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President's Message

By: Chuck Klingenstein, AICP
Utah APA Chapter President

It has been a quiet April for the Utah Chapter. In a couple of weeks I will be going to Washington, DC for the APA Leadership Meetings. I have not yet received my information packet so I cannot report on what to expect. I do know that I will continue to focus on:

- Budget issues;
- Delivering not only better but more services to the Chapter level;
- Education summit wrap up describing where APA is heading on educational issues; and
- Tweaking of the National Organization to increase efficiency and responsiveness.

These have been important issues for me since I feel they continue to represent many of the concerns expressed by many of you regarding our National organization.

As many of you know, I have opened an office here in Utah for Jones & Stokes to serve the Intermountain West. A lot of our work is with Federal agencies such as BLM, Forest Service and National Parks. While I knew many of these federal agencies plan, I did not realize the breadth of their planning activities. I am thinking that my ignorance of their wide-ranging planning activities stems from the fact that there are no federal agency members in the Utah Chapter. In fact I cannot think of anyone I have met at national who works for any of the federal land agencies!

This raises an interesting question that I have asked our APA National Leadership. Leadership has been concerned for quite some time that membership has been stuck around 30,000 +/- . The answer is not simple, but I think there are some self-evident truths. APA National does not operate with a "big tent" philosophy. As those of you who have attended the National Conference can attest, the sessions are heavily biased towards public sector planning.



2003 Utah APA Executive Board

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The Utah Chapter of the American Planning Association publishes the Utah Planner. Circulation is to APA members. The Utah Planner welcomes submission of original articles, editorial letters, and any other information of interest to both professional and citizen planners.

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Obviously, public sector planners have been the backbone of our organization. However, if we are concerned about membership, I will continue to make the argument that there are many attorneys, engineers, landscape architects and other professions involved in planning. That includes the federal and state public land agencies that are actively planning vast amounts of land (in many cases, millions of acres).

These disparate groups all have significant impacts on the communities (state, regional and local) of our country. For those of you involved with any of the Resource Management Plans (RMPs) BLM conducts yearly, they are required to conduct socio-economic impact assessments. It seems clear that the federal government recognizes the impacts of their plans outside of their jurisdictions. Do the many other professions involved in the field of planning pay "attention to the interrelatedness of decisions and the long range consequences of present actions?" With these thoughts in mind, I will continue to ask National APA to broaden their perspectives in regards to those involved in the field of planning. I do not think they should all have to be full members of APA and many members of the Chapter President's Council have advocated Associate Memberships. Isn't it time for our organization to embrace all those who are involved in planning so that we might educate them to "the interrelatedness of decisions and the long range consequences of present actions?" Wouldn't a "big tent" philosophy further our overall objective of "Making Great Communities Happen?"

Utah Planners Beware: New Notice Requirements from HB 116

By: Ralph Becker

You might expect surprises from the Utah Legislature, but certainly not from one of your own. Sorry, friends, but here, possibly are something sprung on you by a fellow planner. HB 116 imposes new requirements on you. Hopefully, it will work to our benefit.

Working with Rep. Greg Hughes (Draper) and Senator Greg Bell (Farmington), HB 116 has changed notice requirements. Here's a quick rundown on the legislation, which applies only to first and second class counties:

- Cities, counties, special districts, school districts, and the big electrical, gas, and telephone utilities must provide notice of intent to prepare or amend a plan (for cities and counties a general plan) to each other, the Utah Automated Geographic Reference Center (UAGRC), AOG's, and the state planning coordinator. The notice must include an invitation to respond, a map of the plan area, contact information for notice, including the entity's website. While this new requirement is intended to address regional facility issues, the notice requirement is not limited to regional facility planning.

- ❖ There is no requirement in HB 116 that the public be notified of initiation of planning, but planners should consider notification to the public at the initiation stage while it notifies other entities.
- Future land use that may affect services and facilities with other entities (cities, counties, special districts, school districts, some public utilities) are now a listed element of a city or county general plan. (All of the plan elements are discretionary under existing Utah statutes.)
- For all entities affected by HB116, notice must also be given before acquiring property.
- UAGRC has agreed to post these notices on their website and serve as a clearing house of regional facilities information.

So, be on the look out of these new notice requirements. The objective is to establish better communication among entities involved in planning and property acquisition. While the direction is for regional facilities, HB 116 could be interpreted as requiring notice at the front end of all planning.

A part of the original HB 116 established a dispute resolution commission when notice fails. That element was dropped in the final legislation. During the 2004 Interim (between legislative sessions), the dispute resolution or appeals topic will be evaluated for action by the same parties who participated in developing HB 116. And, the entire Land Use Development and Management Act is up for review as well. Hope you will provide input as we proceed.

NEWS FROM OUTSIDE OF THE BEEHIVE STATE

***"Initiative to Stop Sprawl Defeated"* Associated Press (03/03/04); Hettena, Seth**

An anti-sprawl initiative that has passed in similar form elsewhere in the state met with sound defeat in San Diego County early last month. Local farmers and rural residents, bankrolled by the real estate sector, used \$450,000 in television advertising to squash the Rural Lands Initiative--which would have prohibited the subdivision or more than 1,000 square miles of "backcountry" for the next 20 years. While a similar measure to protect the dry hills, agricultural land, and wooded mountainous areas of rural San Diego County previously failed six years ago, supporters were counting on the increased traffic, pollution, and home prices since then to sway voters toward approving the latest reincarnation of the proposal. However, stated San Diego County Farm Bureau President Janet Kister, rural residents want control over their own land. (www.ap.org)

***"California Tries to Slam Lid on Big-Boxed Wal-Mart"* USA Today Online (03/02/04); Ritter, John**

Wal-Mart is under fire in California and is failing to meet its goals of one supercenter every two months in the state, which has about 35 million consumers. Many cities in the state are voting on whether to ban the supercenters from their regions, and lawsuits are pending in several other cities. Many critics have deemed the retailers business practices "cut-throat" and "predatory," but the company continually makes Fortune magazine's most admired company list annually. Unions are up in arms over the supercenters, which compete directly with grocery chains, and consumers are angered by Wal-Mart's tactic of leaving smaller locations abandoned while the company builds larger ones down the street. Residents of areas targeted by Wal-Mart have dug their heels in for a long battle, attempting to keep certain spaces open and free from development. However, Wal-Mart contends that these residents are only injuring their low income neighbors, who cannot afford expensive grocery stores and retail outlets. ([www.usatoday.com/money/industries/retail/2004-03-02-wal-mart x.htm](http://www.usatoday.com/money/industries/retail/2004-03-02-wal-mart_x.htm))

Spectrasite Communications, Inc. Offers Wireless Solutions for Today's Growing Communities

Building Wireless Solutions – Not New Towers
SpectraSite Communications, Inc. helps communities across the country enjoy all the benefits of wireless communications—while avoiding new tower development. The company owns over 7,500 towers in major metropolitan markets across the US. In addition, SpectraSite offers wireless service providers alternatives to tower sites, such as rooftop locations and in-building wireless. The company is committed to maximizing the impact of the towers it owns through the process of collocation: adding more than one wireless carrier to a tower in order to make the best use of existing space. SpectraSite is working with national and regional planning officials through meetings, solution seminars and trade shows, in order to better assist communities in making the right wireless infrastructure choices.

Wireless Technology's Role in Community Safety
SpectraSite Communications provides wireless infrastructure for communities' nationwide, enabling always-on wireless service that can mean the difference between life and death. In emergency situations such as late night car trouble, sudden illness or a national disaster, landline phones may not always be accessible or in service. SpectraSite helps wireless carriers to provide service to their subscribers—no matter where they go. In partnership with major wireless carriers, SpectraSite is delivering the safety, efficiency and convenience of wireless communications to communities across the USA.

Making the Most of Wireless Tower Sites in Your Community

SpectraSite Communications is stretching the limits of its wireless tower portfolio to accommodate the booming demand for wireless service—while preserving local communities' aesthetic appeal. SpectraSite, based in Cary, NC, owns a portfolio of over 7,500 cellular tower sites concentrated in the top 100 US markets. The company specializes in making the most efficient use of its existing cell sites by promoting collocation (adding more than one wireless carrier's antenna equipment to a tower)—and making physical modifications to the sites. Unique modifications can include anything from reinforcing the strength of a tower's base to extending the tower height by several feet. SpectraSite makes the process easy for wireless carriers, so that they can get wireless service up and running fast, even in communities where building a new tower site is not possible.

SpectraSite Reaches Out to Local Planners in Effort to Deliver Better Wireless Service

SpectraSite Communications has begun a grassroots campaign to educate city planners and zoning officials on the benefits of wireless in their communities and how it can be delivered without unnecessary tower development. SpectraSite has hit the streets in its effort, attending national trade shows, meeting with planners on a local level and hosting solution seminars on various wireless communications topics. The company hopes to become more involved on a local level throughout 2004 with more face-to-face meetings on topics such as cell site collocation, developing a wireless-friendly tower ordinance, the benefits of wireless to a community, how a cell site can be modified to accommodate additional tenants, and how planners and elected officials can work with wireless carriers to deliver advanced wireless service to the community.

About SpectraSite, Inc.

SpectraSite, Inc. (www.spectrasite.com), based in Cary, North Carolina, is one of the largest wireless tower operators in the United States. At December 31, 2003, SpectraSite owned or operated approximately 10,000 revenue producing sites, including 7,577 towers and in-building sites primarily in the top 100 markets in the United States. SpectraSite's customers are leading wireless communications providers, including AT&T Wireless, Cingular, Nextel, Sprint PCS, T-Mobile and Verizon Wireless.

Contact:
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Planners on the Move

Corvin Snyder, formally a Planner with Ogden City, is now Centerville's new Community Development Director. Congratulations, Corvin!

Reminder of Our 2004 Spring Conference

May 13th and May 14th in Blanding, UT

<http://www.utah-apa.org/Springconf/2004springconf.htm>

DUCHESNE COUNTY JOB ANNOUNCEMENT
(open until filled)
April 7, 2004

Duchesne County is currently seeking a Planner

GENERAL DESCRIPTION OF DUTIES:

Manage day to day administrative functions of the County Planning and Community Development Department; Meet the general public to discuss planning, zoning and development issues; Prepare proposals for amendments to zoning ordinances or policy governing local planning, zoning and development; Review subdivision proposals for compliance; Process conditional use permits, zone changes and variances; Present planning issues to the Planning and Zoning Commission, the County Commission and the Board of Adjustments; Enforce zoning ordinances; Update the Duchesne County General Plan, the Duchesne County Zoning and Subdivision Ordinances; Oversee the Duchesne County Public Lands Policy.

MINIMUM QUALIFICATIONS, EDUCATION AND EXPERIENCE:

Must Possess a valid Utah Driver's License; Have a minimum of a bachelors degree in Planning, Public Administration or a closely related field, and three (3) years actual planning experience; Be able to communicate effectively both orally and in writing; Maintain an effective working relationship with the public; Have a working knowledge of office equipment and computers, including Quattro Pro and/or Excel, Word Perfect and/or Word, and Arc View.

WAGE:

Salary based on qualifications and experience.

HOURS:

40 hour work week.

RESUMES:

Resumes may be submitted to the Duchesne County Personnel Office, 734 N. Center St, PO Box 346, Duchesne, Utah 84021-0346, Monday through Friday 8:30 AM to 5:00 PM.
Email cmas@co.duchesne.ut.us. 435-738-1144

DUCHESNE COUNTY IS AN EQUAL OPPORTUNITY EMPLOYER

Utah APA Legislative Committee 2004 Legislative Summary Bills Passed

Local Planning

HB111 – Local Government Amendments

Primarily makes a number of technical changes to municipal government, but also modifies the provisions for plans for moderate income housing for both cities and counties. Exempts towns from having to prepare such plans. Modifies the definition of “moderate income,” and stipulates that in a civil action brought under this section, a plaintiff may not recover monetary damages, only be awarded injunctive or other equitable relief.

HB116 – Facilities with Regional Impact

Will apply only to first and second class counties. Will require cities and counties to provide notification of intent to adopt or modify their general plan to all affected entities – adjacent cities/counties, special districts, school districts, and public utilities. Will also require those entities to provide similar notice when they prepare or modify a long range facilities plan. Will also require these entities to notify the local government of their intent to acquire property for a regional facility if the zoning and/or plan of the local government does not provide for such a facility at the intended location.

The bill originally included a dispute resolution process to be used in instances where a city/county and another entity could not agree on the use of land for a regional facility. This provision was dropped, however, after several groups expressed concern and non-support for this provision. The sponsors of the bill, Reps. Ralph Becker and Greg Hughes, promise to work this out during the interim and bring this back for adoption in the 2005 legislative session.

HB229 – Public Utility Easements

Makes much more explicit the rights and restrictions associated with public utility easements, like those that are included on most subdivision plats.

Also specifies that a subdivision plat cannot be recorded until the subdivider provides evidence to the local government that a courtesy notice has been given to all public utilities regarding the planned easements at least 14 days previously.

SB9 – Property Rights Amendments

Primarily makes modifications to procedures for the use of eminent domain.

Also stipulates that the state private property ombudsman (Craig Call) may assist private property owners in a dispute involving local government regulation on the use of property. The ombudsman can only order mediation or arbitration, however, when an issue of takings rights law is involved.

SB53 – County and Municipal Zoning Regarding Billboards

This bill went through a number of changes late in the session. The version that passed, while not ideal, was much better than what was originally proposed.

The bill deals primarily with non-conforming billboards and when and where they can be rebuilt. A number of stipulations are made, many of them dealing with whether the sign was built in the wrong place, and whether that was due to a mistake or was intentional. The wording of the bill gets pretty confusing. I would encourage you to have your city or county attorney read it and advise you if you happen to get a situation that might fit this bill.

SB18 – Municipal Annexation Provisions in First Class Counties

Applies only to Salt Lake County. Requires the county to mail notices of proposed annexations to all property owners in the proposed annexation area and all owners within 300 feet. The cost of providing this notice is to be paid by the petitioners for the annexation. The bill also provides for signers of an annexation petition to remove their names from the petition.

SB159 – Annexation of Public Land to Special and Local Districts

Will allow owners of public land, except for the federal government, to petition for annexation to a local or special district. No private land may be included in such petitions.

SB124 – Prohibition on Sales and Use Tax Incentive Payments by a County or Municipality

Prohibits a city or county from making incentive payments with money from sales tax revenue to induce a regional retail business to relocate. A regional retail business is defined as one that occupies more than 80,000 square feet of floor space; is a car or motor vehicle dealer; is a retail shopping facility that has at least two anchor tenants if the total floor area of all tenants is more than 150,000 square feet; or is a grocery store of more than 30,000 square feet.

SB204 – Redevelopment Agency Changes

Modifies the definition of “combined incremental value” to exclude the value of a military area that has been closed by the BRAC process. This bill is targeted specifically to the closed Defense Depot Ogden and Tooele Army Depot.

State Planning

HB88 – State Land Use Management Plans

Provides much more specificity to the process of developing state policy towards federal land management. Will require more involvement of local officials in the development of those policies. Also requires a number of specific principles to be taken into account in developing those policies, such as multiple-use, sustained-yield, use of school and institutional lands, natural resource development, and so on.

SB50 – Rural Planning and Development

Creates four new bodies to address planning and economic development of rural Utah. They are: an Office of Rural Development within the Dept. of Community & Economic Development; a Rural Development Legislative Liaison Committee; a Governor's Rural Partnership Board; and a Rural Coordinating Committee.

Among other things, these groups are to develop and implement a strategic plan to address rural economic development, planning, and leadership training.

Transportation

HB23 – Joint Transportation Planning Amendments

Recognizes for the first time at the state level what a Metropolitan Planning Organization (MPO) is, and requires UDOT to cooperate with MPOs for transportation planning and project coordination. Encourages joint planning and coordination between MPOs that have contiguous boundaries.

HB28 – Transportation Planning Task Force Reauthorization

Reauthorizes last year's Task Force to continue for another year. It is widely anticipated that the Task Force this year will make recommendations for long range funding for future transportation needs.

HB157 – Transportation Amendments

Provides for the possible inclusion of a member of the State Transportation Commission as a non-voting member of the UTA Board. Also requires UTA to make an annual report to the State Transportation Commission on its short and long range transit plans.

SB11 – Guidelines for Local Matching Dollars for Transportation Projects

Requires the State Transportation Commission, in consultation with local governments, to adopt guidelines that encourage partnering with local governments in the financing of state transportation projects. The intent here is to help stretch state transportation dollars, but many fear the unintended consequence may be to allow "wealthy" communities to "buy" their way to the head of the list for desired projects.

SB170 – Public Transit District Amendments

Allows for elected officials to serve on the UTA Board. Also requires copies of the proposed UTA budget and the annual audit to be sent to each local government in the UTA district.

Other Issues

Quality Growth

John Bennett of the Governor's Office of Planning and Budget reports that the GOPB planning staff budget was passed intact. Also, the budget included \$250,000 for planning assistance, but according to John there are other existing programs that will claim that money, so no new round of planning assistance grants are anticipated for this year.

The LeRay McAllister Open Space fund was allocated \$482,600, about what it was given last year when the budget was cut way back. But John reports the legislature also gave the fund \$300,000 from this year's revenue, so a bit of a boost. He anticipates a new round of funding applications for this money in the near future.

Facilities of Regional Significance

As mentioned earlier, the bill sponsors, Reps. Ralph Becker and Greg Hughes, have promised to work on the conflict resolution mechanism that was stripped out of HB116.

Redevelopment Agency Amendments

During the session, HB311, sponsored by Rep. Stuart Adams of Layton, nearly passed but got caught in some political wrangling. The bill was rather complex, and would have made a number of changes in the RDA laws. It would have significantly expanded the types of projects that would qualify for RDA funding, in large measure to encourage mixed use development and transit facilities. The bill was in part prompted by the continued push by school districts to get out of the tax increment earlier (another bill that did not pass this session, HB313, would have taken school districts out of RDA increment financing altogether – a bill like this is introduced every session). Rep. Adams' bill would have let school districts out earlier. But the proponents of this bill did not discuss it with counties and special districts, the other big participants in the tax increment, until nearly the end of the session, which was a mistake.

The bill failed in the dying hours of the legislative session as the House passed one version, the Senate another, and neither chamber would agree to the other's version.

Some form of this bill will likely be back next year.

Open Space Funding

Rep. Ralph Becker sponsored a joint resolution during the session, HJR15 – Resolution Submitting Bonding for Open Space to Voters, which would have put on the November ballot the question of whether the state should bond for money to preserve open space. It would have been a non-binding resolution, but would have been a good gauge of how the public feels about it. Ralph was unable, however, to get the bill out of rules committee to the floor for debate and a vote. This may be back again next year, if we know Ralph.

Local Referendum Amendments

SB8 – Local Referendum Amendments, nearly passed early in the session, but ultimately died because of some possible serious side effects. The bill would have clarified that if an ordinance passed at the local level is then subjected to a citizens' referendum, the ordinance would be prohibited from going into effect until the resolution challenge had been resolved. Because a referendum can only be voted on in general elections, some local ordinances might have had to wait as long as two years from the time they were passed by the local governing body before they could go into effect.

The timing on this bill got it caught up in a conflict then playing out in Riverton City, where a group of citizens was moving forward to challenge a zone change approved by the Riverton City Council for new development. This issue became of concern to planners because of the potential for opening the door to possible stymieing of planning decisions by small groups of citizens who might now view this tool as a way of greatly delaying development proposals.

Lost in the discussion was a provision in the current law which says, "Local law' does not include individual property zoning decisions." (Utah Code 20A-7-101). The question then becomes, what is an individual property zoning decision? A lot of questions were raised by this proposed bill and by the law the way it is written.

No question more will be heard on this in the future.

Sales Tax Distribution

SB121 – Local Sales and Use Tax Distribution Task Force, was an attempt by Sen. Greg Bell to address the issue of "zoning for dollars" that has been talked about so much in recent months. The bill would have set up a task force to look at this issue and make changes. The League of Cities and Towns objected to the proposed task force because their experience with legislative task forces in the past has been that they are composed primarily of legislators, and they do not listen or involve local officials very well in their deliberations.

Sen. Bell agreed to hold off on pursuing a legislative task force if the League would, as promised, pursue this issue on their own in the coming year. So the onus is on the cities to do something with this issue. It is a topic of concern to legislators, as evidenced by SB124 – Prohibition on Sales and Use Tax Incentive Payments by a County or Municipality, which passed during the session.

Transportation Funding

The stage has been set for the 2005 legislative session to get into some pretty serious wrangling over transportation funding; much like has been done now for a couple of years on education funding.

The Wasatch Front Regional Council adopted a Long Range Transportation Plan last December that calls for regular periodic increases the state gasoline tax, authorization for additional local funding for transit, and increased contributions from the state general fund to transportation.

The Transportation Planning Task Force was also reauthorized, with many expecting it to tackle the funding issue and have recommendations ready for the next session. This one will be fun to watch.

LUDMA Revision

Before the start of the 2004 legislative session, Sen. Greg Bell was talking about some changes that he felt needed to be made to the LUDMA to rein in some local governments that were, in his opinion, straying rather far afield from what they were allowed to require of development proposals under the LUDMA and other state laws.

League and UAC representatives talked with Sen. Bell extensively, persuaded him that time should be taken to carefully structure and examine such proposed changes, and promised to have something ready by the 2005 session. Sen. Bell agreed to this approach.

So, during the interim this year, effort will be moving forward to relook some of the provisions of the LUDMA and make some changes to clarify, bring in line with recent court decisions, and update. Gary Uresk is chairing a committee through the League which has begun work on this effort.

LeRay McAllister Critical Land Conservation Fund Available

The Utah Quality Growth Commission announces the opening of a new application cycle. The LeRay McAllister Critical Land Conservation Fund provides grants and loans to preserve or restore critical open or agricultural land in Utah. Matching funds are required.

Eligible applicants are counties, cities, towns, the Utah Department of Natural Resources, the Utah Department of Agriculture and Food, and charitable organizations that qualify as tax exempt under Section 501 (c)(3) of the Internal Revenue Code.

Applying involves several steps. Before starting, be sure you have read through all of the documents listed here:

Schedule for Seventh Application Cycle
Pre-application Form
Application Cover Sheet
Application Checklist
Application Form and Evaluation Criteria
McAllister Fund Defining Principles
Eligible Costs Policy

It is important that you know what will be required before a grant can be awarded and that you will be prepared to submit the required documentation.

THIS IS A COMPETITIVE PROGRAM WITH LIMITED FUNDS.

Full information and application forms are available on the Internet at www.qualitygrowth.utah.gov. If you have questions or would like further information or printed forms, contact:

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