



VOL. 8, NO. 4

THE GRANITE STATE PLANNER

FALL 2011

www.nhplanners.org

PRESIDENT'S MESSAGE

The long sunny days of summer have passed and the short, crisp days of Fall are here. Grab a hot cup of joe or cocoa and dig into the newsletter to catch up on the who and where of your fellow NH Planners in the Grapevine, opportunities for collaboration through NHPA's new Mentorship program and a review of one of the most recent supreme court decisions.

The Annual Meeting Organizing Group or more affectionately known as AMOG, has put together a great afternoon at Fratello's in Manchester on October 28th. The meeting begins with a hearty lunch at 1:00 pm. The 1:00 pm start time will allow NHPA members to utilize free parking adjacent to Fratello's on Friday afternoons. There will be delicious food, a chance to catch up with colleagues, and hear about all the hard work the Executive Committee and subcommittees have been putting in behind the scenes. The meeting will be followed by a timely Professional Development seminar for 2 ACIP CM credits, including 1.5 Law credits. Look for the email with the Annual Meeting Registration form and the 2012 ballot. There are three open positions on the Executive Committee this year so please vote on our online ballot.

Hope to see you all at the Annual Meeting!
Sarah Marchant, President

EXECUTIVE COMMITTEE

SARAH MARCHANT
President

JENNIFER CZYSZ
Vice-President

SHANNA SAUNDERS
Secretary

BENJAMIN FROST
Treasurer

TIMOTHY J. CORWIN
Legislative Liaison

DAVID BROOKS
NNECAPA Legislative Liaison

JILLIAN HARRIS
Public Information Officer

CAMILLE PATTISON
Professional Development

PIERCE RIGROD
Newsletter Editor

MIKAELA ENGERT
Sustainability Coordinator

JULIE LABRANCHE
NNECAPA Ex-Officio

NH Planners Association c/o Local Government Center
PO Box 617 • Concord, NH • 03302-0617

ARSENIC CONSORTIUM FOCUSES ON PUBLIC HEALTH AND DRINKING WATER

Arsenic in private well water is a public health issue of significant concern in New Hampshire. An estimated 20 percent of private wells in New Hampshire have naturally occurring concentrations of arsenic that are greater than the 10 ppb limit set by the U.S. Environmental Protection Agency for public water systems.

Arsenic in drinking water and food—particularly rice—is a key focus of the Dartmouth Toxic Metals Superfund Research program. This past February, the program hosted a meeting of the Northeast Regional Arsenic Consortium, which was formed in 2001 and currently includes representatives of DES, N.H. Department of Health and Human Services, N.H. Geological Survey, Dartmouth College, U.S. Geological Survey and the National Ground Water Association.

Presentations at the meeting covered the effects of low doses of arsenic on the immune system, arsenic exposure in pregnant women, arsenic doses from dietary sources such as rice, and overviews of state programs that address arsenic in drinking water. The consortium's efforts focus on sharing research and coordinating public outreach and education efforts with a view to getting private well users to test their water and treat it where appropriate to limit arsenic exposure.

For more information, a link to a short movie about the health effects of low doses of arsenic and to view slide presentations, visit www.dartmouth.edu/~toxmetal/program-resources/research-translation/arsenicconsortium.html.

WHO KNEW? NEW HAMPSHIRE HAS A WATER SUSTAINABILITY COMMISSION

Mikaela L. Engert, Sustainability Coordinator

On Earth Day of this year, Governor Lynch established the Water Sustainability Commission, which consists of 15 members representing local, regional and state government, public entities, conservation organizations, agriculture, the ski industry as well as other business and industry backgrounds. Its primary charge is to identify ways to ensure that New Hampshire's water quality and overall quantity of life remain as good as they are today, if not improved upon for the enjoyment and use of future generations.

Among the issues to be pondered by the Commission are the evaluation of the existing water supply and the state's future water needs, as well as wastewater disposal and storm water management. This work will lead to recommendations for infrastructure, investment and other measures necessary to ensure a clean water supply.

Recognizing that water resources in the state are a large part of the state's economy (think fishing and all those city folks that come up to the state's lakes and rivers in the summer for some "rustic" fun) and the overall quality of life for New Hampshire residents, focusing on the quality, availability, and sustainable use of surface water and groundwater makes sense. But one has to ask why water was chosen to be viewed through the lens of sustainability – why not create a commission that focuses on sustainability of the state across multiple sectors, for example, building off of the work done on the State's Climate Action Plan? Perhaps it is a matter of focusing effort and resources. Perhaps it is the issue that can achieve multiple goals at once. After all, New Hampshire is expected to experience (and indeed, already is) changes in precipitation types, volumes, and frequency of rain/snow/ice events which does impact energy supply, agriculture, quality of life, development patterns, public health and much more, including what we do as professional planners within our communities. Regardless of the answer, it's a step in the right direction.

We should pay attention to what this commission is doing and what they are discussing at their meetings – they are asking really good questions. It will be interesting to see what kind of public participation program they will create to engage citizens and other stakeholders. As planners, we should also stay abreast of the document they are due to give the Governor next summer to help shape it and ensure the recommendations resulting from this work are implemented.

Opportunity for public input will be provided, including at least one public session in each of the Executive Council Districts, coming up in October, November and January. For more information, stay tuned to the NHPA website, this newsletter and the state's website at <http://www.nh.gov/water-sustainability/index.htm>

Increasing Focus on Fiscal Sustainability

Part of creating sustainable communities requires more than just addressing environmental and social concerns – it also means addressing financial and economic ones as well. Many local governments are asking serious questions in regards to the services they provide, how their budgets are created and how to better assess performance in order to ensure efficiency and accountability to citizens.

Recognizing the shift in thinking at the local government level, the Governmental Accounting Standards Board (GASB) is undertaking a project on economic condition reporting as applied through the lens of sustainability.

On October 20th, Lisa Parker, Project Director at the Government Accounting Standards Board (GASB) will be at UNH to present information on the soon-to-be released report, Economic Conditions Reporting: Financial Projections. Considering the current economic downturn, which has created a growing national concern with fiscal sustainability issues at the federal, state, and local levels of government, this is an especially appropriate time to consider the issue of fiscal sustainability and the indicators that speak specifically to it. Not to mention, many local governments that have incorporated sustainability into their planning, processes, and operations are looking for ways to measure progress with appropriate sustainability indicators.

What is GASB?

The Governmental Accounting Standards Board (GASB) is an independent, private sector, not-for-profit organization that establishes and improves standards of financial accounting and reporting for U.S. state and local governments. Governments and the accounting industry recognize GASB as the official source of generally accepted accounting principles (GAAP) for state and local governments.

What is fiscal sustainability? A number of formal or working definitions of fiscal sustainability and related terms have been developed by standards setters, national governments,

(continued on next page)

and other organizations including the Federal Accounting Standards Advisory Board (FASAB), the International Public Sector Accounting Standards Board (IPSASB), the Australian commonwealth government, the United Kingdom's national government, and the Canadian Institute of Chartered Accountants.

The common themes running through these definitions include the ability: to continue public services and/or existing programs; to meet financial commitments both now and in the future; to maintain the stability and predictability of future tax burdens, which supports informed long-term decision making; to rely on a government's future revenue sources; and to maintain "reasonable" levels of debt.

What are the objectives of the GASB project?

The project has three primary objectives.

1. Identify the information that users of governmental financial reports need to assess a governmental entity's fiscal sustainability;
2. Compare those needs with the information that users receive under current accounting and financial reporting standards and from other sources; and
3. Consider reporting alternatives for additional information needed by users.

The project also will consider how to communicate any additional information that users need to assess a government's fiscal sustainability, such as in financial statements, notes, required supplementary information, the statistical section, or other forms of supporting information. It's important to note that this project is not about predicting the future; it is about equipping users with the information they need to assess a government's ongoing financial viability, some would use the word "resiliency". This project focuses more generally on information that users need to assess economic condition, including fiscal sustainability.

Where can I get more information?

More information can be found on the Economic Condition Reporting: Fiscal Sustainability project in the Project Pages section of the GASB website at www.gasb.org/project_pages.

More information about the October 20th event will be available through NHPA in the coming weeks.

LEBANON, NH HIRES NEW PLANNING & ZONING DIRECTOR



The City of Lebanon, New Hampshire has recently hired Andrew Gast-Bray as the Director of Planning & Zoning, effective September 26, 2011. Dr. Gast-Bray is a graduate of the University of Michigan with both a BS in Engineering and a BA in Linguistics. He earned a Ph.D. in Engineering from the

Ecole Centrale de Lille in France, and subsequently, a post-doctoral Master's in Community Planning degree from the University of Cincinnati.

Dr. Gast-Bray brings to the City more than 20 years of Planning, Engineering, and Management Experience, ten of which have been spent specializing in sustainable development. He has worked in the private sector, serving as General Manager of Fontaine Engineering in Bridgeport, WV, and as Director of Sustainable West Virginia, a nonprofit organization that provides workshops and networking services on sustainable development projects. His work in the public sector includes serving as Director of Planning and Development for the Town of Winchendon, MA where he oversaw the rewrite of the Master Plan and Zoning Ordinance that included innovative land use planning for conservation districts and gateway overlays, accompanied by form-based and performance-based guidelines. During his tenure, he launched a local redevelopment authority, and organized the adaptive reuse of an historic mill complex into a water-powered economic center.

He is a member of the American Planning Association and the Congress for the New Urbanism, holds both AICP (American Institute of Certified Planners) and CNU-A accreditations. He is also on the LEED-ND corresponding committee - the U.S. Green Building Council's effort to promote green communities, has numerous publications, and is responsible for several patents and new technologies. His many years of experience will contribute greatly to meeting the goals of the City as we move forward to make Lebanon a vibrant, balanced, and sustainable community.

OF PLANS AND PLANNERS

The City of Lebanon has hired Andrew Gast-Bray as their new Planning and Zoning Director (see article within on Mr. Gast-Bray). Tim Thompson has left Londonderry his position as Town Planner to become the Community Development Director in Merrimack and Cynthia May (formerly a planner in Bedford) is assuming Tim's position in Londonderry.

Andrew Smith, planner from Keene has taken a position closer to home in Holyoke, Massachusetts as a conservation planner for Holyoke's Conservation Commission. Tim Garceau has also left the City of Keene in August and is pursuing a PhD at the University of Connecticut in Geography and Mikaela Engert will be leaving at the end of October to pursue international sustainability work in Europe.

Jen Czysz has joined the Nashua Regional Planning Commission as a Senior Regional Planner, and will be focusing on Planning Policy and Technical Analysis. Jen will help fill some of the gaps left from Steve Schaffer's departure. She will focus on both land use and transportation planning policy, fulfill technical assistance requests for mapping, data analysis and research and will work on other planning and policy plans and reports. Dari Sassan is now a Regional Planner at the Lakes Regional Planning Commission.

Ben Frost has been appointed to the APA's Legislative and Policy Committee

CITY OF SOMERSWORTH TO DEVELOP & ADOPT LOW IMPACT DEVELOPMENT (LID) & IMPROVED STORMWATER MANAGEMENT PRACTICES

Thanks to funding support from the New Hampshire Department of Environmental Services Drinking Water Source Protection Program, the City of Somersworth is beginning a project with the Piscataqua Region Estuaries Partnership to adopt updated Low Impact Development (LID) and stormwater management standards as part of the municipality's site plan review and subdivision regulations. The Somersworth Planning Board and City Planner will work with the consulting firm Appledore Engineering Inc. on the development of the improved policies. This project will help to implement the City's natural resource protection goals, while better protecting water quality as new development or re-development occurs in this portion of the Salmon Falls Watershed. (reprinted from UNH/PREP website, <http://www.prep.unh.edu/sfwc.htm>)

NEW NHPA MENTORSHIP PROGRAM!

Are you a new planner in New Hampshire or an experienced planner embarking on a new project and could use a little advice along the way from someone that's already been there? The NHPA Executive Committee is pleased to announce a new mentorship program intended to meet the professional development needs of NHPA members during all stages of their careers. The mentorship program is available to all members, regardless of where they are in their careers, who are looking for guidance or are willing to serve as mentors. The goals of the program are to provide a professional, one-on-one forum for continued learning and to connect members with different experiences and project specific backgrounds.

The program is intended to be flexible and allow mentors and mentees to determine the means and frequency of

communication that works best. Possibilities include shadowing the mentor at work, observing meetings, a series of in-person coaching sessions, meeting for coffee, or simple email/telephone communications. Mentors may provide career advice, review resumes and cover letters, share professional anecdotes, provide general professional guidance, or serve as a sounding board for a specific project or initiative.

Members interested in participating in the mentorship program – as a mentor or mentee – should visit the NHPA website to download and complete the mentorship program form. Forms and questions can be emailed to NHPAmentor@gmail.com.

CASE REVIEW – HARBORSIDE ASSOCIATES, L.P. V. PARADE RESIDENCE HOTEL

by Tim Corwin

On September 22, 2011, the Supreme Court issued its opinion in *Harborside Associates, L.P. v Parade Residence Hotel, LLC*, ___ N.H. ___ (No. 2010-782) wherein the Court, for nearly the first time, examines a variance case applying the new hardship standard codified under SB 147. The Court also provides a useful discussion of the “spirit of the ordinance”, “public interest”, and “substantial justice” criteria.

In *Harborside, Parade Residence Hotel* (“**Parade**”) obtained variances from the Portsmouth Zoning Board of Adjustment to install two parapet and two marquee signs on its hotel and conference center. Neither type of sign is permitted in the zoning district in which Parade’s hotel is located. On appeal, the trial court upheld the ZBA’s grant of a variance for the marquee signs. The trial court, however, reversed the parapet sign variances on the basis that “[t]he only apparent benefit to the public” from having the parapet signs installed “would be an ability to identify [Parade’s] property from far away.” This purpose, the trial court stated, “does not outweigh the clear provision of the ordinance.” Both parties appealed to the Supreme Court seeking a partial reversal of the trial court’s decision.

In analyzing the trial court’s reversal of the parapet sign variances, the Court interpreted the trial court’s ruling that “[t]he only apparent benefit to the public would be an ability to identify [Parade’s] property from far away; however that purpose does not outweigh the clear provision of the ordinance . . .” to mean that the trial court had found that the parapet variances do not meet the “spirit of the ordinance”, “public interest”, and “substantial justice” criteria.

The Court noted that for a variance to be contrary to the public interest and inconsistent with the spirit of the ordinance, its grant must violate the ordinance’s “basic zoning objectives,” and that there are two methods for ascertaining whether granting a variance would do this. One way is to examine whether granting the variance would “alter the essential character of the neighborhood,” and the other “is to examine whether granting the variance would threaten the public health, safety or welfare.” The trial court, however, erred by employing the wrong test: eschewing the “essential character of the neighborhood” and “threat to public safety” analysis, the trial court instead examined whether allowing the signs would **serve** the public interest and weighed that against the “clear provision of the zoning ordinance.”

The Court also noted that weighing the “benefit to the public” of granting the variance against the “clear provision of the zoning ordinance” is equally inappropriate when evaluating whether the variance meets the “substantial justice” criteria. Citing *Malachy Glen Assocs. v. Town of Chichester*, 155 N.H. 102 (2007), the Court ruled that the trial court erred in not analyzing the “substantial justice” criteria on the basis of “whether the general public stood to gain from a denial of the variance.”

Turning its attention to the marquee sign variances, the Supreme Court considered Harborside’s argument that both the ZBA and trial court erred by relying upon the size of Parade’s building to determine whether Parade’s property has “special conditions.” Relying upon the concurrence to *Bacon v. Town of Enfield*, 150 N.H. 468 (2004), which stated that a homeowner could meet the “special conditions” part of the unnecessary hardship test only by showing that her property was unique in its setting, not by showing that the shed for which she sought a variance to build would be unique in its setting, Harborside argued that the size of the building is not a relevant factor for unnecessary hardship.

The Court disagreed holding that the ZBA and trial court did not err by focusing upon whether the size of the building upon which the sign is proposed to be installed constitutes “special conditions.” The Court distinguished Parade’s variance request from that at issue in *Bacon* in that Parade was not attempting to meet the “special conditions” test by showing that its signs would be unique in their settings, but that its property – the hotel and conference center – has unique characteristics that make the signs themselves a reasonable use of the property. (Curiously, it does not appear that Harborside argued or that the Court considered whether the building at issue, which was only recently constructed, constituted a self-created hardship.)

The Court also rejected Harborside’s contention that the ZBA erred by finding unnecessary hardship because Parade failed to prove that “the larger marquee signs are necessary in order to operate its hotel.” To establish unnecessary hardship under the first definition set forth in RSA 674:33, I(b)(5), Parade merely had to show that its proposed signs were a “reasonable use” of the property, given its special conditions. See RSA 674:33, I(b)(5)(A). The Court ruled that Parade did not have to demonstrate that its proposed signs were “necessary” to its hotel operation.

THE DIGITAL COAST AIDS ADAPTATION AND RESILIENCE PLANNING

Within the past decade, New Hampshire's planners have had to confront a changing flood-hazards reality. A sharp uptick in nor'easters and other flood-related events has strained the capacity of New Hampshire's drainage infrastructure—and has caught the attention of planners statewide.

“In the last few years we have heard much more concern and recognition from our coastal communities about how coastal inundation and sea level rise will affect them in the near future. This has translated into more requests for assistance for infrastructure planning and emergency response planning,” says Cliff Sinnott, executive director of the Rockingham Planning Commission (RPC). Sinnott and two other RPC staffers are members of the New Hampshire Coastal Adaptation Workgroup, a cross-agency initiative.

“Officials are starting to address this changed reality,” says Sinnott. “That’s why many of us in the Coastal Adaptation Workgroup will be using the Digital Coast more often, to help assess hazard vulnerabilities and minimize future exposure.”

The Digital Coast is an online suite of data, tools, and trainings for coastal planners and other officials who want to conserve and protect coastal communities and natural resources. Many Digital Coast online trainings and webinars have been approved for certification maintenance credits for planners.

The American Planning Association is a partner in the Digital Coast effort, which is led by the National Oceanic and Atmospheric Administration's Coastal Services Center. The resources described below, and many others, can be found at www.csc.noaa.gov/planning/.

CanVis Software and Training – Enable users to create realistic simulations of coastal changes, simply by using local digital images and choosing from a library of more than 700 objects that include docks, vegetation, and offshore wind turbines.

Coastal County Snapshots – Turns complex data into easy-to-understand local facts on management-related issues such as coastal hazards or the number of jobs that depend on the oceans.

Coastal Inundation Toolkit – Enables planners or their technical personnel to understand the causes of inundation, visualize inundation, identify potential vulnerabilities, and communicate effectively to initiate change.

Digital Coast Webinars – Introduce coastal professionals to Digital Coast tools and data through demonstrations, case studies, and opportunities to engage with experts and colleagues.

Economics: National Ocean Watch (ENOW) Data – Describe six economic sectors that depend on the oceans and Great Lakes and include annual time-series data for 448 coastal counties and 30 coastal states.

Roadmap for Adapting to Coastal Risk Virtual Training – Helps participants characterize their exposure to hazard and climate threats and consider how plans and policies already on the books can address vulnerabilities and jump-start adaptation strategies.

Wetland Benefits Snapshot

Rockingham County, New Hampshire

Ocean Protecting Wetlands =
Coastal Communities That Are Safer, Cleaner, and More Economically Productive

13%

(58,952 acres)
of Rockingham County is wetland

These and other local facts can be found at Coastal County Snapshots on Digital Coast.

Coastal County Snapshots supplies local information on wetlands, hazard vulnerabilities, and other concerns.