

THE JERSEY PLANNER



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Making Great Communities Happen

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APA National Conference... Naw'ins Style

By Chuck Latini
APA-NJ President-Elect

People who question why rebuild New Orleans obviously have not experienced it (as a conscious adults anyway). Arguably, New Orleans is one of the most prolific and significant cultural meccas on planet Earth and a venture out into the Jazz filled nights proves that the multi-generational musicianship and culinary delight on display in the Crescent City is thriving and on top of its game. New Orleans is a unique place, as unique as any other I've experienced to date. It is a place that must not only be fully rebuilt, but protected and supported so as to ensure its culture prospers as one of the true pearls in the American necklace.

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APA National Conference...Naw'lins Style

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Through our time there, the APA community not only got a chance to meet and discuss planning on a national scale, we got a chance to see things that many have merely witnessed on TV, and believe me, TV offers no real depiction as to the actual atrocities that occurred here on American soil. For as much as we have done as a Country to get the New Orleans back on its feet, more remains to be accomplished almost five (5), yes FIVE years, after the levees broke. There are still people trying to get home, many of which have been "discouraged" from doing so based on political expediency and special interests, which is shameful. While we need to do better, I believe the planning community has stepped up to assist New Orleans over these past several years. Notwithstanding our physical planning efforts, the preservation of neighborhood and cultural identity must be raised in our planning efforts.

The 2010 APA Annual conference gave planners an opportunity to see, first hand, where the recovery process is today. It remains clear that more needs to be accomplished. Sessions on Delta New Urbanism were interesting, but the social injustices that still linger to some degree are enough to make me nauseous. Notwithstanding, there are many positives that are evident throughout the Crescent City. Architecturally interest-



ing and culturally dynamic, the artistic nature of this place, which certainly includes the culinary arts, is enough to keep one up all night (believe me, I tried).

One way I've been touring cities these days is through exercise- namely running. For me it started out of necessity, but running (or biking) is a great way to reach and see things that even a tour bus can not provide. The sounds and smells through the journey as well as the ability to stop at any time along the way is gratifying to the soul. When combined with local advice to give you further insight as to what you may be passing by

makes it all the worthwhile. In New Orleans, I ran on three separate occasions; 1) through Jackson Square, the French Quarter, and Marigny; 2) through and around Tremé; and 3) through the Garden District and then back up to the French Market where I tried (in vain) to eat an entire Mufallata sandwich.

What one finds traversing New Orleans' neighborhoods are unique identities that through our redevelopment efforts sometime are lost because of their need to develop organically. Sections of Marigny with its well-kept "shot-gun" shacks was perhaps my favorite, although the Garden District was delightful in its own right. The French Quarter is where the freaks (mostly at night and mostly harmless) come out to play. Although Jazz-fest remained a few weeks away, with luck the Conference was scheduled during the French Quarter festival where at any time of day, free live music echoed down city streets, in its parks, and along its waterfront.

Tremé, another neighborhood I visited, is only separated from the French Quarter by Congo Square (now known as Louis Armstrong Park), and is one of the oldest free people of color neighborhoods in the city. Today, Tremé remains an important center of the city's African American and Creole culture, especially

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the modern brass band tradition. While I was told some parts are "dangerous", what I experienced traversing through it was a community that was alive with a spirit difficult to replicate.

These excursions led me to begin thinking about other places like La Caminito in Buenos Aires; Montemarte in Paris; Greenwich Village, NYC; places where culture and art, not homogeneous design, rule the day. Where culture and identity are treated as economic commodities and leveraged.

Topping the trip off, NJ's own "Department of Asphalt" Representative Brent Barnes pointed a small group of us to Preservation Hall where its "House Jazz Band" entertained us with 3 awesome sets of New Orleans style Jazz. The band and Hall typified what is great about New Orleans; a 36 year old band leader Mark Baurd (8th generation musician) playing with a 78 year old Charlie Gabriel for whopping \$10. Preservation Hall? Well, Preservation Hall could have easily been packed up in moth balls as the "preservation" of the hall is exactly

that; they only fix what's broke and not with replicas of differing material.

New Orleans provides planners with an interesting perspective on cultural identity and how homogenized some of our master planning and zoning practice can be. From its unique residential neighborhoods, to its Warehouse District that can teach volumes on adaptive reuse, Nawlins got lil'bit o'sump'in fo' ev'one.

For more information on the APA's 2010 conference in New Orleans, visit www.planning.org.



Save the Date!

2010 NJ Planning Conference

November 4 and 5, 2010

Hyatt Regency, New Brunswick, NJ

Check www.njapa.org regularly for more information.

Questions?

Contact:

Lorissa Whitaker at apanj2010@gmail.com.

APA-NJ Withdraws Support of Affordable Housing Bill

Pointing to a proposed law that they claim “has changed beyond recognition” through amendment, the New Jersey Chapter of the American Planning Association has withdrawn its support of Senate Bill 1 (S-1), which would abolish the Council on Affordable Housing (COAH), the entity established to administer affordable housing programs under the New Jersey Fair Housing Act (FHA).

While the idea of transferring COAH’s responsibilities to the State Planning Commission has merit, the bill as proposed could be harmful to the State economy. APA-NJ made its position known in a letter (see next page) addressed to the bill’s sponsors, Senators Raymond J. Lesniak, Christopher Bateman, and Jeff Van Drew, but sent to all members of the Senate. The Senate voted on, and passed, the bill on Thursday, June 10, 2010.

While APA-NJ acknowledges that reform of the FHA is necessary and that “the law and more particularly, the rules implementing the law have become complex and even incomprehensible,” the bill as drafted may not meet constitutional muster. It expressed concern over “the specter of costly litigation that could stretch over years, during which municipal governments will be unable to confidently plan and accommodate affordable housing.”

Instead, the APA-NJ advocates that the New Jersey state legislature direct the state housing com-

mission to conduct a full-scale independent evaluation of the FHA and its implementation, and report out recommendations that include an annotated bill to modify the FHA or completely replace it. This evaluation should receive highest priority with a report back to the Legislature.

Despite criticism of the FHA and its implementation, the letter notes, two independent nationwide studies on affordable housing in the United States, one completed in 2003, *Regional Approaches to Affordable Housing*, published by the Planning Advisory Service, the research arm of the American Planning Association, and sponsored by the U.S. Department of Housing and Urban Development, and one completed in 2009 for the Lincoln Institute of Land Policy, *Smart Growth Policies: An Evaluation of Programs and Outcomes*, have affirmed the New Jersey FHA’s positive impacts on housing production and affordability.

On the basis of these studies, the APA letter says, “the New Jersey system is the only system in the United States that is producing affordable housing in a quantity that can be measured as significant (over 24,000 units per decade).”

The Lincoln Institute study “provided unmistakable empirical evidence that the New Jersey system is, in fact, making housing more affordable for low- and moderate-income households who would otherwise be spending 30

percent or more of their household income for housing in comparison with smart growth states like Oregon, Florida, and Maryland and four other selected states of Colorado, Indiana, Texas, and Virginia.”

New Jersey had the smallest increase among the four smart growth states in terms of cost burden for owners during the decade 1990 to 2000, the letter states.

“The cost burden percentages actually dropped for renters over the same period, due to the large proportional increase in the construction of rental units in the state,” the letter says. Further, among the smart growth states, New Jersey had proportionally the most counties showing positive gains in rental housing.

“The biggest beneficial impact over the prior decade,” APA-NJ notes, “has to do with the fact that the COAH incentives were responsible for the construction of a great deal of affordable rental housing, housing that would not have otherwise been built in a state whose municipalities have often fiercely resisted it.”

“Moreover, the fact that the COAH program imposes long-term restrictions on affordability for rental and sales units means that the impact on the percentage of household income spent on housing, the true measure of affordability, is also long term.”

The full text of the letter can be found at www.njapa.org.

Legislative Update

In addition to the passage last week of S-1, there are a few important new government initiatives that APA-NJ has been tracking.

S-82, the “Time of Decision” bill

On May 5, the Governor signed into law S-82, which grants protection to any land use application once it has been submitted for consideration to the municipal Planning Board or Zoning Board of Adjustment. Only changes in ordinances defined as “...necessary for the protection of health and public safety...” can be implemented to protect the public welfare. Otherwise, such an application would then be immune from any changes in municipal ordinances.

The “time of decision” rule is a judicially-recognized principle that decisions are to be made on the basis of the laws, ordinances and regulations in effect at the time the decision is rendered. Courts have applied this rule to allow municipalities to rectify an error in a zoning ordinance, thus giving the governing body the opportunity to perfect a legislative policy decision. The rule has also permitted a municipality to give initial legislative consideration to serious and substantial land use planning concerns that, for whatever reasons, had not been previously addressed in their ordinances.

There was considerable opposition to this bill, including the League of Municipalities, the New Jersey Planning Officials, the New Jersey Environmental Federation, the NJ Chapter of the Sierra Club, the Association of Environmental Commissions of New Jersey and the NJ Conservation Foundation.

New Jersey Department of Environmental Protection Administrative Order No. 2010-03

The following description of this Administrative Order is from the NJ Zoning and Land Use blog, www.njlandlaw.com/.

On March 24, 2010, the Commissioner of the New Jersey Department of Environmental Protection issued Administrative Order No. 2010-03 – a measure that extends the deadline for wastewater management planning entities to submit revised wastewater management plans (WMPs), until April 7, 2011. This administrative order also provides property owners with new rights in connection with NJDEP’s wastewater management planning process.

WMPs are legally binding documents that govern where new sanitary sewer lines can be built. For a sewer line to be extended into a property, it must be included within the sewer service area (SSA) in the area wide WMP. Properties that fall outside the SSA are generally required to be served by septic systems.

In July 2008, NJDEP adopted the Water Quality Management Planning Rules, N.J.A.C. 7:15-1.1 et seq. Those regulations require updates to the existing WMPs, which updates are expected to involve substantial changes to the current SSA; properties that are within the current SSA could be removed from the SSA as part of NJDEP’s WMP revision process. The original submission deadline for the revised WMPs was April 7, 2009; however, NJDEP has regularly approved extensions of that deadline.

Administrative Order No. 2010-03 is an effort to comply with NJDEP’s Water Quality Management Planning Rules. This new administrative order generally accomplishes the following:

Extension of the deadline to submit revised WMPs. The submission deadline for revised WMPs is extended until April

7, 2011. In the interim, NJDEP will not withdraw existing SSA designations under the July 2008 Water Quality Management Planning Rules.

New rights for property owners to petition NJDEP. Any property owner may submit a written request to NJDEP to have property included within the future SSA in a revised WMP. NJDEP will provide a written response within 90 days. For NJDEP to approve such a request, the owner should demonstrate that providing sewer service to the property: (a) Is consistent with applicable zoning or the local master plan, or has a building permit or site plan or subdivision approval reliant on sewer service; and (b) Meets NJDEP’s criteria, set forth in N.J.A.C. 7:15-5.24 and 5.25(h), for provision of sewer service (those criteria are intended to restrict the provision of sewer service based on the presence of environmentally sensitive features such as threatened and endangered species habitat, Natural Heritage Priority Sites, Category One riparian zones and wetlands).

Additional procedural requirements for amending WMPs. Prior to approving a revised WMP, NJDEP is now required to publish the draft SSA mapping on its website, and invite public comments on that mapping for at least 60 days. NJDEP is also now required to hold at least one public hearing on the revised WMP, upon 30 days advance public notice. These requirements are in addition to the existing procedures for amending WMPs.

Protection for properties within an existing SSA. As part of the WMP revision process, NJDEP does not intend to remove from the SSA properties that have valid, unexpired: (a) municipal site plan approval or, if site plan approval is not required, a subdivision approval; and (b) if required, either NJDEP Treatment Works Approval or a NJPDES (New Jersey Pollutant Discharge Elimination System) permit.

OPINION CORNER: A New State Plan

By Charles Latini
APA-NJ President-Elect

One way to start rationalizing the way we spend money on transportation (save for the need to do safety improvements), provide for a rational approach to affordable housing, create a new green economy, and truly protect our valuable natural resources is to begin weighing our decisions against a new State Development and Redevelopment Plan that is not only grown from the bottom up, but supported and incentivized from the top down.

In these days of environmental and fiscal instability, we can no longer cater to special interests and narrowly focused local decision-making alone to drive our State forward. We need a strategic approach and the State Planning Act provides a framework for us to work from. We don't need to reinvent the wheel, merely put the wheel on the darn wagon and tighten it down.

While I agree with the Governor Christie that bureaucracy cannot get in the way of progress, we cannot create blanket provisions that apply all municipalities — namely because not every municipality is created equally. Some are located where affordable housing and transportation investment make sense, others are not. We must kill sprawl and disinvestment and must do it now.

To date, the State Plan has yet to truly be supported by the State's Agencies with notable exception of course, but no one Agency has gone far enough. Despite all the rhetoric from Statehouses past, no Governor has taken this important cause to where it needs to eventually reach. Governor Christie could be that

person, but he must direct his cabinet to begin leveraging their respective resources sensibly and among each other, with the focus on a sustainable economy. This means environment, housing, transportation, education, law, corrections, health and senior services, agriculture, every single agency, whether they think they belong in the mix or not.

I sincerely hope that the winds of necessity bring forth this much needed component to build a truly sustainable statewide economy.

With home rule being both a gift and a curse, we clearly need to provide proper guidance and support from not only our state agencies, but our legislators and planning professionals as well. We need leaders that will inform our communities about what they need to hear, rather than what communities want to hear. While municipalities (read: communities) should be the master of their homes, decisions made, many of which spawned from a broken property tax system that, while in desperate need of a constitutional convention, is certainly an issue that our state must contend with.

Because decisions made at the local level require significant State expenditure (subsidies) in infrastructure, or open space funding, or State aid, our State and planning community need to look at what makes sense first and advocate for investment in the right places for the right reasons. Land use decision must be informed, rational, and sensible. If they are not, well, the State shouldn't be supporting those places, period.

This is why we need a State Plan that cuts vertically and horizontally. A State Plan that educates and provides real incentives to do the right kind of planning at the local level.

While I fully recognize that we must consider the opinions of our clients, we as planners need to educate and lead them to envision a different way. A way not only based on this years' budgetary needs but the long-term value of our communities. Planners must not be sheep. Our opinions are as valid as any design professional and we must fight for a better way that leads New Jersey to a more sustainable place to live, work and breathe.

Write for The Jersey Planner!

We welcome opinion pieces, news stories, press releases, photographs, calendar items, and features. We are always interested in hearing from our membership.

For deadlines and other information, please contact APA-NJ's VP of Public Affairs, Rebecca Hersh, at rebeccamhersh@aol.com.

Affordable Transit: Essential to New Jersey's Vitality

New Jersey's transit commuters are still reeling from NJ Transit's April decision to raise train fares by 25 percent and 10 percent for local bus riders and light rail commuters. The fare hikes, tied for the largest in NJ Transit's history — are the first since a 9 percent increase in 2007. Executive Director Jim Weinstein said in news reports that the fare increases were needed to close a \$300 million budget hole for the fiscal year that begins on July 1, 2010.

During the public comments period when the fare hikes were being considered, APA-NJ submitted testimony that highlighted the importance of affordable and accessible transit options for our state's economic and environmental health. The testimony is printed in its entirety below:

NJ TRANSIT Fare Proposal Comments from APA-NJ

Given the gravity of the deep economic recession the State of New Jersey is experiencing, the New Jersey Chapter of the American Planning Association is cognizant of our fiscal responsibility to make some sacrifices in order to maintain a balanced budget. However, the combined effect of a 25% fare increase plus a reduction in overall transit service will create significant hardship for the state's transit users, serve as a disincentive to increased transit use, and undo some of the advances that have made NJ Transit one of the most effective and dynamic public transportation systems in the US.

From April 2002 to June 2007, NJ TRANSIT fares increased by 31.1%, and adding another proposed 25% increase would mean a cumulative increase of 64% since 2002. This increase is occurring during a decade in which

most of your customer's wage increases have failed to keep pace with the rising cost of living in one of the most expensive places to live and do business in the United States. Over the last eight years, your typical customer is lucky to have had their pay increase at half the rate of this cumulative increase in former and proposed transit fares hikes.

What is most concerning to us is the "slippery slope" effect of reducing services and increasing fares, which will likely lead to less riders traveling on our transit system, resulting in a vicious cycle of additional service cuts and fare increases. The State of New Jersey has a robust network of buses, various types of rail, and paratransit service, which is the envy of much of the nation. We also have one of the longest commute times in the United States and substantial air pollution, which is already bad enough without forcing some riders with other choices back into their automobiles. Still, there are other transit customers that are economically disadvantaged with often little or no other mobility options. The proposed fare increases and service reductions would disproportionately impact these customers.

APA-NJ recognizes that early on the Governor in his NJ Future smart growth questionnaire responses spoke of the importance of revitalizing New Jersey's urban areas by investing in infrastructure as a means to support our economy and put our residents back to work. Understanding that all facets of our state must make shared sacrifices in these difficult times a NJ Transit fare increase conflicts with the administration's recognition that suburban sprawl contin-

ues to erode our open space and farmlands, while costing billions for new roads and transportation systems and jeopardizes our state's ability to properly plan for its existing and future residents.

This all relates to another issue of dire importance - New Jersey's Transportation Trust Fund is projected to go broke by the middle of 2011. We support many of the recommendations that came out of the Regional Plan Association's paper, "Spiral of Debt: The Unsustainable Structure of New Jersey's Transportation Trust Fund," including looking for cost savings where necessary, reducing borrowing to pay for necessary financing, sharing the burden of raising new funds among various transportation system users and dedicating new monies to the Trust Fund and relying less on appropriations in state funding.

We implore you to consider other options to fare increases and service reductions of the magnitude proposed. If now is not a good time to raise our gasoline tax, given the depths of the recession we are in, then why would it be an okay time to raise transit fares and decrease service? Not only does the State of New Jersey have one of the lowest gasoline taxes in the nation, the federal gas tax at 18.4 cents per gallon is one of the lowest in the world having not been increased since 1993. The federal gasoline tax will likely increase in the coming year, making it that much more difficult for you to increase New Jersey's gasoline tax. We believe that sharing the pain equally among all transportation system users is the most equitable way to help keep our state moving.

National Poll Shows Public Support for Transit is Strong

A new T4America poll finds strong support for transit and transit expansion throughout the country, even in rural areas.

This article by **Elana Schor** is reprinted from **Streetsblog Capitol Hill** and appeared on the blog on **March 30th**. It can be found at <http://dc.streetsblog.org/>

Despite the frequent reluctance of rural lawmakers to support more federal investment in transit, a majority of rural and urban voters alike believe their home towns would gain from a local transit expansion, according to a new poll released today by the infrastructure reform group Transportation for America (T4A) and the Natural Resources Defense Council (NRDC).

When asked if increased transit investment would help their community, 69 percent of poll respondents answered in the affirmative, including 74 percent of suburbanites and 55 percent of rural residents. Those numbers decreased for a separate question that asked whether transit should get more federal funding, but a majority of voters from both suburban (59 percent) and rural (50 percent) areas remained supportive.

The survey, conducted four weeks ago by pollsters from both GOP- and Democratic-aligned firms, also sought to gauge public consciousness of U.S. transportation spending patterns. When respondents were asked what share of federal transport dollars they thought should go to transit,

the mean answer was 37 percent. Transit's actual share is about 19 percent.

David Metz of Fairbank Maslin Maullin Metz & Associates, one of two pollsters who worked on the survey, told reporters that its conclusion was clear:

"Americans want more transportation options than they have today," he said. "The vast majority of Americans say they have no choice but to drive as much as they do and that they would like to drive less."

Lawmakers in the House and Senate have made positive predictions recently about the fate of the six-year transportation bill offered last June in the lower chamber. Indeed, T4A depicted its poll as a valuable messaging tool in the wake of Sen. George Voinovich's (R-OH) extraction of a vow from Democratic leaders to take up long-term infrastructure legislation before 2011.

But the lack of a sustainable revenue source to pay for that long-term bill, expected to cost upwards of \$450 billion, continues to hamstring the effort. Few if any observers of the Washington transportation debate view a new bill as politically feasible in 2010, particularly given the opposition of both the White House and Congress to increasing the gas tax while the recession still looms.

Should this month's stirrings of possible momentum for a new bill grow stronger in recent months, the T4A poll offers green groups, social-equity advocates, and other pro-reform interests valuable insights on how to sell voters on a more transit-focused six-year bill.

Given the option of endorsing several arguments in favor of spending more on transit and bike-ped infrastructure, survey respondents were most strongly swayed by a narrative that the pollsters billed as "Accountability," which was associated with the following statement:

"Government officials must be held accountable for how our transportation tax dollars are spent. We cannot afford to build more roads while existing roads are in disrepair."

More than half of polled voters found the "Accountability" argument very convincing, with three other narratives -- focusing on greater access for lower-income populations, the public health upside of bike-ped spending, and the absence of a 21st-century transportation network -- running behind.

The poll also suggested that voters would be receptive to a greater reliance on local taxes and fees to leverage federal transportation funding.

Asked if they would support a transit expansion in their community that required tax increases, 51 percent of poll respondents expressed either strong or moderate support, with 46 percent either strongly or moderately opposed. The share of voters strongly opposed to local taxation for transit (32 percent), however, topped the share that strongly supported those taxes (24 percent).

The margin of error for the poll, which surveyed 800 registered voters, was about 3.5 percent.

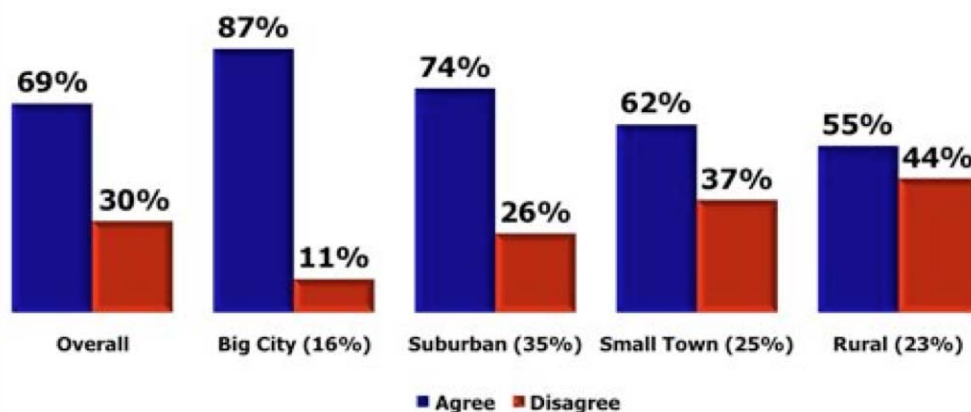


Chart: T4A

Ripped from the Headlines

How does the planning profession instill public confidence in planning and zoning in light of alleged corrupt activities by public officials?

By Douglas J. Greenfeld, AICP/PP

At the APA-NJ conference last November, seven distinguished individuals assembled in front of an audience of planners to talk about public corruption as it relates to planning and zoning. The assemblage included professors of law and planning, an elected official, a community development professional, a developer, and a government reform activist.

The impetus for this session was the arrest of 29 public officials and political figures in New Jersey on July 23, 2009 by the Federal Bureau of Investigation, and the promises of zoning approvals that were pervasive throughout the federal complaints. Although no city planners were implicated in the sting, it is important for planners to discuss the problem of public corruption by others because its taint diminishes public confidence in the planning process.

The session was moderated by Peter Simmons, former dean and professor of Law at Rutgers Law School. Dean Simmons began by quoting Federalist Number 10, in which James Madison asks, "But what is government itself, but the greatest of all reflections on human nature? If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary. In framing laws to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself. A dependence on the people is, no doubt, the primary control on the government; but experience has taught mankind the necessity of auxiliary precautions." Some of those auxiliary precautions were the main topic of the session, that is: the role of the law and rules in trying to take men and women who are not angels and keep them on the straight and narrow path.

John J. Farmer, Jr., dean and professor of law at Rutgers School of Law – Newark provided perspective based on his experience prosecuting and defending public corruption cases in New Jersey and elsewhere. He said that the lawmaker and

prosecutor's perspective is that narrowly written laws are too easy to circumvent. From the defender's perspective, vague laws fail to provide defendants with adequate notice of conduct that is prohibited. The tension between the two is often played out in the courtroom.

Dean Farmer explained that prosecutions come in waves, which pushes corruption down for a time, until there is another resurgence. In New Jersey in the 1970's and 1980's there were waves of corruption prosecutions, and by 1993 Michael Chertoff, then U.S. Attorney for New Jersey testified that the era of rampant local government corruption was over. However, by the late 1990's there was a sense that corruption had returned to New Jersey, and there is currently a tsunami of prosecutions.

He said, "The good news [is that] planners themselves have rarely been the targets [of prosecutions]...The bad news, even if planners are not the center of the web of corruption that we have in New Jersey, [corruption] is all around you as you do your jobs as planners. The statutes are sufficiently broadly drawn that [planners] have to be careful. It is not simply a matter of taking a bribe." He said that the Federal Theft of Honest Services Statute (Title 18, §1346) has been applied to cases where no money has changed hands. There are many gray areas in the law, and the U.S. Supreme Court in its current term will be considering three cases that have been prosecuted under the Theft of Honest Services Statute. It is his hope that the Court will clarify exactly what types of conduct are to be considered corrupt behavior that is subject to prosecution in the federal courts. He believes the pendulum has swung too far to the side of prosecuting gray areas, and it is the gray areas of which planners must be cautious.

In one case, a Wisconsin worker sat on a bid committee and was prosecuted and convicted under the federal statute for working aggressively to get a contract awarded to a political contributor of the governor, even though she received no tangible personal gain. However, the conviction was overturned, and a very con-

servative appeals court judge stated, "The idea that it is a federal crime for any official in state or local government to take account of political considerations when deciding how to spend public money is simply postposterous."

New Jersey Official Misconduct Law is better defined than the federal Theft of Honest Services law, but is also very broad. It is broadly enough defined to prosecute a government employee who filled a borrowed private car with gas from a municipal outlet. An example of the distinction between the state and federal statutes is that there is greater definition in the state statute such that under the state statute the public official or another must have received some sort of tangible personal gain in order for the official to be prosecuted.

Kearny, New Jersey Mayor Alberto G. Santos believes that the ultimate solution to corruption by politicians is public financing of campaigns. In the meantime, he would limit the influence of campaign contributions in making land use planning decisions, and he called for self policing by elected officials. He said that often campaign contributors expect official action in exchange for their contribution. This expectation leads to a corrupt interference with the land use planning decision making process. However, campaigns are expensive and politicians need money. He said that the first amendment stymies campaign finance reform and that money finds a way around restrictions. Politicians will be tempted by money, and a lack of willingness of public officials to police themselves will result in corruption. The mayor employs two self-imposed rules: Do not accept campaign contributions from applicants or anticipated applicants to planning or zoning boards, and do not meet with applicants outside of the formal land use board public hearing process.

Harry Pozyski, Esq., chairman and founder of the Citizens' Campaign, spoke about the need to avoid even the appearance of corruption. He said that campaign contributions cloud the merits of development proposals, and pay to play laws are

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...Ripped from the Headlines

How does the planning profession instill public confidence in planning and zoning in light of alleged corrupt activities by public officials?

(Continued from page 9)

key to separating money from the development process. Members of the general public often do not have any way of knowing whether development projects are advanced based on objective review of the proposal or based on favoritism. Elimination of money from the mix instills public confidence that the project is supported by a fact based rationale. Local pay to play laws in New Jersey cap contributions to elected officials in the municipality in the year prior to entering a contract or redeveloper agreement with that municipality. He called for adoption of pay to play laws on a uniform basis statewide to avoid confusion.

He said that planners can instill public confidence in the decision making process by causing the deliberative body to grapple with the facts of the case by verbally comparing the facts as presented by all sides, resolving the facts, and then relaying the facts to the body as they relate to the decision making criteria.

Toni Griffin, director of community development for Newark, New Jersey, discussed the importance of comprehensive planning, and of exceeding the minimum statutory requirements for transparency and community participation in the planning process. She pointed out that there is nothing in New Jersey state law that provides citizens with formal mechanisms by which they can have a distinct voice in planning issues.

She said that there is a role for professional planners to define the role that government and citizens have in revitalizing cities, and in ensuring that residents have a voice in the process of change. The culture of local government should be that of transparency and inclusion, which includes effective intergovernmental coordination, citizen engagement and engagement by members of the local governing body. It is important to acknowledge existing constraints, such as a lack of trust in government, uninformed citizen participants, and developers and property owners who do not understand what comprehensive planning means. It is also important to establish a common vocabulary among stakeholders, and to define who the stakeholders are and what

standing they have in the decision making process. Planners must ensure that stakeholders understand the different types of agreements that occur in the community revitalization process, and the concepts of growth versus development, justice versus equity, participation versus outreach, and formal versus informal disputes.

Ms. Griffin said that she remains optimistic that there can be a transparent process and inclusive citizen engagement in local government, and that citizens and neighborhood knowledge can be developed, which increases citizen participation and public accountability, and therefore the sustainability of decisions. In other words, as the process becomes more transparent, decisions become more sustainable.

Allen J. Magrini, Esq., P.P., Senior Vice President - Land Use and Development, Hartz Mountain Industries, touched upon a number of issues related to the professionalism of planners in the master planning, zoning and development review process, as well as New Jersey's legacy of home rule, and local control over planning and zoning.

He said that the local land use decision making process impacts an industry that is very lucrative at times, and it is the only process in New Jersey that happens at the local level at such great intensity. The process forces a lot of interaction in a very high stakes game, and there are thousands of local board members who render thousands of decisions annually on all types of land use decisions. He said that the process lends itself to abuse because there is an inherent incentive for developers to seek shortcuts because development approval is frequently a long process with an uncertain outcome.

His prescription is to remove discretion from the approval process. Development review needs to be clearer, more straightforward, and with greater certainty that compliant applications will be approved. The master plan should be developed through an inclusive process. Zoning ordinances should be reasonable in their requirements and designed to achieve the vision of the master plan in a reasonable

way. Zoning ordinances must be clear, simple and straightforward, and more consistent from one New Jersey municipality to the next. Approval of compliant development applications should be easy to obtain.

Stuart Meck, FAICP/PP, Associate Research Professor and Director, Planning Practice Program, Rutgers University proposed the option of paid professional hearing examiners to replace the quasi-judicial function of volunteer land use boards.

He said that in New Jersey most land use decisions are administrative decisions that are made by appointed volunteer boards. One criticism of zoning boards is that there is a propensity in New Jersey to grant use variances, which are effectively amendments to the municipal zoning ordinance. However, the boards are comprised of laypeople who are not equipped to deal with the complex and sophisticated issues that they must consider, and they also bear the burden of processing a large number of development applications.

The hearing examiner would be an objective and unbiased neutral outside expert who conducts hearings, oversees the creation of a record, makes written findings, and perhaps has final decision making authority. The hearing examiner would be trained as attorney, city planner or other design professional with significant experience.

Note: The DVD of Ripped from the headlines: How does the planning profession instill public confidence in planning and zoning in light of alleged corrupt activities by public officials? is available from <http://www.njapa.org>. The program has been approved by the AICP for 1.5 Ethics Certificate Maintenance (CM) credits through the purchase of a DVD.

Douglas J. Greenfeld, AICP/PP is Supervising Planner for the City of Jersey City, Department of Housing, Economic Development and Commerce, Office of the Director.

Asset Development or Debt Creation: For Profit Schools Capitalize on Recession

By Erika Hill

MSUP Candidate, Bloustein School of Planning and Public Policy

After reading a March New York Times article, "In Hard Times, Lured Into Trade School and Debt" regarding the rise of private technical school based on the recent loosening restriction of Federal Pell grants, APA-NJ Northeast Area Representative asked her intern Erika Hill, a planning student at the Bloustein School, to visit a new technical school in Newark and inquire about their programs. Below is her analysis of her experience. The New York Times article that inspired them can be found at: <http://www.nytimes.com/2010/03/14/business/14schools.html>

In the height of the recession, with unemployment rates (New Jersey's is currently at 9.8%) continuing to skyrocket and job placement becoming even more difficult, it seems only natural that an individual might look to higher education or the acquisition of new skill sets. For low income individuals or those neediest there are often barriers to entry in or challenges with four year institutions. That being said, for profit and trade schools present themselves as viable options to address an urgent need. Just how viable these options are in actually delivering on their promises is still under much scrutiny.

This logic feeds into the promotion of "asset development" as a means for low income individuals to create upward mobility, avoid (or rise out of) poverty and achieve greater self sufficiency. The acquisition of these new "technical skills" is augmenting their human capital and thus their ability to earn higher income, at least so they think. On any given day walking down Broad St in Newark, NJ you come to a corner where a small crowd of mostly minority women are gathered, dressed in blue scrubs. The building they are standing in front of looks like a small office building, but once you walk upstairs one of Newark's "for profit training schools" is revealed, the Drake School of Business. My curiosity peaked, I decided to experience the process which so many young/low

income Newark residents and others have endured. I entered the room and immediately noticed the approximately 8 desk consoles, some of which were occupied by an advisor busy trying to get more students. I sat down with an "admissions" advisor who only asked me demographic information before proceeding with her "pitch". I presented myself as a 20 year-old single young woman, living on my own with no dependents and seeking a way to earn a higher income. She did explain that in order to sign up I would need my parents to sign papers because at 20 I was still considered a dependent.

Interestingly enough there were no questions asked of me about my interest, existing skill sets or even current experience. The advisor went right into describing Drake's Medical Assistant program. It is a 7- month program intended to prepare individuals to work in Medical Office Technology and learn such things as Phlebotomy, EKG, and Computerized Medical Billing etc. She further explained that during the course of the program students participate in a 2-month Externship at a hospital and that the "that often students do such a great job the hospital ends up hiring graduates full time." I asked about starting salary and she stated it was \$21-26,000. I cringed a little and said that's it? To which she replied "well no one is going to give you a lot of money starting out but after working for a while you can earn more money." She positioned this program as a "gives you more options" because you are learning multiple skills. Directly following this discussion she went on to promote the Dental Assistant Program, a 9 month program intended to prepare students to do Dental Polishing & Cleaning, Oral Surgery Assisting and Medical Dental Office Management etc. When probed about the earning potential of this program she again started out with the range of 21-26k but then quickly stated that this program affords you greater opportunity earn up to 50k after awhile. When the question of tuition came up she told me that the cost was \$14,000 but that I could sign up on FAFSA and could possibly get a PELL Grant that could cover as much as \$9,000 and then could get a loan or look online for

additional grants to cover the remaining costs. Up until this point of the discussion I still remained unmoved by any of the programs she described. After an awkward silence she finally asked "what else are you interested in?" I thought to myself novel idea after you have pushed your two premiere programs on me you now asses my interests. I told her I like playing with computers so she proceeded to promote Drake's Microsoft Officer User Specialist stating that I could learn how to do computer repair. I abruptly frowned at this option stating that "liking to play with computers" doesn't exactly translate to computer repair. The advisor proceeded to suggest that I go with the Dental Assistant program, the basis of which was, "you have nice teeth and a pretty smile, you should do the Dental Assistant program."

I left the office having left no contact information but promising to return after I discussed the information presented with my parents. Upon my return my experience was more intense with both the original advisor and her co-worker pushing very hard for me to commit to sign up for a program. I again stated my main concern is finances and that I didn't know how I was going to pay for all of this. She handed me two forms, an application form and entrance interview form. Surprisingly enough on page two of the application asked for contact information of two referrals for them to contact about the program.

She quickly stated to her co-worker, "this girl has been here three times and always acts like this, just go ahead and fill out the form." Intensity of the environment continued when her co-worker irritably stated she had called one young lady three times to get her to fax her W-2 forms so she could get her paper processed and get her enrolled. My advisor remembering that I was only 20, gave me the 3 forms-2010 Verification Worksheet and two copies of FAFSA forms for my parents to fill out as well and then told me to hurry up and come back with everything filled out so she could get me into the next session that started the next week. My discomfort increased when her co-worker was asking

(Continued on page 12)

Asset Development or Debt Creation: For Profit Schools Capitalize on Recession

(Continued from page 11)

me for my full name, stating, "yeah I am asking because I never forget a name, that way I will remember you if I see you." Her comment and tone made me feel like she was going to be watching out for me or if she came across me on the street she might approach me about not signing up. Before I left the advisor entered my contact information into the computer system and stated that she was going to call me to make sure I didn't have any questions about filling out the forms.

My experience was eye opening and one that showed me that Drake does have a bottom line focus and in turn pressures their employees to get as many people as possible to sign up for these programs. Its efforts are very strategic in that they work their hardest to get you to sign up for the program and make "verbal promises or insinuations" of earning potential and job placement. Financial assistance at least from an advisor perspective is a formality

but getting school paid for is attainable. On their website the school promotes 95% placement rate, but what they fail to state is the actual earnings obtained at these placements. Navigating through their website and various program descriptions I came across the promise of "skill acquisition & expertise" which are promoted in words such as competency, marketable skills for your career and can help you become an expert. Collectively through marketing and the structure of their programs, they position themselves as a school to help individuals move up the economic ladder. In speaking with companies who have interviewed candidates as well as friends of graduates it is quite evident that Drake falls far short on these claims, often leaving students in worse shape then they initially started with. The individual outcome of being lured into such a scheme can be quite devastating, you come in looking for opportunity and asset creation or development and what you leave with is inadequate skills, poor earning potential

and a great deal of debt.

Similar to the foreclosure crisis and lender's predatory practices these institutions are teetering on the same line. They are exploiting a vulnerable and desperate person's situation for profitable gain. Rather than contributing to a growing middle class the output of these programs are more financially strapped, low wage worker candidates. In a time where low income individuals are already being victimized and encountering tremendous hardship with high housing and transportation costs, this exploitation by for profit schools is unconscionable. Furthermore, I question the capacity of the advisors in really assessing the needs and desires of prospective students and trying to find a fit for the program. These institutions need to be more strictly regulated to ensure they are not engaging in "predatory" practices and that the rights of the neediest are protected.

Northeast Area Representative Michele Alonso Receives State Preservation Award

Northeast Representative Michele Alonso, PP, AICP, Principal Planner for the City of Newark (seen at right, in the center) won a 2010 New Jersey State Historic Preservation Award for her work the past three years in the city of Newark as Acting Historic Preservation Officer. The awards were presented as part of the State of New Jersey's observance of Historic Preservation Month. The other eight awards went to restoration projects, such as Thomas Edison's Laboratory in West Orange. Also honored were the Trenton Masonic Lodge and a Camden bank, for merging green technologies in preservation of old buildings. "Old is the New Green" is the theme of this year's national celebration of Historic Preservation Month. According to the National Trust for Historic Preservation, historic preservation supports sustainability and is inherently green. The awards program increases public awareness of historic preservation, recognizes volunteer contributions to preserve historic resources, acknowledges projects of excellent quality, and recognizes the contributions by individuals, organizations, and agencies to preserve and advocate for historic preservation.

Congratulations, Michele!



Young Planners Group Update

APA-NJ's Young Planners Group (YPG) is part of a national network of young planner groups within APA. The APA-NJ YPG Committee includes planning professionals in their 20s and early 30s whose mission is to identify and implement ways to encourage young planners to become more involved in the profession in leadership roles in both the APA and the APA-NJ Chapter. The APA-NJ YPG provides networking opportunities for the younger generation of planners and provides a forum to discuss issues of impact and importance to them.

Formed by the APA-NJ in 2008, and launched in 2009, the APA-NJ YPG enjoyed a strong debut year with professional networking mixers, published newsletter articles, a group page on LinkedIn and an APA-NJ 2009 Annual Planning Conference workshop panel discussion, "Professional Planning Insights & Navigating New Careers." The group, through monthly meetings, established a Committee with many active involved members.

In March, APA-NJ and the Rutgers Association of Planning and Public Policy Students (RAPPS) co-sponsored "Planning Reality 101," a discussion program between young professional planners and planning students. In April, the YPG was invited as a participating group in the New Jersey Young Professionals Bi-Annual Multi-Group Mixer. This event featured a broad spectrum of professionals, notably architects, attorneys, non-profit employees, and engineers.

The YPG is organizing "Walking Tour of Asbury Park & Beach Day," scheduled for Saturday, July 24th. The tour will introduce planners around the state to redevelopment projects in Asbury Park and detail the planning process involved with each project. After the tour, we invite all participants to relax with us by the beach. A similar Saturday morning walking tour is planned for Hoboken, NJ in the late summer. The group is also organizing a workshop, "Navigating New Careers in a Down Economy", for the APA-NJ 2010 Annual Planning Conference.

We invite you to join us and take advantage of this great opportunity to help and obtain leadership skills, build your resume, shape the profession, and attract and network with young planners throughout the region. Contact APA-NJ YPG Chair Chris Brown at christopher.alex.brown@gmail.com. You can also join the APA-NJ YPG on Facebook and LinkedIn.

Activities & Events

A Walking Tour of Asbury Park Saturday, July 24, 2010 11:00 AM to 1:00 PM Asbury Park, NJ

The City of Asbury Park has a long and storied history beginning with its founding in 1871 and its subsequent evolution into one of the most successful resort towns in New Jersey, and the commercial hub of Monmouth County during the late 19th Century and early to mid 20th Century. Asbury Park is experiencing a renaissance, undertaking vast new development and redevelopment in several areas within the City including the Central Business District along Cookman Avenue, Main Street, the waterfront and boardwalk.

Fred Heyer, AICP, P.P. of Heyer, Gruel and Associates will narrate a two hour walking tour of Asbury Park detailing the implementation of the planning efforts along the boardwalk, Central Business District and other areas in the City. The tour will meet at the parking lot near the train station then travel west along Cookman Avenue, north along Ocean Avenue and the boardwalk, ending at the senior housing project near Deal Lake. In addition to highlighting new development, the tour will also recognize key historic sites such as the Carousel Building, Convention Hall, Palace Amusements and the Steinbach/Cookman Building.

Participants are then encouraged to continue the group discussions and network among your fellow planners for lunch at McLoone's Asbury Grille at 1200 Ocean Avenue.

This program is free of charge and we are seeking CM Credits for participants. Register for this event at APA.NJ.YPG@gmail.com.

Tour Guide:

Fred Heyer, AICP, P.P.

Partner in the planning firm of Heyer, Gruel & Associates, Mr. Heyer has over 25 years of experience preparing numerous Master Plans and Strategic Plans for municipalities with key components such as an extensive public outreach process and an issues oriented implementation focused approach. He has worked on the City Master Plan, the Waterfront Redevelopment Plan and is currently providing planning services to the Asbury Park Planning Board and Zoning Board. He also serves as an instructor at the Bloustein School of Planning and Public Policy at Rutgers University.

APA-NJ Webinar: Planning Law Review June 30, 2010

In order to attend this event, you must come to either of the locations listed below; you can not log into them from your computer.

This Webinar is offered in two locations:

- NJTPA -One Newark Center, 17th Floor, Newark, NJ
- Offices of the South Jersey Transportation Planning Organization (SJTPO), 782 S. Brewster Road, Unit B, Vineland, NJ 08361

For more information, visit www.njapa.org.

Hudson-Bergen Light Rail Tour August 20, 2010

Come ride the rails of the Hudson-Bergen Light Rail and see the sights in the communities in its path. Save the date; more details will be posted soon at www.njapa.org.



Hoboken Walking Tour August 21, 2010

Walk the streets of this booming mile-square city and tour recent redevelopment projects, development around the light rail, and the waterfront. Save the date; more details will be posted soon at www.njapa.org.



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