



VOL. 8, NO. 3

# THE GRANITE STATE PLANNER

SUMMER 2011

[www.nhplanners.org](http://www.nhplanners.org)

## PRESIDENT'S MESSAGE

It's already summer and now it seems 2011 is flying by. The NHPA Annual Conference 'Planning for Public Health' was a great success in downtown Keene on June 9<sup>th</sup> and 10<sup>th</sup>. I would like to send a well deserved "thank you" to the conference co-chairs Brian Rose and Ben Frost and the COG (conference organizing team) for their efforts at pulling together a conference on refreshingly different and vital topic for New Hampshire Planners. It was a dynamic review of the link between planning and the *health, safety and welfare* of our communities.

The Executive Committee (EC) is now switching gears to prepare for the Fall Annual Meeting and Elections. If you know someone who might like to get involved in the Executive Committee please let us know. If you haven't checked out the Association's website ([www.nhplanners.org](http://www.nhplanners.org)) recently I encourage you to give it a try. It's a great resource for finding out about upcoming events, training opportunities, EC contacts and work other planners are doing around the state.

As the rest of this issue is packed full of great information from the Legislative Round-Up, to the new *Citizen Planner* online training, and the winners of our 2011 NHPA Annual Awards, I will keep this short and simply ask you to sit back, relax for a minute and read on!

## EXECUTIVE COMMITTEE

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## OF PLANS AND PLANNERS

In June Nate Miller of the Upper Valley RPC was appointed to RPO America's National RPO Council of Peers. RPO America is a program affiliate of NADO National Association of Development Organizations (NADO) that serves as the only national professional association for rural transportation planners, practitioners and stakeholders. The association provides a national forum for peer information exchanges, training, research and other professional development activities related to strengthening transportation planning and development in small metropolitan and rural regions across the nation. The National RPO Council of Peers serves as the leadership group for RPO America.

## CITY OF SOMERSWORTH TO DEVELOP AND ADOPT LOW IMPACT DEVELOPMENT AND 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 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.

## LEBANON CITY PLANNER RETIRES

Lebanon City Planner Ken Niemczyk retired in May after 22 years with the City. Mr. Niemczyk took the position in May 1989 at a time of significant change. Niemczyk's first task was to reestablish and build-up the Planning Office after the City Planner position had been vacant for nearly a year prior to his arrival. During his tenure, Niemczyk saw the Planning Office grow to four planners and supported the development of a strong Geographic Information System as a resource for City officials and the public.

Throughout his career, Niemczyk advocated tirelessly for direct citizen involvement in the planning process, while increasing awareness about the significance of master planning as the foundation of a community's land use management program. Niemczyk directed the award-winning citizen participatory efforts during development of the 1993 Master Plan for the City of Lebanon. Those efforts to increase participation in the process were based on prior success in overseeing the writing of the Plan for the Village and Town of Woodstock, VT. Mr. Niemczyk also helped establish and formalize the City's development review process and methodology involving all City departments in the process.

Over the course of his 22 years, the City has experienced substantial growth, particularly in commercial and industrial development. Examples include the relocation of Dartmouth Hitchcock Medical Center to Lebanon from Hanover (and its subsequent expansion), the build-out of most of the Centerra and Airport Business Parks, and significant growth within the Route 12A retail corridor.

Niemczyk was a member of the Rail Freight Transportation Coalition and a founding member of the Workforce Housing

Task Force of the Upper Valley. Niemczyk also served as a member of the Upper Valley Transportation Management Association, the Creative Economy of the Upper Valley Steering Committee, and the organizing committee for the Density Forum at the University of Southern Maine. Most recently, he worked with the Upper Valley Housing Coalition to plan and execute a seminar about cottage architecture and development.

Mr. Niemczyk holds a Bachelors Degree in Urban Studies and Community Development from Rutgers University and a Master of Urban Planning Degree from the University of Oregon. He also holds Masters Degrees in Environmental Design Studies from the University of Oregon, Interdisciplinary Natural Sciences from San Francisco State University, and Studies in Law from the Vermont Law School.

Mr. Niemczyk has lectured on planning-related issues at the University of Vermont, Vermont Law School, San Francisco State University, Stanford University, Middlebury College, and most recently, Keene State College. He has also authored several published articles and is currently writing a book about the relationship of urban planning and design to the natural sciences.

Prior to working in Lebanon, Mr. Niemczyk was the Town and Village Planner for Woodstock, VT and also worked for the City of San Bruno, CA and for William Spangle & Associates, a private consulting firm in Portola Valley, CA.



## NHPA CONFERENCE CELEBRATES PUBLIC HEALTH

*Ben Frost, Conference Co-Chair*

This year Keene was the host city for NHPA's annual conference on June 9 and 10. Over 100 conference participants met at the new Courtyard Marriott in downtown Keene's Railroad Square. For the first time ever, New Hampshire planners met with public health officials in this conference that was built on the theme of "Planning for Public Health." In an effort to put planners' "money where our mouth is," an abundance of local and regional foods kept attendees fueled for two full days of sessions and activities.

On Thursday morning, Keene Mayor Dale Prgent welcomed attendees and recounted the important measures to improve livability that the city has undertaken over the past two decades. Our engaging keynote speaker Mary Collins followed, telling her tale of recovery from serious biking accident that led her to write *American Idle: A Journey through Our Sedentary Culture*. She argued that we have evolved over time as a highly mobile species that needs to move on a daily basis, and that our culture and lifestyles run contrary to that imperative. For our wellbeing, she concluded that we have to introduce movement into our lives not just as something we do at the gym, but as an integral part of our daily routines.

The next plenary session was conducted by Dr. David Hopkins, Chief Medical Officer of the Centers for Disease Control and Prevention's *Community Guide*. He presented startling data on the rapid increase nationwide in levels of obesity and related diseases, such as diabetes. This information has compelled the CDC to recommend policy alternatives that relate to how people move from place to place, seeking to reduce reliance on vehicles and increase walking and use of bicycles as a means of inducing positive public health outcomes.



Speakers Mary Collins and David Hopkins.



David Boynton and Steve Whitman explain *The Natural Step for Communities*.

Lunch on Thursday showcased NHPA's annual award winners (see related article) and in the afternoon, conference participants separated into concurrent sessions that were organized on the themes of *Moving*, *Feeding*, and *Living*, which also carried over into Friday morning. The *Moving* track included sessions on Safe Routes to Schools, Commute Green New Hampshire, the Antioch Commuter Transportation Initiative, and Home, Car, and Commute – Award-Winning Projects from the Monadnock Region. The *Feeding* track featured sessions on New England's food system, methods of fostering local agriculture, food security and local decision making, and improving municipal opportunities for healthy food choices. The *Living* track included sessions on public health impacts of climate change, "the Natural Step for Communities," the Greater Monadnock Public Health Network, guiding community change, and health impact assessments. We closed out Friday with a great reception at Margaritas.

Friday's entertaining luncheon keynote speaker was Ben Hewitt, author of *The Town that Food Saved*, in which he tells the story of Hardwick, Vermont and how the "agripreneurial" movement there is introducing economic and social vitality to a traditionally hard-bitten rural town. The conference closed on Friday afternoon with a series of workshops that included weather-blessed walking tours of downtown Keene and Harrisville, a technical workshop on conducting health impact assessments, and a screening of "The Next American Dream" and a facilitated discussion.

Many thanks to our sponsors and exhibitors, without whose support the conference could not have taken place. Thanks also to the hard work of the dedicated "Conference Organizing Group."





# BURLINGTON VERMONT NNECAPA FALL CONFERENCE

september 8-10 / main street landing

## THE BEST OF TODAY FOR TOMORROW

### Lodging

Hotel and overnight accommodation info is available at <http://nne capa.org>  
Discounted room rates for conference participants are available at the following :

Courtyard Marriott Harbor - \$169/ night including complementary internet.  
<http://cwp.marriott.com/btvdt/nne capa/>

Hilton - \$159/ a night. Call the hotel directly at 802-658-6500.

### Transportation

The most convenient available parking will be at the Lakeview Parking Garage for \$8/day. Number 4 [www.ci.burlington.vt.us/parking/](http://www.ci.burlington.vt.us/parking/)

A list of attendees will be distributed one week prior to the conference date in order to encourage car pooling. Please walk, bike or use public transit if possible!

### Accessibility

NNECAPA functions are in compliance with the Americans with Disabilities Act. If you require special services, please indicate so when registering.



AICP members can earn Certification Maintenance credits for activities during the Best of Today for Tomorrow Fall Conference.

Register online at [www.nne capa.org](http://www.nne capa.org)

### Registration Options

<i>September 8-9, 2011</i>	
Regular	\$175
Retiree/Unemployed	\$100
Student	\$50

<i>Thursday only</i>	
Regular	\$110
Retiree/Unemployed	\$60
Student	\$30

<i>Friday only</i>	
Regular	\$90
Retiree/Unemployed	\$50
Student	\$25

*Saturday*  
Burlington Waterfront Design Charrette [free]

*The price of any registration made after August 26, 2011 will be an additional \$25.*



### Conference Overview

The traditional landscape of northern New England is extolled, admired and imitated throughout the world. But we all know the challenges and tough choices these idyllic images present to our communities: Economic forces can vie with the desire to preserve an image that is not always easily or clearly sustainable. How do we balance these challenges and preserve our uniqueness?

The 2011 NNECAPA conference will examine these issues with indoor and outdoor work sessions, a key note address by Lyman Orton and a panel discussion with several "ism" experts from around New England. Attendees will be able to choose from three conference tracks: 1) Mobility, 2) Land Development and 3) Dreams & Accomplishments as well as several skill building sessions.



American Planning Association  
Northern New England Chapter

# 2011

## THE NEW HAMPSHIRE PLANNERS ASSOCIATION ANNUAL AWARDS

The New Hampshire Planners Association Executive Committee solicited applications this spring for its annual awards for *Professional and Citizen Planners, Plan, and Project of the Year*. The competition was fierce, with many excellent nominations resulting in a statistical tie for Planner of the Year and some very difficult choices for the Executive Committee. Congratulations to all the winners and the nominees, it is an honor to be able to recognize some of the phenomenal people and projects occurring across the state. The NHPA winners were announced at the Annual Conference on June 9<sup>th</sup> in Keene.

### *Citizen Planner of the Year*

**Paul Goldberg**  
**Bedford, NH**

Paul Goldberg was nominated by a number of his peers who have worked alongside Paul during different parts of his 38 years of service to the town of Bedford. He first started his service to Bedford in 1973 joining the fledgling Planning Board and soon after became founding member of the Sewer & Water Commission. "Paul is known in Bedford as the father of the municipal sewer system and it was his vision for the system that allowed Bedford to have such vital commercial growth over the last 30+ years."

Paul's background in engineering provided him with the understanding that if Bedford was to grow, especially its commercial tax base, the only way to do so in an environmentally safe manner was to develop a state of the art municipal sewer system. Over the next 35 years Paul provided countless hours to the development of Bedford's sewer system by attending meetings, writing letters and pounding the pavement to ensure his vision materialized.

Paul's vision for Bedford was more than just the sewer system, his comprehensive insight into how Bedford could and should grow also led him to spearhead an array of projects to further that vision including: insisting on including an Economic Development Chapter within the 1990 Master Plan, spearheading the first Performance Zoning District as an innovative land use technique, fighting for the inclusion of roadway improvements to Route 101 in the 10-year plan, and leading the charge to adopt workforce housing zoning changes. Paul has served on the Planning Board, town Council, Water & Sewer Commission, SNRPC and the ZBA in his long tenure of service. The Executive Committee is proud to be able to honor Paul as an individual who has advanced and promoted the cause of planning in the public arena for 38 years.

### *Professional Planner of the Year*

**Tim Thompson, Town Planner**  
**Town of Londonderry**

Tim Thompson, has worked for the town of Londonderry for over 10 years starting as an intern and moving up to the position of Town Planner. During his tenure with the town he has refined his reputation as the "consummate professional" providing fair and equal support to projects of all sizes, developing a detailed and consistent review process that has earned him the professional respect from local boards, developers and his peers in the planning community.

Tim's made his first contributions to Londonderry as an intern where he wrote the state's first cell tower ordinance and subsequently won an APA Award of Merit. Once hired by the town, Tim hit the ground running authoring the 2002 Growth Management Ordinance, 2004 Master Plan, a very contentious Wetlands Setback Ordinance, The Northwest Small Area Master Plan of 2009 (in conjunction with SNHPC) for the Route 28 and I-93 Exit 5 area utilizing transit oriented development, the Workforce Housing Ordinance, the 2009 Gateway Business District Ordinance and the 2010 Planned Unit Development Ordinance, that will govern the largest and most diverse development in Londonderry over the next 20+ years.

Tim has dedicated much of his time to refining and developing clear and consistent processes for implementing everything from the town's CIP to personally walking applications large and small through the Planning Board process, while streamlining submission requirements and holding nearly paperless planning board meetings.

All of these positive changes have benefited from Tim's patience and commitment to his work to with the Planning Board, developers and the public and to realizing Londonderry's vision through innovative planning practices. The Executive Committee is proud to be able to honor Tim as the 2011 Professional Planner of the Year for his sustained contribution to the field of planning through distinguished practice, teaching, and writing.

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**ANNUAL AWARDS** *(continued from page 5)****Professional Planner of the Year***  
***Christopher Parker, Director of Planning & Community Development City of Dover***

Chris Parker has worked for the City of Dover since 1997 and currently serves as the Director of Planning & Community Development, where he recently spearheaded efforts to make Dover the first city in the region to introduce a Form Based Code in response to the communities desire to protect the historic mill city's downtown.

Here is an excerpt from a letter sent to NHPA nominating Chris for this award:

“When Dover speaks, Chris listens’. On a day-to-day basis Chris creates opportunity for community dialogue, encourages public involvement and planning education through a broad range of ground-breaking initiatives such as: An interactive website offering a Google map pinpointing all of the projects under review by local boards, a weekly blog on planning topics of interest to the community, a twitter feed to keep the public informed of all city meetings, community services, public works announcement and emergency-related communications, hosts early morning Coffee with the Planning Director to allow citizens not available during business hours the opportunity to get information and share comments directly with the planning department, and weekly Dover Downloads videos on the public access channel.”

In line with Chris's commitment to education he has created the Handbook for Developers and spearheaded efforts to organize planning-related film screenings for the public. Chris has also taken the lead on numerous city wide efforts from the CIP to the award winning McConnell Center, home to numerous human service agencies and the Cities school, welfare and recreation offices.

Chris exemplifies the role of a distinguished Professional Planner through his broad outreach efforts to engage the community in all aspects of planning and the planning process, his ability to use state-of-the-art technology and methods to educate and inform the public, his continued drive to evaluate and improve regulations and his continual interaction with planners statewide to work together to hone best practices.

***Project of the Year***  
***LRPC's Winnepesaukee Gateway***

The “Gateway” is a new flexible, informative tool that can deliver watershed maps, plans and other current resource

information to key audiences to promote awareness and stewardship of the natural resources in the Lake Winnepesaukee watershed. This project is unique as the first web-based watershed management plan to be approved by the Department of Environmental Services. The Gateway provides a flexible platform to develop future plans and track implementation efforts.

The Winnepesaukee Gateway represents the combined efforts of many partners to forge a unique, subwatershed approach to create an effective, sustainable, and phased planning and implementation process using state-of-the-art information systems.

The long-term vision is to complete the development of a web-based watershed management plan for the entire Lake Winnepesaukee watershed that will be continuously evolving (and improving), with the ability to provide community officials, residents, schools, and visitors with current and relevant information on the natural resources, water quality data, issues of concern, activities and opportunities for action in the watershed. The larger watershed management or master plan will be a compilation of the individual sub-watershed management plans.

***Plan of the Year***  
***2010 Master Plan***  
***Bedford, NH***

The Bedford 2010 Master Plan was developed through a very successful public outreach program that included a telephone survey conducted by the UNH Survey Center, a Community Immersion Day where community leaders, business owners, citizens and stakeholders were interviewed, an all day Saturday charrette and visioning workshop, and several public presentations and public hearings. Through this outreach, the plan quickly became supported by the entire Planning Board and town council.

Unique to the completion of the plan is the effort to integrate multiple resources and plans into the process. The steering committee worked closely to integrate the work of the town's energy commission and economic development commission to ensure that there would be one unified set of goals for the town over the coming years.

The 11 vision statements developed by the committee set the stage for a comprehensive master plan lays out a vision for a prospering community that remains a great place to live, own a business and raise a family over the coming decade. That vision includes integrating state of the art planning principals such as

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**ANNUAL AWARDS** (continued from page 6)

mixed use development, transit oriented development, smart growth, economic development and energy conservation.

***Lifetime Achievement Award******Ken Niemczyk***

Ken Niemczyk was presented with a Lifetime Achievement Award after more than 30 years in the Planning profession, the last 22 of which were in Lebanon, New Hampshire. Ken guided the city through two master plan updates, including an award winning effort in 1993, formalized a number of policies and procedures from capital improvement planning to development review, and re-established the Planning Office as an important part of city's administration in spite of being the sole planner for the majority of his tenure.

Ken was a strong advocate of direct citizen involvement in the planning process throughout his career and proponent of workforce housing in Lebanon, the Upper Valley and the state. Ken was eager to share his knowledge, regularly opening the Planning Office to interns and teaching numerous college-level courses on planning-related topics.

For more on Ken's illustrious career please see the related article.

***Lifetime Achievement Award******Walter Warren***

The last award for 2011 is a Lifetime Achievement Award to recognize the exemplary contributions Walter Warren made to the NH Planning Community before he passed away earlier this year. Walter's commitment to Planning and Economic Development stretches over a 30+ year career, working on all sides of the Professional Planner's gamut from a planner for a private developer, to the Greater Nashua NH Center for Economic Development, to the town of Windham and most recently as Community Development Director for the town of Merrimack.

He was a charter member of the Northern New England Chapter of American Planning Association, a long time member and President of NHPA, he volunteered for the Nashua Regional Planning Commission and was involved for over 20 years as a volunteer for the city of Nashua and the school district.

The following is a "Letter from the President" article Walter Warren wrote when he became president of NHPA in 1992, a time in many ways quite like today. His foresight, dedication to promoting the role of planning in New Hampshire and ability to laugh are clearly evident. His message written almost twenty years ago, still echo's true today.

*"It is truly an honor to be writing this message to the Association, whose members and mission I respect very much. I'd like to begin by welcoming the new Executive Committee, and thanking them in advance for their efforts on behalf of the Association. For those of you who are not familiar with the new members, please be sure to check the masthead at right. It is encouraging that more of our members have chosen to get involved. It's also encouraging that we have a good geographic representation of our membership on the Committee than we have had in the past.*

*I believe that this is a critical time for our organization. At last, we have a lull in the action that has, in the past, reduced our membership to 'plan checkers' and 'enforcers'. We now have the opportunity to apply the skills of our profession to myriad of problems which our communities are facing. Unfortunately, this opportunity comes at a time when the competition for the commitment of resources to planning and other critical functions is increasingly fierce.*

*Not only must we deal with the local issues and problems which went unaddressed during the growth spurt of the eighties, but also "new" initiatives which are increasingly global in their scope and multi-disciplinary in their nature-both substantively and procedurally-such as the ADA, ISTEA, and economic development initiatives. Coincidentally, there is a growing dissatisfaction with the national association regarding the apparent disparity between the membership's needs and the association's services.*

*These circumstances underscore the need for us, as individuals, to be effective advocates for our profession-within our communities and beyond. Our state-wide association has the opportunity to bolster this advocacy by expanding our communications among our members, local policy makers, legislators, and all public and private sector participants in the community development process. We must also provide meaningful professional support for our members, and fill the 'gap' in services which do not appear to be forthcoming from the national association.*

*In essence, planning in New Hampshire, and this Association, have "come of age." We must now revisit and refine our "mission", both individually and collectively, and develop the forum in which planning for the future and in the future will be accomplished. Clearly, the diversity of our membership and the "multi-faceted" (some might say schizophrenic) nature of our profession suggests that we all have something to offer in this regard. I urge you all to get involved and take an active part in these necessary efforts to increase awareness of, and support for, planning in the Granite State Only kidding. Let's go skiing. -WRW"*

The Executive Committee for the first time also awarded Honorable Mentions this year. The 2011 **Honorable Mention** recipients are **Linda Harvey, Salem, NH - Citizen Planner, Laconia Stream Daylighting - Project of the Year** and the **Keene Master Plan - Plan of Year**.

# 2011 LEGISLATIVE SUMMARY

*Tim Corwin, Chair, NHPA Legislative Committee*

*Jen Czysz, NHPA Legislative Committee*

As you might guess, the Legislature kept the NHPA Legislative Committee on its toes this year with a slew of bills which, if enacted into law (and some have been) would have significant impacts on planning in New Hampshire. The NHPA took strong positions on several of these, supporting or opposing them at hearings with the assistance of our lobbyist, Nancy Johnson. Other bills were supported, opposed or monitored without the NHPA taking an active role, unless amendments were introduced that increased a bill's importance. In all, we tracked over 51 bills, all of which are identified in the NHPA's legislative tracking spreadsheet at [www.nhplanners.org](http://www.nhplanners.org).

## NHPA Priority Bills

- **OEP Changes:** HB 2 makes a series of changes to the statute that governs the Office of Energy and Planning and the services it provides. Some of the more significant changes include the repeal of the Water Protection Assistance Program and the Housing and Conservation Planning Program, the municipal planning grant established in 2008. In addition, RSA 673:3-a was amended to allow greater flexibility in the methods of local land use board training provided by OEP. Notably, the agency is now required to provide training opportunities only once a year as opposed to every six months as has historically been provided. The last item directly tied to OEP is the amendment of RSA 675:9 to permit local land use boards to submit digital versions of their plans and regulations or simply notify OEP of their adoption through its annual survey of land use regulations.
- **Shoreland Protection:** Much of the content originally found in SB 154, relative to the Comprehensive Shoreland Protection Act (CSPA), was appended to HB 2. Notable amendments to the CSPA are as follows:
  - Renaming the program to the Shoreland Water Quality Protection Act.
  - Modifying the purpose to specify that the intent is to “[c]ontrol building sites, placement of structures, and land uses that may potentially damage the public waters.”
  - Requiring that DES provide written notification to property owners prior to entering private property for oversight or enforcement reasons.
  - Establishing statutory standards for a permit by notification system.
- Requiring DES to return permit fees to applicants that were denied a permit after “relying on the recommendations of the department.”
- Reducing DES’ timeframe to respond to applicants under certain application situations and increasing an applicant’s time to respond to requests for more information from 60 to 120 days.
- Amending the prohibition against removing rocks and stumps within the waterfront buffer to allow for such removal when it will improve runoff control or be replaced with “pervious surfaces, new trees or other woody vegetation.”
- Modifying the tree point system to include a greater range of points awarded for various tree diameters as well as other changes made to the method of tabulating the total tree score and increased flexibility for property owners to remove or replace existing vegetation.
- Loosening the impervious surface requirements to allow greater than 30 percent of the lot’s area to be impervious with the implementation of a stormwater infiltration system and maintenance of a 50-point tree score in the waterfront buffer.
- Allowing for expansions of existing non-conforming structures so long as the structure does not expand toward the reference line and the property as a whole is rendered more nearly conforming.
- Reducing penalties from an amount not to exceed \$20,000 to \$5,000 and eliminating the provisions that would have considered a violation a misdemeanor.
- **Restricting Local Control Over Fire Suppression Systems:** HB 109 adds a new paragraph to RSA 674:36 that prohibits local planning boards from requiring the installation of a fire suppression sprinkler system in proposed one- or two-family residences as either a regulatory requirement or a condition of approval for a local permit. Boards are still permitted to require cisterns, dry hydrants, fire ponds or other sources of water for fire suppression. The NHPA strongly opposed this legislation and sent a letter to the Governor urging him to veto the bill, which he did. However, the bill passed by supermajorities and the veto was overridden. HB 109 became effective on July 1, 2011.

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## LEGISLATIVE SUMMARY *(continued from page 8)*

- **Dam Notification Requirements:** In 2009 the Legislature passed an amendment to RSA 676:4, requiring planning boards to notify upstream dam owners and DES of proposed developments near a stream or river. Given the sensitive nature of identifying dam locations and owners, however, compliance with the dam notification requirements was difficult. This year's HB 205 attempts to preserve the original intent of the 2009 legislation while making implementation more feasible.

Under HB 205, which the NHPA supported, applications to the planning board for a structure or building site that is within 500 feet of a river, stream, lake or pond, requires notice be sent to DES by first class mail at the same time as abutter notifications are sent out. The notification does not give DES abutter status nor does the failure to provide notice to DES constitute a defect of notice. HB 205 becomes effective on August 13, 2011.

- **Restoration of Involuntary Merger of Lots:** Following on the heels of 2010's SB 406, this year's HB 316 clarifies the status of previously involuntarily merged lots and provides that they shall, at the request of the owner, be restored to their previously unmerged status. There are, however, two provisions that may limit the ability to be "unmerged." First, the request must be submitted to the town's governing body by December 31, 2016. Second, the current or any previous owners within the chain of title cannot have approved or accepted the merged status of the lots. This approval or acceptance ("voluntary merger") includes any overt action or conduct that indicates an owner regarded the lots as merged. Although the NHPA opposed HB 316 due to its confused language and impact on municipalities, we were pleased to see the bill amended to provide some limitations which were not included as part of the original proposal. The bill becomes effective on July 24, 2011.
- **Planning Board Members:** In an effort to recognize that volunteers for municipal boards are often difficult to come by, HB 409 amends RSA 673:7 to relax the restriction on two or more planning board from serving on other boards or commissions. Effective August 13, 2011, for boards and commissions where there is not a perceived conflict of interest in multiple planning board members serving together, they may do so. However, the amendments still limit municipalities to only one planning board member serving on the conservation

commission, local governing body, or local land use board (as defined in 672:7).

## Other Bills of Interest

- **Shoreland Protection Permits:** SB 20, effective August 6, 2011 and opposed by the NHPA, provides that industrial and commercial redevelopment receiving an Alteration of Terrain Application (RSA 485-A:17) will no longer require a separate application for a Shoreland Protection permit.
- **Excavating and Drainage Permits:** SB 21, effective August 13, 2011 and opposed by the NHPA, amends RSA 482-A:3, IV(b) by providing detail to the list of maintenance activities within specified wetland types that do not require a permit. The bill also clarifies the type of man-made wetlands where no permit is required.
- **Extensions for Wetland and Shoreland Permits:** SB 38, effective August 6, 2011, provides that Wetland and Shoreland permits are valid for a period of five years and may be granted one extension for another five years provided the applicant meets specified criteria. To obtain an extension, the permits must not have been previously revoked, the applicant must be making progress toward completion, the extension must not violate a condition of approval, law or rule, and sufficient protections must be in place to protect the wetland or shoreland during the extension period.
- **Site Plan and Subdivision Approvals:** SB 144 follows up on 2009's SB 93 which provided a temporary extension for site plan and subdivision applicants to achieve "active and substantial development" or "substantial completion." As the time period for this extension provided for in RSA 674:39, V has expired, SB 144 repeals this paragraph. However, recognizing that there may still be a need to allow greater time than the law originally provided for in RSA 674:39, and that state environmental permits are valid for five years, the bill changes the standard 4-year exemption to 5-years. Additionally, the time limit to achieve active and substantial development has been permanently extended from 12 months to 24 months. The NHPA supported this bill which became effective on June 27, 2011.

# EPA BROWNFIELDS PROGRAM PROVIDES MANY BENEFITS TO NH MUNICIPALITIES

*The EPA defines a Brownfields as, “real property, the expansion, redevelopment or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant.”*

With grant funds from EPA, several regional planning commissions, municipalities, and economic development agencies in New Hampshire have established Brownfields Assessment and Clean-up Programs. The New Hampshire Department of Environmental Services has also received EPA grant funds to maintain a Brownfields program. Recognition of how a Brownfields program can serve the economic development, environmental remediation, and public health goals of New Hampshire’s cities and towns is growing steadily as abandoned auto repair shops and underutilized mills are assessed for contaminants, cleaned-up and redeveloped, creating jobs, protecting water supplies, and increasing tax revenues.

## **Case Study – Rockingham Planning Commission, Exeter, NH**

The Rockingham Planning Commission (RPC) received funds through a Brownfields grant from EPA in 2007, 2009, and 2010. The funds have been used to identify over 200 Brownfields sites in the 27 communities in the RPC region, complete Phase I and Phase II Environmental Site Assessments on several properties, and to inform local decision makers, developers and property owners about the program. Similar work has been completed by other

regional planning commissions in the state, as well as a few of the larger cities.

The RPC works with a consulting engineering company, Credere Associates of Westbrook, Maine, to inventory and assess Brownfield sites. The RPC also works closely with an Advisory Committee comprised of municipal planners, real estate professionals, and non-profit community and housing organizations to identify Brownfield sites and to identify landowners interested in participating in the program. Priority is given to sites that lend themselves to redevelopment as workforce housing, in-fill development, and transit-oriented development. Credere Associates prepares the Phase I Site Assessment, a desktop analysis of a property that involves researching existing reports, the DES database, historic Sanborn maps, and talking with landowners, town officials, and other stakeholders. Credere also prepares the Phase II Site Assessment, that involves collecting and analyzing soil, water and other samples from a site to determine what contamination is present and its extent. Both NH DES and EPA review and comment on all assessment reports. The information contained in the Phase I and Phase II Site Assessment reports can provide property owners and developers with critical information needed for site redevelopment and project budgets.

In the RPC region, Brownfields sites range from closed gas stations and auto repair shops to a former shoe factory and vacant land taken by a town for back taxes. In all cases, there is an active interest on the part of the property owner to redevelop the site. The RPC also uses Brownfields funds

*(continued on next page)*



**BEFORE** – A typical Brownfields site – the former Whitney Screw property in Nashua.



**AFTER** – Goodale's Bike Shop – a catalyst for further redevelopment in the neighborhood.

## EPA BROWNFIELDS *(continued from page 10)*

to assist communities, developers, and landowners with redevelopment planning. In two cases, enrollment of a property in the RPC's Brownfields program has led to community-wide planning charrettes involving dozens of properties and engaging town residents, municipal land use boards, and private developers in productive discussions about a community's wants, needs, and future growth.

### **Case Study – City of Nashua, NH and NH DES**

In 1999, the City of Nashua applied for and received a \$200,000 EPA Brownfields Assessment Grant to prioritize and conduct assessments of sites within the Broad Street Redevelopment Corridor, comprising a 95 acre area. Using these funds, the City hired an environmental consultant to

conduct a Brownfields site investigation at Whitney Screw in 2001. The investigation revealed the presence of several sources of contamination, including lead contaminated soil, lead paint, petroleum-soaked wood flooring, boxes and soil, potential asbestos-containing building material, heavy metal contaminated soils and an extensive area of varsol (a chemical solvent) contaminated groundwater. Smith Jackson, LLC purchased the option for the mortgage of the former Whitney Screw property from the Bank of New Hampshire in the fall of 2001. DES assisted Smith Jackson LLC in development of a Remedial Action Plan that addressed all site contaminants including soils, groundwater and hazardous building materials. The work was financed in part by a \$189,000 BCRLF loan. The significant varsol contamination problem was addressed using DES Petroleum Reimbursement Funds.

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## THE NH CITIZEN PLANNER: A COLLABORATIVE RESOURCE FOR PLANNING BOARDS

The NH Citizen Planner Collaborative (“Collaborative”) began to develop in 2007 with several state organizations and municipal land use board members who wanted to create alternative opportunities for lay citizen planners (land use boards) to get access to existing training and create a “one-stop shop” for those board members to find future training opportunities and network.

This list of Collaborative members includes the [NH Office of Energy and Planning](#), [UNH Cooperative Extension](#), [Nashua Regional Planning Commission](#), and [NH Housing Finance Authority](#) as its Executive Committee. Others include representation from [Regional Planning Commissions](#), [NH Division of Historic Resources](#), [NH Department of Transportation](#), [Local Government Center](#), [Clean Air-Cool Planet](#), [NH Preservation Alliance](#) and [NH Association of Conservation Commissions](#) as well as municipal board members from Peterborough, Salem, Lebanon and Derry.

With start-up funding from the NH Department of Transportation's CTAP ([Community Technical Assistance Program](#)) and [NH Housing Finance Authority](#), subcommittees of Collaborative members are working on the initial 4 Training Programs (Site Plan Reading, Conservation Planning, Meeting Management and Public Participation Techniques, and Planning and Zoning Basics) as well as NH Housing Finance Authority's separate initiative on Housing.

In addition to the training programs, the NHCP site offers a calendar of training workshops, events and opportunities. Anyone can add events to the calendar by establishing a Gmail account and contacting Michele Craig who will then share the calendar with you. Once you have access, you can log in using your Gmail account to enter planning-related events and training opportunities.

To visit The NH Citizen Planner, please go to <http://extension.unh.edu/cp/>.

If you would like more information about the Collaborative or would like to participate in the development of training modules, please contact Michele (Gagne) Craig at [michele.craig@unh.edu](mailto:michele.craig@unh.edu) or 862-5046.