

# **IMPLEMENTATION OF THE BELGRADE COMPREHENSIVE PLAN ANNUAL PROGRESS REPORT TO THE BOARD OF SELECTMEN**

## **Comprehensive Plan Implementation Oversight Committee**

September 7, 2021

### **Introduction/Background**

The Town of Belgrade's Comprehensive Plan, which was approved by voters in 2014, lays out the Town's goals. It also includes recommendations to achieve those goals.

The Plan includes an implementation plan (Chapter 16) summarizing who in Belgrade Town government is responsible for implementing each recommendation. Where a recommendation does not fall within the jurisdiction of an existing Town board, committee or official, responsibility for determining how to implement rests by default with the Town Manager and the Board of Selectmen.

The purpose and role of the Comprehensive Plan Implementation Oversight Committee (Committee) as spelled out in its charter is to monitor progress (or the lack thereof) in the implementation of the Plan's recommendations, report their status, and make recommendations for the Plan's implementation to the Select Board for their consideration and action.

This report covers our findings since our last report to the Select Board, dated September 16, 2020, and presented at a Board meeting of that same date. The Committee has been able to meet monthly over the past year via Zoom and with assistance from the Town Manager.

### **Areas Reviewed**

The Committee to date has completed a first-cut review of the Town's progress implementing the recommendations from all chapters of the Plan except Transportation.

The Committee's reviews have been completed with the input, help and cooperation of the applicable Town officials, board, and committee members. This past year Belgrade Fire Chief Dan McKenzie and Rescue Chief, Travis Burton as well as Peter Rushton, Chair of the Planning Board and Joel Greenwood of KVCOG provided us assistance. Our many thanks. We are especially grateful for the cooperation and assistance provided by the Town Manager, Anthony Wilson, and Belgrade Code Enforcement Officer, Gary Fuller this past year.

This past year the Committee assessed the Town's progress implementing the recommendations of the Farming and Forestry, and Public Services and Management chapters, as well as returning to one of the Growth and Development chapter's

recommendations. Following up on the Committee's 2020 recommendations to the Select Board, the Committee also conducted a second review of the status of the recommendations found throughout the Comprehensive Plan related to improving compliance with the Town of Belgrade's various land use ordinances and providing a "level playing field" for land owners, developers and contractors who need to comply with these ordinances.

The Committee is currently assessing the Town's progress implementing the recommendations of the Transportation Chapter of the Plan.

Once the implementation status of the Plan's Transportation recommendations is completed, the Committee will have completed at least one review of the implementation status of the all the Plan's recommendations. Our plan for 2021/2022 is to update the status of those recommendations that were not completed at the time of our initial review, starting with those recommendations of the Water Quality chapter.

## **Findings**

All the Committee's findings since it was established by the Select Board are presented in a spreadsheet available on the Committee's web page of the Town's website. We encourage you to review if interested in our detailed findings. Here is a link to that page for your convenience: [townofbelgrade.com/tracking-sheet](http://townofbelgrade.com/tracking-sheet)

A summary of our key findings follows.

Tasks completed or underway:

1. Most of the Plan's recommendations regarding the delivery of public services and the management of Town government have been completed or are well underway. Plan recommendations related to public safety (fire and rescue), including future staffing and facility planning, have been completed or are on-going.
2. Other recommendations from the Public Services and Management chapter included the upgrade of the Town's website and the electronic posting of Town committee and board agendas and minutes. The website upgrade has been completed and most Town boards or committees (i.e., those established by Town meeting, ordinance or the Select Board) post both their agendas and minutes, consistent with the Plan's goal to increase public access to Town proceedings. Belgrade committees and boards posting both their agendas and minutes include the Select Board, Planning Board, Appeals Board, the Library Trustees, the Comprehensive Plan Implementation Oversight Committee, the Lakes Committee and the Transfer Station Committee. The Budget, Roads, Communications, and Cemetery committees post their agendas as does the Board of Parks & Recreation, but not minutes of their meetings. The Senior

Resource Committee posts neither public record.

3. Recommendations related to the expansion of the public library services like increased hours have been completed, or in the case of upgrades to electronic access to the Maine State Library is pending, having been delayed by the pandemic and the asbestos removal at the building housing the State Library.
4. Discussions resumed regarding implementation of the recommendation from the Growth and Development chapter for the Town to develop the Geographic Information System (GIS) capability to track the land area of new development permitted by the Town, the amount of remaining open space, and the amount of developed impermeable area in order to assess trends in stormwater and phosphorous runoff to the Belgrade Lakes. The Comprehensive Plan Oversight committee hosted meetings with Joel Greenwood of KVCOG, Peter Rushton, Planning Board chair and Anthony Wilson, Town Manager. The focus was largely on the goal of any such effort, and the existing mapping and resources available from KVCOG. The next step is for the Planning Board to discuss this subject and to learn more about a possible similar effort in the planning stages by the 7 Lakes Alliance.
5. Two of our meetings were developed to determining if the Town has made progress improving compliance with our ordinances. Fourteen (14) separate recommendations calling for improved compliance with land use ordinances can be found the Plan's chapters, including the chapters on natural resources, water resources, growth and development, economic development and farming and forestry. Previously the Committee had reviewed the implementation status of these over the last 5 1/2 years individually as we went chapter by chapter. Consistent with our recommendation to the Select Board last year, we took a second, more comprehensive look at the status of the full list of 14 recommendations on this subject. All of these recommendations stem from common goals:
  - a. Ensure Town ordinances and the permits issued under those ordinances are actually implemented as required, and
  - b. Ensure equal enforcement of Town ordinances thereby providing landowners, developers and contractors with a level playing field to minimize any competitive advantage gained by ignoring or violating the Town's ordinances.

Our efforts to objectively assess the current status and any improvements over the life of the Comprehensive Plan in compliance rates were hampered by the lack of basic record keeping and needed information; including numbers of permit and citizen complaint inspections and their findings, the numbers of development projects found in compliance and the number in violation, and the number of violations brought into compliance. Without this information it was not possible to quantify the current compliance rates with Belgrade ordinances and determine if any progress has been made. For example, what was the impact of

the budget increase and the resulting increase in CEO hours (from average of 15/wk. to 25/wk.) approved by Town meeting in 2018 on compliance, if any?

We also found that Maine's Shoreland Zoning Law (Title 38 M.R.S.A., Subsection 441) requires code enforcement officers to keep records of violations investigated, verified and their resolution, including from citizen complaints. The Town's lack of any code enforcement record keeping means it is currently not in compliance with this law.

Without the needed data, we relied instead on interviews with the CEO, Gary Fuller, and his personal assessment and best estimates. Here are the highlights of our findings:

- a. The 2018 approved average increase in 10 hours per week allowed the CEO for the first time to inspect all projects permitted by the Planning Board and the CEO, as well as all citizen complaints received – clearly an important step forward.
- b. With respect to the compliance rates, the CEO's best estimate that for the Town's Shoreland Zoning and Commercial Development Review Ordinance is that 50% of all projects are in compliance with each ordinance.

If indeed 50% of projects in Belgrade falling under either the Shoreland Zoning or Commercial Development ordinances are in violation of these ordinances, the next logical question discussed with Gary and Anthony, was how can the Town improve and reduce the number of violations? How can even a modest improvement of a 10% increase in compliance over two (2) years be achieved? Ideas discussed included a summer intern to assist the CEO, further increasing the CEO's hours, dividing the workload of the Local Plumbing Inspector (LPI) and CEO into two positions, undertaking a landowner/contractor education effort, and adopting an occupancy permit requirement issued upon demonstration of compliance with Town ordinances. Discussion of the above all were inconclusive as to their effectiveness in improving overall compliance. Reasons for non-compliance were also explored in these discussions with Gary and Anthony. Two (2) reasons include ignorance of Town ordinance requirements and a general sense that many landowners, developers and contractors in Belgrade simply do not even think of the possibly that they may require Town approval for their project prior to starting work. A third reason for the number of violations in Gary's opinion is that many violators simply do not care and view any penalty or the cost of an after-the-fact permit application simply as the cost of doing business and worth the risk if caught. There was consensus that the Town should re-evaluate the dollar amounts of its penalties and permit fees which have not been updated since the 1990s. A fourth, albeit simple, improvement discussed would be the issuance of written inspection findings following CEO project inspections, including deficiencies and violations, recommended remedial measures and a deadline for their implementation to avoid enforcement action. The Town Manager provided draft letters being considered for this purpose. The status for

each of the Plan's 14 recommendations regarding improved code enforcement is provided in table form in Appendix A of this report.

#### Tasks not yet initiated:

1. The development of a TIF policy to encourage future commercial and industrial development in the Plan's designated commercial growth areas.
2. The development of impact fees on larger developments to offset increased Town infrastructure costs.
3. The assessment of compliance of all projects approved under the Commercial Development Review Ordinance since its enactment in 2001.
4. Ensure gravel mining operations are in compliance with the Commercial Development Review Ordinance and have current operating permits. Those with 2015 permits expired in 2020.
5. Provide periodic 3<sup>rd</sup> party oversight/review of code enforcement activities (e.g., audit).

#### **Recommendations**

1. Those Town boards and committees not yet doing so, should be required by the Select Board to maintain as public records both meeting agendas and minutes, and post to the Town website in a reasonable timeframe.
2. To address the Town's inability to objectively quantify the current compliance rates with existing ordinances (e.g., Shoreland Zoning, Commercial Development, Subdivision) and changes over time (hopefully improvement), the Town Manager and CEO should develop and implement a simple record keeping system (e.g. Excel spreadsheet) with the objective to measure year to year compliance rates, and identify specific areas of non-compliance so solutions can be focused on the worst areas of non-compliance. In addition to being a prerequisite to determining the effectiveness of Belgrade's code enforcement efforts and expenditures, instituting a basic record keeping system that includes violations documented and how they were brought into compliance will bring the Town into compliance with the code enforcement record keeping requirements of the State Shoreland Zoning statute.
3. The Town Manager and CEO implement the routine issuance of inspection follow-up letters outlining the compliance status of CEO inspections, including requested voluntary compliance remedial measures and the timeframe for their implementation to avoid enforcement action. Similar written documentation should be provided to landowners whose projects are in compliance as positive reinforcement. Both will help get the word out that the Town indeed expects its permits and ordinances to be complied with.
4. The Town Manager, CEO and Select Board should re-evaluate the adequacy of the dollar amounts of existing Town penalties and permit fees which have not been updated since the 1990s. In the case of current penalties, do they provide an adequate deterrent to willful violations of Town ordinances, and in the case of permit fees, do they cover the Town's associated administrative costs?

5. The Town Manager with the Planning Board and Lakes Committee with technical assistance from KVCOG further explore the scope and feasibility of implementing a GIS based tool to track the acreage of developed and undeveloped open space over time to assess stormwater and phosphorous runoff to the Belgrade Lakes.
6. The Town Manager and Select Board should evaluate the cost effectiveness of establishing TIF districts to coincide with the commercial and industrial growth areas designated by the Comprehensive Plan as a tool to expand Belgrade's commercial tax base and to guide such development to desired parts of town and away from residential and rural areas.

Respectively submitted,

George Seel, Chair  
Mary Vogel, Vice-Chair  
Michael Donohue  
Kimberly Dallas  
Patrick Donahue  
Kathi Wall

## APPENDIX A

### Table of Recommendations from 2014 Belgrade Comprehensive Plan Related to Ordinance Compliance & Code Enforcement

#### RECOMMENDATIONS FROM 2014 COMPREHENSIVE PLAN RELATED TO BELGRADE LAND USE ORDINANCE COMPLIANCE & CODE ENFORCEMENT

Updated at 5/19/21 Committee Meeting with CEO & Town Manager

No.	Recommendation Summary	Status on 5/19/21	Explanatory Comments	Recommendation No./Chapter
1	Aggressively enforce existing regulations re wetlands	When arises involve DEP		6-7 Natural Resources
2	Enforce Floodplain ordinance	Rare issue	Limited floodplain area	6-9 Natural Resources
3	Improve implementation of Town ordinances' phosphorous, storm water and soil erosion control performance standards <sup>1</sup>	In progress	Since expansion of hours in 2018 to 25/wk. CEO able to inspect all SLZ & Commercial projects permitted by Planning Board. Educated guess of CEO – compliance with permits issued under these ordinances ≈50%.	7-5 Water Resources
4	Ensure permit approval standards met by applicants including visual screening, phosphorous control, storm water mgmt., & soil erosion	In progress	Since expansion of hours in 2018 to 25/wk. CEO able to inspect all SLZ & Commercial projects permitted by Planning Board. Educated guess of CEO – compliance with permits issued	13-11 Growth & Development

<sup>1</sup> Shared responsibility with Planning Board

			under these ordinances ≈50%.	
5	Improve code enforcement following commercial development permit issuance, including on-site meetings by CEO before start and upon completion of construction	In progress	Since expansion of hours in 2018 to 25/wk. CEO able to inspect all SLZ & Commercial projects permitted by Planning Board. Educated guess of CEO – compliance with permits issued under these ordinances ≈50%.	10-6 Economic Development
6	Monitor logging roads and timber harvesting/refer problems to Bureau Forestry	Ongoing.	State Bureau of Forestry enforces timber harvesting regs in Shoreland Zone, not Town	12-6 Farming & Forestry
7	Assess compliance with Commercial Development Review Ordinance & establish process for ongoing compliance review	Not started	Would be difficult to assess compliance for projects approved from 2001 until 2016. <sup>2</sup> In 2016 Planning Board first started completing required Findings of Fact & Law and significantly improved consistency &	13-3 Growth & Development

<sup>2</sup> Commercial Development Review Ordinance first approved by Belgrade voters in 2001.



			enforceability of their decisions. Going back to 2016 feasible.	
8	Ensure gravel pits are in compliance with Commercial Development ordinance	Last completed 2015, due 2020	Number of gravel pits did not comply in 2015 with ordinance requirement for a 5-year operating permit.	13-3 Growth & Development
9	Town should review/revise/create job description & performance goals for CEO	Completed	Dated 9/1/20	13-4 Growth & Development
10	CEO job functions should include: provide guidance to developers/contractors, identify violations & prepare enforcement case for prosecution, compliance inspections of active permits, investigate citizen complaints & report back on investigation, annual reporting of number of compliance inspections conducted and violations found/how resolved.	Completed	Covered in job description & annual job performance evaluation.	13-4 Growth & Development
11	Explore possibility of shared CEO w/ other watershed towns	Started	Possible future goal.	13-5 Growth & Development
12	Provide periodic ongoing 3 <sup>rd</sup> party oversight/review of	Not started	The Plan envisioned something similar to a	13-6 Growth & Development

	code enforcement activities		quality assurance audit.	
13	Undertake comprehensive review & inspections of permitted commercial developments since 2001, bring into compliance	Not started		13-7 Growth & Development
14	CEO meet annually w/ Town Mgr. & Select Board to review procedures & challenges implementing Commercial Development Ordinance	Started	CEO meets with Select Board quarterly. Discussion primarily about permits issued, not achieving greater compliance with Town ordinances	13-12 Growth & Development