activity, testimony at State agency proceedings, public education, and lawsuits.
6. **Maine Audubon Society**, Gilsland Farm Rd., Falmouth, Maine 04105 (Tel. 781-2330). Web page: <http://www.maineaudubon.org>.  
Audubon is the oldest statewide environmental organization with interests in wildlife, wetlands, and energy conservation, among others. It maintains, in cooperation with the Department of Inland Fisheries and Wildlife, a nature center on the edge of Scarborough marsh. It also does some legislative lobbying and conducts environmental education programs. Maine Audubon also owns several natural preserves in Maine.
7. **The Nature Conservancy**, Maine Chapter, 14 Maine St., Brunswick, Maine 04011 (Tel. 729-5181). Web page: <http://www.TNC.org>.  
This is a state chapter of a national organization dedicated to the preservation of land for future generations.
8. **Maine Municipal Association**, Community Drive, Augusta, Maine 04330 (Tel. 623-8428 or 1-800-452-8786).  
MMA is a service organization for the municipalities of Maine. It offers a wide variety of services, including legal assistance, budgetary advice, ordinance review, and a monthly magazine *The Townsman*. It represents municipalities during the legislative session and publishes a "Legislative Bulletin." MMA also submits comments on environmental regulations promulgated by DEP.  
Any conservation commission from a town, city or plantation which pays membership dues can contact the MMA for advice and assistance. Requests for legal advice must pertain to the duties of the commission and should not involve a matter which is the subject of a conflict among commission members or between the commission and other local officials, unless all the officials involved send a joint written request.
8. **Volunteer Monitors Program**, PO Box 445, Turner, Maine 04282; Tel. 225-2070.

This group was organized after the Department of Environmental Protection abandoned much of its support for water monitoring in a budget cutting measure. The new group can provide technical help in lake and water monitoring efforts.

9. **Watershed Organizations:** Watershed or river organizations have formed to protect most of the major rivers in Maine. There are active groups on the Salmon Falls, the Mousam, the Saco, the Kennebec, the Sheepscot, the Damariscotta, the Penobscot, and the Royal. The Saco River Corridor Association was the driving force behind the landmark legislation creating the Saco River Corridor Commission. The Commission administers zoning in the river “corridor” and is composed of representatives of the towns along the river.
10. **Land Trusts.** Land conservation trusts are private, nonprofit corporations formed at the local level. They can acquire and manage environmentally sensitive or unique parcels of land which otherwise might be developed. Maine Coast Heritage Trust has a list of these trusts.
11. **Miscellaneous.** There are numerous other statewide organizations, which from time to time are useful as a source of information, ideas and support for Conservation Commissions. These include the Sierra Club, the National Audubon Society, the Maine Lung Association (air pollution - a specialty), the Maine Chapter of the Appalachian Mountain Club, the Conservation Education Foundation (runs the conservation school at Bryant Pond), the Small Woodland Owners Association, the Maine Appalachian Trail Club, the Forest Ecology Network, the League of Conservation Voters, Friends of Rachel Carson National Wildlife Refuge, Maine Environmental Education Association, The Environmental Schools, The Chewonki Foundation, The Forest Society, Maine Organic Farmers and Gardeners (promotes organic farming practices in Maine and runs the popular Common Ground Fair), Friends of Casco Bay; The Friends of Merrymeeting Bay, The Green Institute, RESTORE: The North Woods, Atlantic Salmon Federation, and The Island Institute. For information about these groups or how to contact them, call the MEACC office at 207 443-2925.

#### **7-6 Registry of Deeds.**

Information on property ownership and boundaries of individual lots and information on land included on a subdivision plan should be available at the county Registry of Deeds, if the owner or developer has recorded that information. If the board members want to attempt to do a rough search of the title to land involved in an application, they should refer to Appendix B. The staff at the Registry offices are usually very willing to answer questions.

## CHAPTER 8

# COMMUNICATIONS

Conservation Commissions do many things. Members build trails, research natural areas, inventory open space, clean roadsides, build picnic areas — the list could continue for pages. But among the most important roles of an effective commission is to communicate, to spread the word that the local environment is important, that only a healthy natural environment makes a community an attractive place to live, work and play. An active commission is always communicating — with fellow citizens at town meetings, with municipal officials, with the press, with legislators, and with neighbors.

This is not an easy task for some of us. Few people like to argue and debate, especially with neighbors and public officials. But it is an essential task, if a commission is to be effective. Some people are just naturally better at the communications game than others. Some can write. Others can talk. Everyone can learn to be better at both chores.

**Rule one:** Know your facts before you talk — or write. Do the basic research. Read all you can find about the issues you need to communicate. *Grassroots* can help. But information is available everywhere, from other MEACC publications, from the World Wide Web, from television, newspapers, specialized magazines, books, and libraries. With a minimal amount of effort, most anyone can become an information source. Legislators, town meeting participants, selectmen and municipal councilors are all busy folks. They can't be as informed as you on all issues. Your role is to fill that gap.

**Rule two:** Tell the truth and the whole truth, at least as you know it. There is no faster way to lose your credibility than to be caught leaving out pertinent information. This is especially true when talking to a Legislator or a member of the press. Even if a particular fact doesn't especially further your position, tell it anyway, if it is at all pertinent. Remember, whatever you say is likely to be repeated to other Legislators, or printed in a newspaper. One sure way to lose a potential ally is to provide only some of the facts, and have the omission cause embarrassment, or worse.

**Rule three:** Cultivate allies and know who they are. It is almost always helpful to be able to tell someone you are trying to convince that others feel the same way you do.

**Rule four:** Anticipate who the opposition is likely to be and what their arguments are likely to be. Use this information to hone your arguments and to alert allies and potential allies so that they also can be prepared.

**Rule five:** Don't be reluctant to use personal relationships. Talk to your friends before town meetings. Remind legislators of mutual friends, colleagues or relatives. Cultivate the friendship of newspaper reporters.

**Rule six:** Be specific about what you are asking. Tell folks, for instance, that you want a "yes" vote on the Town Meeting article that appropriates money for your commission activities. Tell the legislator you are lobbying precisely the bill or issue you are interested in passing or defeating. Ask directly for his or her support.

**Rule seven:** Follow up. Attend the hearings and meetings. Make your views known. Make sure you know the results and if possible the reasons for your success or failure. Thank those who supported you. Try to find out why others didn't and file the information away so that you can do better next time.

**Rule eight:** Don't burn bridges. Remember your opponent this time, may be your strongest ally on some future issue. People and organizations aren't all bad or all good; all right or all wrong. Groups bring their own perspectives and their own knowledge to environmental decisions. It's easy to get emotional over issues about which you feel strongly. But wise folks will temper their responses in the interest of future victories.

**Rule nine:** Remember, you are right. Don't be reluctant to participate. Protection of our air, water, land and communities is a noble goal. You have both a right and a responsibility to speak out.

**Rule ten:** Make sure the issue is legitimate. Try to divorce your interests from overall environmental interests. Ask yourself, "Would I feel as strongly, if this were happening across town or in the next county?" Too many issues that are claimed to be environmental, really involve people protecting their backyards, their private interests, not the community interest. Everyone has the right to protect their homes, their convenience and their financial interest. But don't do it under the guise of environmental protection, unless environmental protection is truly the issue.

# APPENDIX A

## BYLAWS GOVERNING OPERATIONS AND MEETINGS

Most Conservation Commissions operate informally without special bylaws. Some however find adoption of bylaws useful. The following is a sample bylaw document. It should be modified to fit the particular needs and desires of your commission. It should also be modified as appropriate, depending on whether the municipality operates under a municipal charter or is a town that operate under the general laws of the state.

### Bylaws OF THE \_\_\_\_\_ CONSERVATION COMMISSION I NAME AND PURPOSE

The name of this organization shall be the (-----name of municipality-----) Conservation Commission, herein called the Commission.

The purpose of the Commission is to promote and protect the natural resources of the municipality, as provided in Title 30-A, MRSA, Section 3261 et seq. The Commission will conduct researches into local land areas and develop a plan to accomplish the purpose set forth above. It will conduct a broad educational program, cooperate with the elected and appointed boards and commissions of the town/city and with the regional, state and federal natural resources agencies with regard to natural resources regulations and other regulations imposed by law, and shall perform other duties as may be imposed by law.

### II. ELECTIONS

The officers of the commission shall be elected from the membership annually in the first meeting of the commission after the annual town meeting (in a town) or after the annual date of appointments (in a city) or such other time as may be designated by amendment of these bylaws. This meeting shall be designated the election meeting.

The following officers shall be elected: chair; vice chair; secretary; and treasurer.

### III. OFFICERS

The chair shall, in addition to the duties imposed by law, preside at all meetings of the Commission at which he or she is present, prepare draft budgets, agendas and reports and generally direct the work of the commission. This person shall annually appoint members to sub committees and designate chairs of same as provided for under Article VI no later than the first meeting of the commission following the election meeting and shall direct the calling of meetings of the Commission. The chair shall be an ex-officio member of all committees.

The vice chair shall preside at all meetings of the Commission in the absence of the chair, and shall perform all duties and shall have all powers of the chair in case of absence or incapacity of the chair.

The secretary shall keep an accurate record of the proceedings of the Commission, shall send copies of the minutes of meetings to each member by mail, and shall notify each member of each meeting of the commission. He or she shall keep the Maine Association of Conservation Commissions informed regarding members' names and mailing addresses. This person shall perform all other duties imposed by law, assigned by the chair, or otherwise herein provided.

The treasurer shall see to it that the commission stays within its budget, recommend action on all bills received by the commission, insure that the appropriate authorizing signatures are secured on these bills, transmit duly authorized bills to the appropriate municipal office for disbursement approval required or payment, and shall coordinate with the city or town treasurer and accountant so that he is prepared to render a report on the status of all funds under the jurisdiction of the Commission at each meeting, and shall perform all other duties imposed by law, assigned by the chair or otherwise herein provided.

#### IV. ASSOCIATE AND HONORARY MEMBERS

The municipality's governing body (council or selectmen) may by vote at any meeting appoint associate members to the Commission. Unless otherwise restricted by state law or municipal ordinance, such associate members shall have the right to participate in meetings and activities of the Commission as the Commission may designate. In addition, the commission may appoint at any meeting informal associate members and honorary members. Such members shall have the same rights and privileges as associate members.

#### V. DUTIES OF MEMBERS

The members of the Commission shall perform the duties and responsibilities as set forth in Maine Revised Statutes Annotated, Title 30-A, Section 3261 et seq., the ordinances of the municipality, and these bylaws.

Members who are unable to attend a meeting of the Commission shall notify the secretary. Members shall make every effort to attend all meetings and perform all duties assigned by the chair.

#### VI. COMMITTEES

Committees, composed of commission members, associate members and non-commission members, may be created by vote of the Commission as such committees may be needed. These committees shall be responsible for planning within their specific areas of concern and for reporting the results of this planning to the Commission. They shall act in the name of the Commission only when directed to do so by vote of the Commission. Committees may include, but not be limited to:

##### A. Planning Committee

This committee shall be responsible for the preparation and updating of natural resource inventories, open space inventories, wetlands inventories, and a conservation and passive outdoor recreation plan; and for the coordination of these plans with community master plans or plans of the planning board, recreation committee, and any regional planning agencies.

##### B. Land Acquisition Committee

This committee shall recommend to the Commission specific land areas to be acquired under the conservation and passive outdoor recreation plans so as to represent a logical time-phased acquisition program for the community. It shall present to the Commission recommendations for specific acquisition projects to include: engagement of appraisers; land surveyors and legal counsel as required; sources of financial assistance; and a plan for proceeding with the acquisition. Upon approval by the municipality and the commission, it shall secure the required services. It shall prepare applications for financial assistance and submit these to the

commission and to the legislative body. It shall accomplish other land activities as approved by the Commission and the legislative body of the municipality.

#### C. Information and Education Committee

This committee shall be responsible for the conduct of a public information and education program designed to further the purposes of the Commission. It shall seek to coordinate the activities of unofficial bodies organized for similar purposes as set forth in Title 30-A, Maine Revised Statutes Annotated, Section 3261 et seq. Activities of this committee may include:

1. Liaison with school administration to encourage inclusion of conservation programs within the educational program, provision of educational materials to the schools or libraries, development of selected school site for conservation education, and presentations on Commission activities.
2. Contact with the news media to encourage continuing public education in conservation matters and concerns.
3. Assistance to unofficial bodies, such as land trusts or recycling organizations, in the development of cooperative programs.

#### D. Land Management Committee

This committee will be responsible for the preparation of plans for the use of lands under the administrative control of the Commission. It will prepare regulations governing the use of lands under Commission control for adoption by the Commission. It will assure that allowable uses for all legitimate interests of the citizens are considered in plans and facilities of the community. It shall, with the approval of the Commission, coordinate the construction, installation and maintenance of signs, vehicular access ways and controls of same, bridges, dams, wildlife habitat, and other facilities for improving the availability, accessibility, use and enjoyment of conservation areas by the public. It shall mark and maintain trails, boundaries, and access points to such areas, and develop and publish maps and guides to all conservation areas as directed by the Commission. It shall provide supervision over all conservation areas, either by Commission members, consultants, municipal employees, or paid employees of the Commission as required.

#### E. Pollution Control and Land Use Regulation Enforcement Committee

This committee shall be responsible for gathering and collating information and data on all forms of pollution within the community and shall keep appropriate records of pollution levels. It shall coordinate its activities with other community agencies and unofficial groups concerned with pollution and lend such assistance to such groups as may be available. It shall cooperate with the information and education committee so that students and the general public will be made aware of the pollution problem in the community and what actions they may undertake to minimize the problem. It also will be alert for violations of State or local land use regulations and report them to the proper enforcement official.

### VII. MEETINGS

The Commission shall hold no less than two meetings each month, except when a quorum, as defined in Article VIII, is not present. Robert's Rules of Order or other recognized parliamentary guide shall govern meeting procedure, when not in conflict with statutes or these bylaws. Notices of meetings will be given by the Secretary as specified in Article III.

## VIII. QUORUM

In the absence of an existing municipal bylaw or ordinance, a majority of the members of the Commission shall constitute a quorum. A majority of those present and voting, if a quorum is present, shall be sufficient to conduct the business of the Commission unless otherwise specified by statute.

## IX. APPOINTMENTS AND VACANCIES

Original appointments to the Commission are made in accordance with Title 30-A, Maine Revised Statutes Annotated, Section 3261 et seq., and by the appointing authority stated therein. A vacancy in the membership caused other than by expiration of a term of office shall be filled in the same manner as the original appointment.

## X. AMENDMENTS

These bylaws may be amended at any regular meeting of the commission by a two-thirds vote of those attending provided written notice of intent to amend is sent to each member of the Commission at least seven days prior to the meeting at which the proposed action is to be taken.



## APPENDIX B

### SUMMARY OF HOW TO CONDUCT A TITLE SEARCH

Conservation Commissions from time to time need to find who is the owner of a property and whether the property is encumbered. Before land is purchased or accepted as a donation, commissions should usually seek professional help. But commission members may find it useful to do a rough search of their own first, if only to decide whether the property in question is worth the expense of further investigation. Title searches may also be useful in establishing public access to the shore or the public's right to use roads and foot paths.

To perform a title search, the "chain of title" for the property in question should be traced back at least 40 years. A search that seeks to find possible public rights of access often must go back to the first recorded transaction.

The first step is to determine the present owner of the property and the exact location and description through a check of the assessor's records. The title searcher then should go to the County Registry of Deeds and search the "grantor-grantee index" under the present owner's name. Starting with the most recent index and working back in time, the examiner should keep checking under the present owner's name as grantee (buyer) until he or she finds the deed and date upon which the present owner acquired title to the property.

After locating that information, the title searcher should trace the name of the current owner's seller in the grantee index to determine when that person acquired it and whether his or her deed description is the same as that contained in the deed of the present owner. This process should be continued for a period going back at least 40 years prior to the date on which the current owner acquired title.

After completing that portion of the search, the title examiner then should trace the current owner's name forward in the index as the "grantor" (seller) from the date of his or her deed to see if the owner has transferred title to someone else. To be absolutely sure that the owner has not sold the property, the title searcher should look at every deed where that person is listed as a grantor, even if the index says that the property is located in another town. In addition to searching the grantor grantee index, the title examiner also should check the "Interim Index" and the "Day Book" for more recent transactions.

While the examiner is searching the grantor-grantee index, he or she should make a note of all mortgages on the property and when they were discharged, if at all. Mortgages are indexed under the owner's name as grantor of the mortgage. The index should be examined for the period during which the present owner held the property. Since it is possible that the present owner purchased the property subject to the mortgage, the index should be searched back 40 years to be absolutely sure. After checking the "Interim Index" and "Day Book," the examiner should look up each mortgage which has not been discharged and note the name and address of the holder.

Throughout the search, the title examiner should take note of any liens on the property that have been recorded in the various books previously mentioned.