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Save the Date!

NE Regional Planning Conference Thursday, September 30 & Friday, October 1 in Springfield, MA with a reception at the Basketball Hall of Fame!

(See the Request for Proposals insert in this issue)

Published by the Massachusetts and Rhode Island Chapters of the American Planning Association

New England PLANNING

Massachusetts Chapter & Rhode Island Chapter

APA/AICP Elections Continued...

The candidates' answers to these two questions follow:

1. What is your position on mandatory continuing education for certified planners?
2. What services do you see chapters needing most that national APA is not providing?

The candidates covered in this issue are:

Board of Directors, At-Large: Mitchell Silver, AICP/PP (also running, Sherrell Cockrell)

APA President-Elect: Floyd Lapp, FAICP, David Siegel, AICP (insert) & Bob Hunter, petition candidate

Ballots will be mailed to all APA members in March 12th and are due back to APA no later than April 16th.

Candidate for APA President -Elect Floyd Lapp:

1. What is your position on mandatory continuing education for certified planners?

Voluntary or continuing education has been a recurring debate for 25 years beginning with the Spencer report in 1979 and more recently the AICP audit conducted by Zucker Systems.

The AICP exam has benefitted by having a partnership between APA and a professional testing organization, ETS. In similar fashion, a mandatory continuing education program needs the support of an organization that has the expertise to present and administer the substantive and business aspects of training sessions. Volunteers, or even a partnership with national APA staff, cannot provide what is needed. A portion of the structure can be created by bringing together APA, state planning federations and universities, especially those with an extension service or related outreach mechanism. However, until a workable structure with the appropriate expertise is created, it does not make sense to impose mandatory continuing education on the membership. This was one of the findings from the recent pilot program conducted for New Jersey, Ohio and Western Central.

2. What services do you see chapters needing most that APA is not providing?

In my position statement I said, "Rather than just expanding activities at the national level, let's reallocate more resources to the chapters and sections so we can strengthen local capacity building and give the planners in the trenches the resources..."

The number and variety of chapters and sections creates diverse needs. Having served as a chapter president twice, vice-chair of the chapters' presidents council and chaired a board committee on chapter performance, the common services that are needed and best provided at the chapter level are: policy statements, publications that tell the planning story and continuing education. Chapters need the resources; (1) for legislative liaisons to respond and be proactive to advance planning causes on their homefronts; (2) to tell their success stories for others to emulate and (3) locally generated continuing education programs provides opportunities for "...more planners to interact at less cost while remaining closer to home." In each of these three examples, there is a unique opportunity to focus on grassroots, relevant approaches and techniques.

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Massachusetts Chapter

by Peter Lowitt, AICP, Chapter President



The Massachusetts Chapter is taking the initiative and establishing a position on the Land Use Reform Act introduced by the Zoning Reform Working Group. Your board provided comments, rolled up their collective sleeves and duked it out to achieve consensus around this document. A tip of the hat to all of them. The public hearing for the legislation was March 10, 2004 and your chapter officers showed up in

support of the legislation and articulating our position on it, all except the president who was travelling in Asia. Our position paper is available from our web site, www.massapa.org.

I encourage all of you to attend the national conference in Washington, DC on April 24-28, 2004. It is both an educational and fun experience that every planner should partake of during your career. WARNING: It can become addictive and lead to more participation in APA. The Fall Regional Conference is shaping up as well. Remember to save September 30 and October 1 for this event. It will be held in Springfield and our dazzling host committee have secured the basketball hall of fame for our Thursday evening reception. This is the weekend of the Big E (Massachusetts' state fair), so think about staying an extra day and enjoying the fair.

I had an opportunity to meet with Jerold Kayden, the Frank Bakkus Williams Professor of Urban Planning and Design, Director, Master in Urban Planning Degree Program at the Harvard Graduate School of Design and we hope to see HGSD students participating more actively in the chapter in the future.

Don't forget to vote in the national APA elections. APA members can vote for AICP candidates. Our newsletters (FEB and MARCH) feature the candidates responding to a series of questions to help you reach an informed decision on whom to vote for. Only one in three APA members vote so your votes count. Please participate.

I am off to Thailand and Vietnam to discuss Sustainable Industrial Estates (such as Devens) and Eco-Industrial Development with my Asian colleagues. Have a grand St. Patty's day, I'll be thinking of you while I'm looking for an Irish Pub in Hanoi.

Rhode Island Chapter

The Rhode Island Chapter has elected new officers -

President: Daniel Baudouin, Executive Director
The Providence Foundation
30 Exchange Terrace
Providence, RI 02903
401-521-3248
dbaudouin@provchamber.com

Vice-President: Jared Rhodes
Cranston Planning Department
869 Park Avenue
Cranston, RI 02910
401-780-3139
jrhodes@cranstonri.org

Secretary: Krista D. Moravec, Planner
Maguire Group Inc
225 Chapman Street, 4th Floor
Providence, RI 02905
401-272-6000, Ext. 255
kmoravec@maguiregroup.com

Treasurer: Derry Riding (continuing in this position)

Professional Development Officer:
Pamela M. Sherrill, AICP,
Principal Planner
Pare Engineering Corporation
8 Blackstone Valley Place
Lincoln, RI 02865
401-331-4100 Ext. 4141
psherrill@parecorp.com

I will continue to serve on the Board as the Past President.

Marilyn F. Cohen, AICP
North Kingstown Director of Planning
80 Boston Neck Road
North Kingstown, RI 02852
(401) 294-3331, Ext. 310
mcohen@northkingstown.org

Planner's Day on the Hill

APA will arrange meetings between conference attendees and their elected representatives in Congress on April 27-28 during APA's 2004 National Planning Conference in Washington, D.C. Registration is free with your conference registration, but you must indicate your interest in participating.

Rhode Island Land & Water Conservation Summit

Information and registration for the March 20 Land and Water Conservation Summit, hosted by the RI Land Trust Council, the RI Rivers Council and the RI Assoc. of Conservation Commissions, can be found at the following web site. <http://nature.org/wherewework/northamerica/states/rhodeisland/events/events1998.html> The summit offers 21 workshops on a range of topics of interest to local conservationists. The keynote speaker, Gus Seelig from Vermont's Housing and Conservation Program, will describe Vermont's successful 15 year funding partnership between affordable housing and land conservation. He will share insights and lessons learned for Rhode Islanders to consider. There are 21 workshops to choose from, covering subjects such as land conservation and affordable housing, watershed enhancement projects, and property taxes and open space bonds. Call or e-mail Rupert Friday at 401-331-7110 Ext. 39, rfriday@tnc.org for more information.

Image Resources

For some good information and images for design and engineering of traffic calming and management, safe and aesthetic walking and bicycle amenities (on- and off-road), and compact developments amenable to pedestrians and bicyclists, see the image library of the Bicycle and Pedestrian Information Center, www.pedbikeimages.org.

AICP Exam Preparation Course

Tufts University to offer AICP Exam Preparation Course

WHEN: March 29, April 12, April 26, and May 3, 2004, 7:00 p.m. – 9:30 p.m.

COST: \$100

REGISTRATION: Checks should be made payable to "Trustees of Tufts University" and contain a notation stating that the fee is for the AICP course. Mail to Tufts University, Department of Urban and Environmental Policy, 97 Talbot Avenue, Medford, MA 02155

DEADLINE: March 15, 2004

Anyone planning to take the AICP exam during 2004 should register for this course as this will be the only time that it is offered during 2004.

Please contact Lynn Duncan at 978-658-8238 or lduncan@town.wilmington.ma.us if you have any questions.

Resources

Top 25 Cases in Planning and Environmental Law

The editor of *Planning & Environmental Law (PEL)* selected these nationally significant cases based on suggestions and comments offered by Dan Tarlock, a professor at Chicago-Kent College of Law, and other *PEL* reporters. Planning and environmental law within any state may also be substantially defined or extended by court decisions in that state.

1. *Pennsylvania Coal Co. v. Mahon*, 260 U.S. 393 (1922)
The U.S. Supreme Court indicated, for the first time, that regulation of land use might be a taking.
2. *Village of Euclid v. Ambler Realty Co.*, 272 U.S. 365 (1926)
Established zoning as a valid exercise of police power by local government.
3. *Berman v. Parker*, 348 U.S. 26 (1954)
Established aesthetics and redevelopment as valid public purposes for exercising the power of eminent domain.
4. *Cheney v. Village 2 at New Hope, Inc.*, 241 A.2d 81 (Pa. 1968)
Legitimized the planned unit development (PUD) process.
5. *Citizens to Preserve Overton Park, Inc. v. Volpe*, 401 U.S. 402 (1971)
Established the "hard look" doctrine for environmental impact review.
6. *Calvert Cliffs' Coordinating Committee v. Atomic Energy Commission*, 449 F.2d 1109 (D.C. Cir. 1971)
Made National Environmental Protection Act (NEPA) requirements judicially enforceable.
7. *Sierra Club v. Morton*, 405 U.S. 727 (1972)
Opened up environmental citizen suits to discipline the resource agencies.
8. *Golden v. Planning Board of Ramapo*, 285 N.E.2d 291 (N.Y. 1972)
Recognized growth phasing programs.
9. *Just v. Marinette County*, 201 N.W.2d 761 (Wis. 1972).
Significantly integrated public trust theories into a modern regulatory scheme.
10. *Fasano v. Board of County Commissioners of Washington County*, 507 P.2d 23 (Or. 1973)
Required zoning to be consistent with comprehensive plans and recognized that rezonings may be quasi-judicial as well as legislative.
11. *Young v. American Mini Theaters, Inc.*, 427 U.S. 50 (1976)
Opened up the possibility to control pornography via land use.
12. *Village of Arlington Heights v. Metropolitan Housing Development Corp.*, 429 U.S. 252 (1977)
Established that discriminatory intent is required to invalidate.
13. *Tennessee Valley Authority v. Hill*, 437 U.S. 153 (1978)

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Candidate for APA President-Elect Bob Hunter:

1) What is your position on mandatory continuing education for certified planners?

While this question really applies to Mike Harper and Sue Schwartz, as a candidate for APA President Elect I appreciate having the opportunity to respond. Mandatory continuing education for certified planners should be phased in over a five or ten year period. The AICP membership is almost evenly split on this issue. While a few states “certify” planners, most do not. Part of OUR problem is that the public does not know what planning is about and that’s where APA comes in. APA needs to create a more useful toolkit for planners, providing them with the resources needed to be sought as leaders who are “THE SOURCE” that officials, media and citizens turn to for information, trends and how-to ideas for improving the quality of life in rural areas, neighborhoods, towns and cities. I encourage you to review my website <file://WWW.HUNTERFORAPA.COM> WWW.HUNTERFORAPA.COM for more details on the subject. Everyone knows that architects and engineers have continuing education requirements; however, few people have any idea what planners do. Until we obtain “standing”, certifying planners won’t help. For the first five years voluntary, bi-annual accreditation of members, with recognition by AICP in some manner, might be appropriate. Afterwards, if planning has become more of a recognized profession (with APA’s marketing/education leadership), then the annual certification of planners might be worthwhile.

2) What services do you see chapters needing most that national APA is not providing?

Again, I refer you to my website because it is imperative that APA clearly define our message, mission, and develop strategies for reaching the public about what planning is, does, and the benefits. If successful, this should be a tremendous asset to local chapters. Other services to chapters would be to offer short course training about “planning” to appointed/elected officials — at no cost to the local chapter. This would probably generate some revenue to the local chapter. Having appointed/elected officials better understand planning would certainly be an asset to local planners and the chapters. One more thought is that APA needs to develop a standard “how-to” manual for chapters which should include draft bylaws, standard operating procedures, board membership structure suggestions, use of committees and volunteers, how to budget, various activities for the chapter and professional development suggestions.

SUPPLEMENTAL STATEMENT:

I am a professional planner with the ability and experience to lead APA into its next quarter century and give APA

membership a more viable choice to **make vision a reality**. My emphasis is on promoting the role of planners as the visionaries of urban form by developing our organization into one inclusive of the public, decision-makers and students, thus increasing our *strength through diversity*. It’s time to influence national policy and become players in the game by winning the hearts and minds of people outside the planning community and better servicing our own membership.

Candidate for Board of Directors, At Large Mitchell Silver, AICP/PP:

1) What is your position on mandatory continuing education for certified planners?

Mandatory continuing education is under the authority of the AICP Commission. As a Board Member, I would encourage the Commission to require continuing education for certified planners if certain conditions were met. The field of planning continues to evolve. I believe certified planners should keep pace with the changing trends in the profession, sharpen their planning knowledge and seek the highest professional and ethical standards. At the same time, continuing education should not be burdensome or bureaucratic. Educational programs must be flexible; be made in a variety of formats; be available to certified planners in all areas; and, be affordable.

2) What services do you see chapters needing most that national APA is not providing?

APA national is committed to working with the chapters and the Chapter President’s Council (CPC) to find ways to provide more chapter services. The needs of chapters vary from state to state and as a former chapter president, I have always found national APA and the CPC open to finding ways to provide more services. Having said that, I believe APA national could help chapters with opportunities and resources to planning students and planning commissioners. As a Board member, I have supported chapters and will continue to seek services to help chapters be more effective at the local level.

The Anti-Community Budget

This month, APA Executive Director Paul Farmer comments on the Bush administration’s recently released budget proposal and its impact on communities. His editorial is the first in a series on vital public policy issues and the domestic agenda as it relates to America’s communities. Member responses to the editorial will be posted on the website.

Candidate for APA President-Elect David M. Siegel, AICP

(1) What is your position regarding mandatory continuing education?

Response: I have always been an advocate for continuing professional education being required for maintaining the AICP credentials. By way of example, I passed the AICP exam in 1983; the world, planning practice and technology have greatly changed since that time. However, there has been no requirement that I keep my planning skills honed, or that I seek to keep up with the “state of the profession or practice”. As a result, it is no wonder that the value of the AICP credential comes under discussion, when compared with the requirements of other professions for continuing education. In my opinion, employers would be more willing to help pay for continuing education if it meant maintaining the certification of their employees.

In my position statement, I advocate *growing the organization*, while *improving the services* APA provides to its professional and citizen planner core membership. I also stress the need to *develop and deliver* educational and training opportunities at the *regional/chapter level*. This is consistent with my personal view regarding continuing education, and I feel APA needs to make this topic a priority. The Chapter Presidents’ Council has unanimously supported (and requested action on) this issue several times now. One need only look at some of our kindred professions to see that it is possible to develop a system to administer mandatory continuing education requirements. It’s also possible to develop and provide *affordable training opportunities* at the local level. As a member of APA’s Education Task Force, I fully support the development of a “core body of knowledge” for planners. It’s time APA moved ahead with making it work.

(2) What are the services Chapters need most, and how can APA National help?

Response: My position statement includes the following: “The key word is “*service*”. Our members have different interests and needs, some specialized or regional in nature. Chapters are “where the rubber meets the road” for our organization; Divisions are our cutting edge and link to areas of specialization. Let’s use them! *Regional service delivery* will allow APA to work with chapters to tailor services to the needs of planners within a region, making them more *pertinent, accessible, affordable*, and of greater *value* to members. Leadership must involve the Chapters and Divisions in establishing APA programs, policies, services and delivery options. I will ensure that this occurs.”

I believe that APA National and Chapters need to work together in three other areas:

- developing a clear and consistent message regarding what *planning* is, and why it’s *relevant* to our communities;

- building the constituency for planning by helping Chapters and members become more effectively involved in the legislative process at the local and national level by providing training and tools; and;
- growing our membership base so that it is more reflective of our population.

Thank you for the opportunity to provide my views on these two issues. I hope to continue serving you in a new role...as APA President-Elect.

Top 25 Cases in Environmental Law, continued from page 3

Created modern Endangered Species Act law (protecting the snail darter).

14. Penn Central Transportation Co. v. City of New York, 438 U.S. 104 (1978)

Introduced a means-end balancing test for regulatory takings and validated historic preservation controls.

15. *Agins v. City of Tiburon, 477 U.S. 255 (1980)

Used an alternative takings test to the *Penn Central* test.

16. Metromedia, Inc. v. City of San Diego, 453 U.S. 490 (1981)

Extended commercial speech to aesthetic regulation.

17. Loretto v. Teleprompter Manhattan CATV Corp., 458 U.S. 419 (1982)

Held that any physical occupation is a taking, no matter how de minimis.

18. Southern Burlington County NAACP v. Township of Mt. Laurel (II), 456 A.2d 390 (N.J. 1983)

Created the model fair housing remedy for exclusionary zoning.

19. *Williamson County Regional Planning Commission v. Hamilton Bank, 473 U.S. 172 (1985)

Defined the ripeness doctrine for judicial review of takings claims.

20. *First English Evangelical Lutheran Church of Glendale v. Los Angeles County, 482 U.S. 304 (1987)

Allowed damages (as opposed to invalidation) as a remedy for regulatory takings.

21. Nollan v. California Coastal Commission, 483 U.S. 825 (1987)

Created the “essential nexus” takings test for conditioning development approvals on dedications and exactions.

22. *Lucas v. South Carolina Coastal Council, 505 U.S. 1003 (1992)

Defined categorical regulatory takings and an exception for regulations rooted in background principles of law.

23. *Dolan v. City of Tigard, 512 U.S. 374 (1994)

Extended *Nollan*’s “essential nexus” test to require “rough proportionality” between development impact and conditions.

24. Babbitt v. Sweet Home Chapter of Communities for a Great Oregon, 515 U.S. 687 (1995)

Applied the Endangered Species Act to land development.

25. *Tahoe-Sierra Preservation Council, Inc. v. Tahoe Regional Planning Agency, 535 U.S. 302 (2002)

Sanctioned the use of moratoria and reaffirmed the parcel-as-a-whole rule for takings review.

THE MASSACHUSETTS LAND USE REFORM ACT (At a Glance)

Massachusetts was recently listed by the American Planning Association as one of the states with the most outdated state land-use laws. While the responsibility for land use planning and regulation rests with each of Massachusetts' 351 cities and towns, the authority to do so effectively is often undermined by confusing and unduly limiting state law. The proposed Massachusetts Land Use Reform Act (MLURA) is the first major updating of the Commonwealth's zoning and subdivision control statutes in 29 and 50 years, respectively. The Act encourages communities to adopt or update their local master plans and enables them to develop effective land use regulations that are consistent with those plans. For information, visit masszoningreform.org or call Don Keeran at (877) 955-4142 (toll free).

The MLURA has been filed four ways:

Stand-alone as **S. 1174** (Local Affairs) and **H. 4103** (Local Affairs)

Integrated w/ planning bills as **S. 1250** (Nat. Res.) and **H. 2483** (Nat. Res.)

SECTION 1: Construction and Purposes. The new section in the Zoning Act affirms the "home rule" powers of municipalities in Massachusetts. It also establishes an illustrative, but not all-inclusive, set of objectives for local zoning ordinances and bylaws, thereby increasing both the utility of zoning to address the land use challenges of today and the likelihood that innovative zoning techniques will be upheld in the courts.

SECTIONS 2-4: Exemptions from Zoning. These sections amend Section 3 of the Zoning Act by: 1) enhancing local review of uses now exempt from zoning, such as religious and educational uses; 2) standardizing and clarifying the language; 3) clarifying the definition of "educational purposes" to public and private non-profit schools and programs that study or conserve natural resources; 4) providing a new, dedicated exemption for community programs; and 5) helping to address the issue of "mansions" by removing the restriction against regulating the maximum interior area of single-family dwellings.

SECTION 5: Zoning Consistency with a Master Plan. This addition to the Zoning Act requires that a zoning ordinance or bylaw not be inconsistent with an adopted master plan, thereby increasing the relevance of planning and discouraging *ad hoc* land-use regulation. This requirement is effective five years after this provision is enacted in the General Laws.

SECTION 6: Applicability of Zoning. This amendment revises the format, language style and substance of Section 6 of the Zoning Act, often referred to as the "grandfathering" section. The current Section 6 is difficult

to understand and its provisions undermine local planning initiatives. Some protections have been eliminated, such as the common-lot exemption and the use protection for ANR plans (see ANR, below). Some protections have been modified, such as the dimensional change protection for a pre-existing one or two family residential lot. Others have been substantially overhauled, such as the current zoning freeze for the land shown on a subdivision plan. In general, the protections have been trimmed to more basic levels and local discretion increased.

SECTION 7: Site Plan Review. This new section in the Zoning Act establishes an optional statewide framework under which site plan review may be provided for in local zoning ordinances and bylaws. This includes what is covered by such review, which local agencies may undertake it, what standards are used to evaluate a site plan, enforceable conditions on approval if any, rulemaking to fill in the gaps, and local discretion in laying out an appeals process.

SECTION 8: Transfer of Development Rights. This amendment to the Zoning Act specifically authorizes intra- or inter-municipal transfer of development rights while removing the current statutory impediments to its use.

SECTIONS 9 and 10: Development Impact Fees. This new section in the Zoning Act provides a specific reference to development impact fees and establishes requirements and limitations to the use of this growth management technique. Land development projects which create impacts within a community beyond the construction site itself may be required to pay fees to create or improve streets, sewers/water supplies, parks, police/fire facilities, affordable housing, schools, libraries and similar capital facilities. Certain affordable housing projects are exempt from the imposition of impact fees.

SECTION 11: Land Use Dispute Avoidance. This new section in the Zoning Act establishes a process whereby abutters, other parties in interest, and the municipality as a whole have the option to sit down and work out some of the issues in advance of formal development applications. Areas where such a process might be useful include comprehensive permits under chapter 40B, developments of regional impact, large-project special permits or subdivisions. The process will not change existing local procedures but will create a vehicle whereby such procedures could be made more successful.

SECTION 12: Mediation of Land Use Appeals. Section 17 of the Zoning Act now provides an avenue for judicial review of decisions made under local zoning; however, no specific provisions are made for a mediated resolution of land use appeals. This new section introduces the concept of mediation and describes a process which stays the appeal pending the outcome of negotiations between the parties. A mediator is selected as an intermediary and is compensated by the parties. There is no loss of right of appeal should the mediation fail to arrive at an

agreement on all of the disputed issues.

SECTION 13: Adoption of Master Plans. Currently, a planning board is required to make a master plan for the city or town and then adopt that plan by a majority vote of the board. There is no requirement for a public hearing before their vote. This amendment to chapter 41, section 81D adds the requirements for a public hearing before the planning board may vote and a subsequent simple-majority approval by the local legislative body in order to adopt a master plan. The planning board is still responsible for making the plan and must vote favorably on the plan before it can be voted on by the legislative body. A community may, by a two-thirds vote, increase the majority of vote required by the local legislative body to adopt a master plan.

SECTIONS 14-20: Approval Not Required (ANR) Plans. The Subdivision Control Law virtually exempts the division of roadside properties into building lots from the local review process for a subdivision. This amendment brings Massachusetts into line with the rest of the country by eliminating this statutory exemption. In this way such development along roadways may be subject to reasonable standards and conditions. A new provision has also been added which gives municipalities the discretion to provide expedited review for certain types of minor land divisions which, in their judgment, do not require full review under their subdivision control regulations and the Subdivision Control Law.

SECTION 21: Purpose of Subdivision Control Law. This amendment establishes the furtherance of a master plan as a valid purpose of the Subdivision Control Law.

SECTION 22: Date of Submission. This amendment to the Subdivision Control Law clarifies that the date of submission of a plan shall be the date of the next regularly-scheduled planning board meeting following receipt, or 35 days, whichever is sooner. This will ensure that planning boards will have the full amount of time allotted to review a plan.

SECTION 23: Affordable Housing. This addition to the Subdivision Control Law establishes that subdivision regulations may require that residential subdivisions include building lots for the required construction of affordable housing units (up to 15% of the total dwelling units) that will be integrated into the new neighborhoods. The local regulations may allow for alternatives such as construction of the affordable units off-site, dedications of land, or payment of funds for the construction of affordable housing.

SECTION 23: Subdivision Consistency with a Master Plan. This addition to the Subdivision Control Law requires that subdivision regulations not be inconsistent with an adopted master plan, thereby increasing the relevance of planning and discouraging development regulations in conflict with an adopted plan. The require-

ment for consistency is effective five years after this provision is enacted in the General Laws.

SECTIONS 24 and 25: Parks and Playgrounds. This amendment to the Subdivision Control Law removes the explicit prohibition on requiring dedications of land in subdivisions and establishes that subdivision regulations may require land for parks and playgrounds be incorporated into the design of new residential neighborhoods.

SECTION 26: Performance Guarantee. This amendment to the Subdivision Control Law gives a planning board approval authority on the method(s) of performance guarantee (with the exception of a covenant, which shall be accepted).

SECTION 27: Housing Element. This amendment to chapter 41, section 81D adds detail to the minimum requirements for the housing portion of a master plan, placing an emphasis on affordability and diversity in housing.

SECTION 28: Subdivision Use Restriction. This amendment to the Subdivision Control Law removes the prohibition on regulating the “use” of land within a subdivision, thereby facilitating the required provision of affordable housing and parks/playgrounds.

SECTION 29: Uniformity. This amendment to the Zoning Act will provide some local flexibility to allow for non-uniform treatment of structures and uses within a zoning district if there is a valid planning rationale to do so.

SECTION 30: Adoption of Zoning. This amendment to the Zoning Act introduces a local option to reduce the statutory two-thirds majority requirement to pass zoning amendments. A two-thirds vote of the local legislative body is required to make this change.

SECTION 31: Submission to the Attorney General. This amendment to the Zoning Act omits an outdated requirement for cities to submit zoning ordinance amendments to the office of the Attorney General.

SECTION 32: Enforcement. This amendment to the Zoning Act establishes that structures built without the required building permits cannot acquire the status of a protected non-conforming structure unless the local ordinance or bylaw allows it.

SECTIONS 33 and 34: Cluster Development. These two amendments to the Zoning Act provide a better, less restrictive definition of “cluster development” and expand the range of ownership options for the open land.

SECTIONS 35 and 36: Consultant Fees. These two amendments to chapter 44, section 53G specifically authorize boards to assess fees of applicants for outside consultants to review site plan review applications and to pay for the facilitator in a Land Use Dispute Avoidance process.

Planner/Community Development Director**Salem, MA**

Historic Salem (population 40,000) located just 16 miles north of Boston, is seeking qualified applicants for the position of Planner/Community Development Director. Responsible for administering the city's land use planning program and for developing and directing a variety of planning projects, capital construction projects, economic development programs and community development efforts, and overseeing the administration of the Community Development Block Grant Program (CDBG) and other federal and state grant programs. In carrying out these responsibilities, supervises and participates in the preparation of and interpretation of comprehensive reports and plans for the development of land and resources, plans and develops programs and projects for the city's multi-million dollar grant awards, including housing rehabilitation, social service, and neighborhood improvement projects, and provides technical assistance to the Planning Board. Required skills and qualifications: at least five years experience in city planning, thorough knowledge of planning, civil engineering, architecture and historic preservation, ability to interpret blueprints, and prepare comprehensive reports. A Bachelor's Degree in Planning or related field required. A Master's Degree in City Planning preferred. Salary range: \$62,300 – \$80,600.

Send resume and cover letter no later than March 8, 2004 to Elizabeth Rennard, Director of Human Resources, 93 Washington Street, Salem, MA 01970

Director of Planning and Development**Yarmouth, Maine**

The Town of Yarmouth, Maine is seeking a full-time professional Director of Planning and Development. Director will be responsible for administration of land use codes, comprehensive plan review, regional growth coordination, economic and community development programs, and supervision of a small staff.

Wonderful community, great working environment, competitive salary and benefits package (DOQE) and rewarding and challenging work. FMI on Yarmouth visit www.yarmouth.me.us.

Please apply by March 15, 2004 with resume and cover letter to:

Nathaniel J. Tupper, Town Manager
200 Main Street
Yarmouth, Maine 04096

Zoning Administrator**Town of Falmouth, MA**

Town of Falmouth on Cape Cod, pop 32,000, is currently accepting resumes for the position of Zoning Administrator. The successful candidate will serve as resource to Zoning Board of Appeals by researching legal opinions, composing legally sufficient ZBA decisions, reviewing applications including engineering and architectural plans. The individual will also conduct field visits of proposals before the Board, prepare administrative records and provide support to Town Counsel on pending litigation, attend court and conciliation sessions, provide technical zoning information to residents, realtors and the general public. Administrative duties such as departmental budget management, payroll, staff supervision and preparation of the annual town report are required responsibilities. This position reports to the Town Administrator and consults with the Zoning Board of Appeals for clarification of policy. The individual will resolve most problems by adapting methods or interpreting instructions or bylaws based upon experience and judgment. The successful candidate will attend all weekly meetings of Zoning Board of Appeals. Requirements are Associate's degree in paralegal studies, public administration or land use planning and three to five years performing relating work. Bachelor's degree or experience in land use planning is highly desirable. Individual must also be experienced in interpretation of construction and architectural drawings, be able to meet multiple deadlines and to interpret legal documents. Occasional moderate effort is required in making site visits. Starting range is \$923. - \$979. per week DOQ. Please email resume to falhr@town.falmouth.ma.us or surface mail to Personnel Office, 59 Town Hall Square, Falmouth, MA 02540 by March 26, 2004. The Town of Falmouth is an Affirmative Action Employer.

Special Workshop on Smart Growth

The Rappaport Institute for Greater Boston will be holding a special workshop on smart growth by Harriet Tregoning on Monday, March 29 from 8 am to 10 am.

In recent years, cities and towns have worked to coordinate a wide range of policies - transportation, housing, parks and natural spaces, historic preservation, downtown development, schools and cultural facilities - to enhance the cohesion and efficiency of their communities.

With growing concerns about the costs of sprawling development, local officials need new tools to make sure that their land-use strategies not only enhance the local community but also contribute to greater regional efficiencies.

How does that happen?

Harriet Tregoning, who directed Maryland's innovative smart growth policies under Governor Parris Glendening, will provide a workshop on the subject. Using her recent work with the City of Lawrence, Tregoning will provide a model that cities and towns of all sizes can use as they seek to balance local and regional needs.

Monday, March 29, 2004

8 a.m. to 10 a.m.

Taubman AB, 5th floor Taubman Building

15 Eliot Street

Kennedy School of Government

The session will take place on the 5th floor of the Taubman Building at the Kennedy School of Government. Directions are attached to this email. Breakfast will be served.

We hope that you can join us for this important and timely event. Please RSVP to Polly O'Brien at paulina_obrien@ksg.harvard.edu or (617) 495-5091.

Public Forum on Home Rule

Join the Rappaport Institute for Greater Boston and the Boston Foundation as they release a new book on home rule issues on Tuesday, March 16 from 3:00 p.m. to 5:00 p.m. at the Boston Foundation.

A public forum to explore a new study by the Rappaport Institute by David Barron, Gerald Frug, and Rick Su of Harvard Law School. In addition to the authors, forum participants will include Professor Barry Bluestone of Northeastern University, former state senator Patricia McGovern, and other state and local officials.

Home rule lurks behind every important concern of Greater Boston. Local policies on a wide variety of issues - finance and management, land use, housing, and education - depend on the state grant of home rule.

Calendar

March 13: Mass Land Trust Conference

Bancroft School, Worcester, MA. Sponsored by the Massachusetts Land Trust Coalition and the Putnam Conservation Institute of the Trustees of Reservations. The conference is an annual event drawing approximately 350 land conservationists from throughout Massachusetts. For more information contact afreeman@ttor.org.

March, MAPD lunch, date To Be Announced

Speakers from Governor Romney's Commonwealth Capital Initiative. Lunch is free for MAPD members and \$20 for all others. Call Michelle Buck at 508-892-7019 or e-mail buckm@leicesterma.org for more information.

March 16, 3:00 PM - 5:00 PM: Public Forum on Dispelling the Myth of Home Rule.

Boston Foundation, Boston; sponsored by the Rappaport Institute of Greater Boston. For more info or to RSVP, contact Polly O'Brien at 617-495-5091 or polly@rappaportinstitute.org.

March 20: CTPC Conference - Advanced Tools and Procedures for Planning & Zoning, 8:30 AM - 3:45 PM

Holy Cross College, Hogan Conference Center, Worcester, MA. Contact Gisela Walker, UMass Extension, at 413-545-2188 or go to www.umass.edu/masscptc.

March 20, 9:00 AM - 4:00 PM: Rhode Island Land & Water Conservation Summit

North Kingstown High School, sponsored by Rhode Island Association of Conservation Commissions, \$25 in advance, \$35 at the door. Check <http://nature.org/wherewework/northamerica/states/rhodeisland/events/events1998.html> for more information & registration form. Also, call or e-mail Rupert Friday at 401-331-7110 Ext. 39, rfriday@tnc.org.

March 24: URI Lecture - Reading the Urban Landscape - Site Assessment Narratives.

Providence, RI. Peter Trowbridge, FASLA presents at URI. Contact William Green at 401-874-2142.

March 29, 8 AM - 10 AM: Workshop on Smart Growth.

Kennedy School of Government, Boston, MA. Sponsored by the Rappaport Institute. Please RSVP to Polly O'Brien at paulina_obrien@ksg.harvard.edu or (617) 495-5091

April 2: Water Policy and Management; Aquatic Habitats, 7:30 AM - 4:00 PM

Marlboro, MA. Sponsored by the American Ground Water Trust. For more information, call Garret W. Graaskamp, PG at 603-228-5444 or check www.agwt.org.

April 16: MAPD lunch, Lord Jeffrey Inn, Amherst

Gene Bunnell, author of Making Places Special: Stories of Real Places made Better by Planning. Lunch is free for MAPD members and \$20 for all others. Call Michelle Buck at 508-892-7019 or e-mail buckm@leicesterma.org for more information.

April 21: URI Lecture - Engineering Trees into the Urban Environment.

James Urban, FASLA presents at URI. Contact William Green at 401-874-2142.

But real local authority in Massachusetts is restricted. Cities and towns have little discretion over taxes, fees, and borrowing, and only fragmented control over their public schools. State government imposes a number of unfunded mandates. State law supersedes local law on all issues, forcing localities to seek special state legislation on matters of immediate concern.

Based on interviews with local officials in the 101 towns and cities that make up Greater Boston, the study by David Barron, Gerald Frug, and Rick Su argues that one way to open up possibilities for regional policy is to take the local desire for home rule more seriously. Panelists will discuss the study's findings and proposals for reform as well as other ways that state law could be changed to enhance local authority for the benefit of the region as a whole.

This important work provides a much-needed blueprint to the most fundamental issue of state and local governance in Massachusetts.

To receive a free copy of Dispelling the Home Rule Myth: Local Power in Greater Boston or to RSVP to the forum, please contact Polly O'Brien at 617-495-5091 or polly@rappaportinstitute.org.

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Employment Ads: Employment and jobs wanted ads are \$25.00 per listing, which includes the newsletter and posting on the MAPA website. Send copy to the newsletter editor (email preferred) with a name and billing address.

Consultant Directory: Rates are \$35.00 per business card listing (one month) or \$350.00 for an annual listing (ten issues). Send business card or camera ready copy (2.33" x 1.4") to the editor.

Membership Information: APA National Headquarters, 122 S. Michigan Ave., Suite 1600, Chicago, IL 60603-6107; (312) 431-9100.

Questions: Please try to call the appropriate chapter officer (see panel on left for contact info).

Back Issues: For copies of back issues, contact Peter Lowitt, President, at 978-772-8831 x313

Internet: National, www.planning.org; MAPA, ww.massapa.org; RIAPA, www.riapa.org.

Submissions: We welcome articles, letters to the editor, photos, calendar items, project profiles, etc. Please do not hesitate to send anything you think of interest, or query editor to discuss an idea. We may need to edit due to space limitations. If possible, please send electronic version in .txt format via email or disk.

Calendar Listings: Please send listings in calendar format (see inside this issue).

Send Items to: Jennifer Goldson, APA Newsletter Co-Editor, 87 Newburg Street #2, Roslindale, MA 02131, phone: 617-796-1131; Email: jennifer.goldson@verizon.net

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