Maine Forest Products Council

The voice of Maine's forest economy

Testimony in Opposition to LD 870

"An Act Regarding the Membership of the Maine Land Use Planning Commission"

Thursday, March 20

Krysta West, Deputy Director

Good afternoon, Senator Talbot Ross, Representative Pluecker and members of the Agriculture, Conservation and Forestry Committee. My name is Krysta West, and I am here today to testify on behalf of the Maine Forest Products Council in strong opposition to LD 870, "An Act Regarding the Membership of the Maine Land Use Planning Commission."

For 65 years, the Maine Forest Products Council has served as the voice of Maine's forest economy, representing more than 300 members from all facets of the forest products industry. Our members include pulp and paper mills, sawmills, secondary wood processors, foresters, loggers, truckers and more. Our membership also includes landowners that sustainably manage more than eight million acres of commercial forestland in Maine, with much of it being located in the unorganized territory that falls under the LUPC's jurisdiction.

Before I get into the specifics of why the Council is strongly opposes this legislation, let me first tell you a little bit about the beautiful town of Readfield where I live. According to my town's website, "Readfield is a small rural community that has a lot to offer with its numerous lakes and ponds as well as its many hiking/walking trails giving residents and visitors alike many recreational opportunities."

I can attest that these very opportunities are the reason that my husband chose to raise our family there. Like many organized towns across Maine, we are governed by a town manager directed by five Select Board members that serve staggered three-year terms. There are no term limits, and to serve on the Select Board, you must be a resident of the Town of Readfield and elected at its Town Meeting by the citizens of Readfield. Similarly, our Planning Board consists of seven members and three associate members. These positions are appointed by municipal officers for staggered 5-year terms. There are no term limits, and the only qualification to serve in this capacity is that the members be residents of the town.

Despite having zero specified "expertise" or required background experience, our Select Board and Planning Board does a good job of guiding discussions and making decisions about important zoning, planning and permitting matters because they have a vested interest in the community and an intimate knowledge of the local culture, economic opportunities and community needs. They are accessible and accountable to the community because they are part of the community.

In contrast, the Unorganized Territory (UT) consists of 429 townships, plus many coastal islands, that do not lie within municipal boundaries. These areas, which make up over half of the state, have no local, incorporated municipal government. In lieu of a local planning board like mine, the planning and zoning authority for this

area is served by the Land Use Planning Commission (LUPC). Formerly known as the Land Use Regulatory Commission (LURC), this commission was restructured under the 125th Legislature in 2011 at the recommendation of the Commission on Reform of the Governance of Land Use Planning in the Unorganized Territory. This commission advised the ACF committee on matters related to land use planning and regulation in the UT. The legislative commission was formed to address concerns "…raised over the years relating to private property rights in the unorganized territory; LURC decision-making activities far from the unorganized territory and inattentive to local interests; and a general lack of consideration for economic viability in the unorganized territory."[1] In other words, those governed by LURC felt disenfranchised by the process.

This committee took the recommendations of this study commission to heart, forming what is now known as the Land Use Planning Commission. Under its current restructured form, the eight counties with the most acreage in the UT "actively seek and give consideration to persons residing in or near the unorganized or deorganized areas within the county." In addition to having a direct connection to the jurisdiction, the candidate "must have expertise in commerce and industry, fisheries and wildlife, forestry or conservation issues." While the LUPC serves a similar function for the UT to my town's Planning Board, it has more stringent requirements for participation.

The governor also shall appoint one member to the commission with the same residency and background requirements. All appointees are subject to review by this committee and by the full Senate.

As we saw last year during the deliberations on Franklin County's most recent appointee, the current structure doesn't necessarily shield qualified candidates from political pressure from special interests and residents of other parts of the state. That outside pressure and influence is unique to this Commission, and it has the real potential to make non-political planning and zoning decisions politically charged in a way that doesn't typically happen in organized towns like mine. Unfortunately, the structural changes proposed by this legislation and devised by those very same outside interests would further alienate the local communities, residents and businesses operating in the UT from the rest of the state.

Another observation we would like to bring to your attention is that 12 MRS 684 specifies that a quorum consists of five members, and that no action may be taken by the commission unless upon approval by a vote of five members. This bill does not adjust the quorum or vote requirements accordingly to account for the expanded size of the Commission. In theory, this would allow the Commission to conduct business without the presence or input of commissioners appointed by the impacted counties.

Other issues with this legislation include:

- It applies term limits for commissioners that that will limit the counties' options and make it more difficult to fill vacancies.
- It drastically reduces the appointment process for counties from 90 days to 30. This timeframe is impractical, and it doesn't seem fair to lock counties into a timeline and not the executive.
- Section 3 eliminates commerce and industry, precluding manufactures in the region.

It is unclear what problem this legislation is looking to solve. Nothing prevents LUPC, or any planning board, from seeking public input and inviting professionals with desired expertise from providing guidance on planning and zoning decisions. Recent rezoning applications have shown that LUPC allows comments from people throughout the state, including experts and special interest groups. Decisions are informed by this public input but are rightfully made by the people most impacted by the outcome. State agencies with expertise advise LUPC on zoning and permits and commission staff also have expertise to provide.

[1] Final Report of the Commission on Reform of the Governance of Land Use Planning in the Unorganized Territory, December 2011

LUPC's major role is planning for the location of development in the UT, but just because an area is zoned for a particular type of use does not mean that a project automatically moves forward. Permitting decisions for projects with significant environmental impacts trigger Site Law and are ultimately decided by the Department of Environmental Protection. These decisions are not made in a vacuum and there are many opportunities for the general public to provide input and weigh in.

Before considering making any changes to the current structure of LUPC, we would urge the Committee to review the following revisions made to the purpose and scope as the REGULATION commission was changed to the PLANNING commission.

LD 1798 - An Act To Reform Land Use Planning in the Unorganized Territory, revisions to the Purpose and Scope:

> The Legislature finds that it is desirable to extend principles of sound planning, zoning and ~~subdivision control~~ development to the unorganized and deorganized townships of the State: To preserve public health, safety and general welfare; to support and encourage Maine's natural resource-based economy and strong environmental protections; to encourage appropriate residential, recreational, commercial and industrial land uses; to honor the rights and participation of residents and property owners in the unorganized and deorganized areas while recognizing the unique value of these lands and waters to the State; to prevent ~~inappropriate~~ residential, recreational, commercial and industrial uses detrimental to the ~~proper~~ long-term health, use ~~or~~ and value of these areas and to Maine's natural resource-based economy; to ~~prevent~~ discourage the intermixing of incompatible industrial, commercial, residential and recreational activities; ~~to provide for appropriate residential, recreational, commercial and industrial uses~~; to prevent the development in these areas of substandard structures or structures located unduly proximate to waters or roads; to prevent the despoliation, pollution and ~~inappropriate use~~ detrimental uses of the water in these areas; and to ~~preserve~~ conserve ecological and natural values.
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> The Legislature declares it to be in the public interest, for the public benefit, for the good order of the people of this State and for the benefit of the property owners and residents of the unorganized and deorganized townships of the State, to encourage the well-planned and well-managed multiple use , including conservation, of land and resources and to encourage and facilitate regional economic viability. The Legislature acknowledges the importance of these areas in the continued vitality of the State and to local economies. Finally, the Legislature desires to encourage the appropriate use of these lands by the residents of Maine and visitors in pursuit of outdoor recreation activities, including, but not limited to, hunting, fishing, boating, hiking and camping.

We think this focus of LUPC should remain in control of representatives of the region who recognize their role "to honor the rights and participation of residents and property owners in the unorganized and deorganized areas while recognizing the unique value of these lands and waters to the State."

Transforming LURC to LUPC was a big step towards self-determination for some of Maine's most economically challenged areas. LD 870 would be a big step back that we hope you will not support. Thank you for your consideration.