

ZONINGPRACTICE

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AMERICAN PLANNING ASSOCIATION



➔ ISSUE NUMBER FOUR

PRACTICE CONTINUING EDUCATION

The collage features four overlapping covers of the magazine 'Zoning Practice', published by the American Planning Association. The covers are for the following issues:

- Fall 2004:** Features articles on Smart Growth Codes, Tools and Techniques, and Views Carré.
- Summer 2005:** Features articles on Training Simulations, Profiles of Montgomery County, and a Resource Finder for Religious Land Use.
- Spring 2006:** Features articles on A New Addition to the Planning Field, A Tradition of Good Planning, and Commissioner's Notes.
- Winter 2007:** Features articles on Balancing Change with Community Need, Build Out in Yorktown, and Commissioner's Notes.

A large, bold number '4' is overlaid at the bottom center of the collage.

The Quiet Revolution in Training Citizen Planners

By John R. Nolon

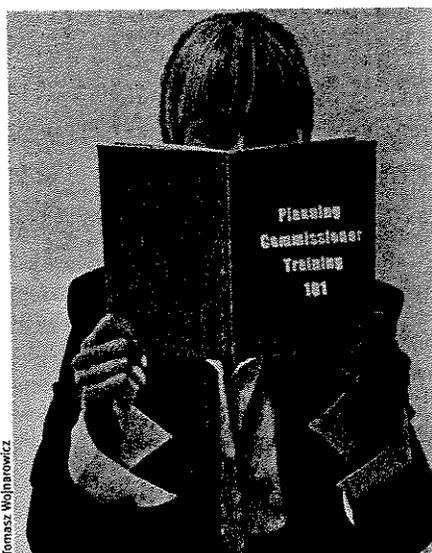
Since 1998, when *Zoning News* (now *Zoning Practice*) last covered the issue of training for citizen planners, a spontaneous movement to train local land-use and planning board members has occurred.

THE MAKING OF A MOVEMENT

At that time, only New Hampshire had a state law for such training, and it was a modest beginning. The law stated that new members of local planning and zoning boards may, “at the member’s option complete at least six hours of training for that member’s respective position.” The American Planning Association’s *Growing Smart Legislative Guidebook: Model Statutes for Planning and the Management of Change, 2002 edition*, recommended that state legislatures follow New Hampshire’s lead, suggesting they adopt laws that encourage local governments to impose training requirements on board members.

THE SOUTH CATCHES ON FAST

A robust approach to training emerged in the Southeast in 2001 when Kentucky became the first state to require training for local board members. The legislation applies to both new and sitting members, requiring from four to eight hours of basic training for newly appointed planners and 15 hours of continuing education. Since then, legislatures in Tennessee, South Carolina, Louisiana, and very recently, New York and New Jersey, followed suit with requirements for planning commissioner training. At minimum, the variety of approaches to mandating training created by the trailblazers can help inform the states that are considering such measures. In addition, some states have adopted laws or provide resources that



Tomasz Wójcik

support training programs run by professional planning organizations or academic institutions. And elsewhere, local governments simply require training without the prompting of state lawmakers.

Training laws and programs vary in terms of structure and content: They may require or just encourage training, be limited to new board members or available to all sitting members, cover the “basics” or a longer menu of topics, include local legislators, involve members of other local bodies (including environmental, wetlands, or architectural commissions), or include stakeholders affected by land-use decisions. The cost may be paid by state agencies, local governments, nonprofit training organizations, foundations, planning federations, or by the participants. Training formats may include lectures, clinical workshops, cybertraining, interactive CDs, peer presentations, mock hearings, decision-making exercises, and break-out sessions.

This issue of *Zoning Practice* begins with a compendium of state laws that require training and then provides information on several voluntary programs, which may be influenced by state legislation and state agency programs or be the independent work of nongovernmental groups. The intention of the article is to inform the reader on the range of approaches to providing training for those involved in local land use, which is critical to the built and natural environments.

STATE LEGISLATION MANDATING TRAINING

In Kentucky, volunteer board members must complete at least four hours of orientation training within the year prior to appointment or within 120 days of appointment, and must participate in at least eight hours of training every two years thereafter. The program requires a locality to organize or identify training programs and pay for attendance where necessary. The law specifies that the training should cover land-use planning, zoning, floodplains, transportation, community facilities, ethics, public utilities, wireless telecommunications facilities, parliamentary procedure, public hearing procedure, administrative law, economic development, housing, public buildings, building construction, land subdivision, and powers and duties of the board of adjustment. Appointed board or commission members who fail to complete the requisite training are subject to removal.

ASK THE AUTHOR JOIN US ONLINE!

Go online from from May 21 to June 1 to participate in our "Ask the Author" forum, an interactive feature of *Zoning Practice*. John R. Nolon will be available to answer questions about this article. Go to the APA website at www.planning.org and follow the links to the Ask the Author section. From there, just submit your questions about the article using an e-mail link. The author will reply, and *Zoning Practice* will post the answers cumulatively on the website for the benefit of all subscribers. This feature will be available for selected issues of *Zoning Practice* at announced times. After each online discussion is closed, the answers will be saved in an online archive available through the APA *Zoning Practice* web pages.

John R. Nolon is professor of law counsel at Land Use Law Center, PACE Law School. He served as a consultant to President Carter's Council on Development Choices for the 1980s, President Clinton's Council on Sustainable Development, New York Gov. George Pataki's Transition Team, and the statewide Quality Communities Advisory Board directed by Lt. Gov. Mary Donohue. Nolon is co-author of the nation's oldest casebook on land-use law. The sixth edition of *Land Use: Cases and Materials*, by Morton Gitelman, John R. Nolon, Patricia E. Salkin, and Robert R. Wright was published in September 2003. Nolon's articles have appeared in numerous law reviews and other publications; some of his work has appeared on annual 10-best lists for environmental and land-use law articles.

Tennessee also requires training for members of planning commissions and zoning boards of appeal. State legislation adopted in 2002 requires board members to receive at least four hours of initial training and continuing education annually in at least one of 13 subject areas similar to those outlined in the Kentucky legislation. Affected board members must file a certificate with the secretary of their local board with the date of each training program attended, its subject matter, location, sponsors, and time spent. Local governments are responsible for paying the tuition cost of board member training and travel. The Tennessee legislation contains a provision allowing municipalities to opt out of the state requirements by adopting a training program of their own.

South Carolina adopted legislation in 2003 requiring six hours of orientation training for new board members on specified subjects and three hours each year thereafter. The legislation mandates subject matter (similar to Kentucky and Tennessee) and creates a state oversight board to review and approve training courses.

In Louisiana, legislation adopted in 2005 describes the type of training but requires local boards to determine how to provide it. Louisiana's board members must complete four hours of training before taking office.

NEW JERSEY

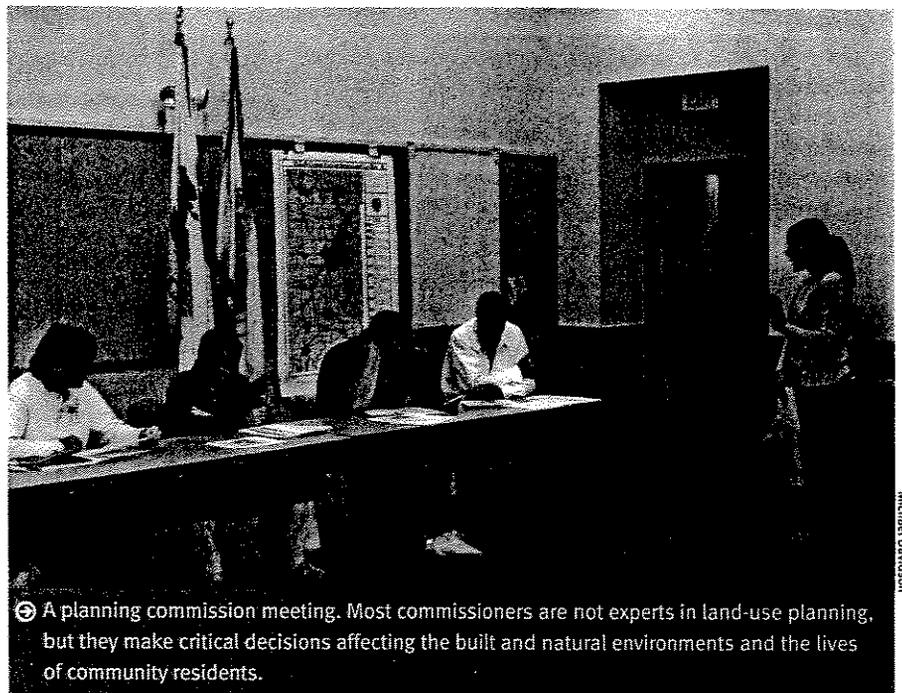
New Jersey's mandatory planning law, adopted in 2005, begins with a requirement that the commissioner of the Department of Community Affairs prepare a basic course in land-use law and planning. The course is offered to current, prospective, and alternate

members of local planning boards and zoning boards of adjustment. Participants set aside one day to complete five hours of training. The law prevents the seating of first-term board members unless they agree to take the course within 18 months of assuming board membership, but does not invalidate a hearing or decision if a member of such board is subsequently found not to have completed this course.

However, rules adopted under this statute by the commissioner declare that any board member who fails to complete the prescribed training program is ineligible for further service. The rules require the govern-

ing body of a municipality to remove a board member not in compliance with the training requirement. The commissioner approves course providers and allows them to charge reasonable tuition to cover the cost of offering the course. Municipalities are responsible for paying the cost of tuition. Course providers have some flexibility in designing their courses, but each course must offer five hours of training and cover board roles and responsibilities, the master plan, and the process of reviewing development applications.

The New Jersey Department of Community Affairs, Office of Smart Growth, in its



⊕ A planning commission meeting. Most commissioners are not experts in land-use planning, but they make critical decisions affecting the built and natural environments and the lives of community residents.

Michael Davidson

communication to local governments about this program, states that the purpose of the requirement is to provide a uniform educational experience for all planning and zoning members and to provide the basic practical information needed to fulfill their responsibilities. It further notes that "The informed participation of all local officials will no doubt have a positive impact on the quality of life for those living in and around your communities."

NEW YORK

Legislation adopted in 2006 in New York requires that local planning and zoning board members receive four hours of training annually. By law, noncompliant board members cannot be reappointed. For years prior to the adoption of the mandatory training law, bills for it were stalled in the state's legislative subcommittees.

vinced some state legislators that mandating training was an acceptable state responsibility.

Second, increasing development pressures and complexity in the land-use approval process convinced legislators from developing regions of the state that the quality of community life was threatened and that it could be maintained by effective local board action by properly informed members.



Photos courtesy of John R. Nolan

☞ Training programs vary between communities and states, with each deciding what works best locally. Many programs include on-site instruction, which provides the opportunity for intense discussion and direct feedback. The LULA program in New York and Connecticut even has "graduates."



Associations representing local governments were concerned that a training mandate would be too costly, that it would discourage volunteers from accepting appointments, and that it could expose communities to litigation if their board members failed to be certified as trained. These arguments were blunted by several considerations and provisions.

First, the evidence of legislative action in New Jersey and several southern states con-

Third, a large number of state agencies, planning organizations, county governments, and academic centers had initiated training programs since the legislative debates over training began several years ago. These programs provided a variety of formats (many of them user-friendly), including self-study programs and Internet training. This showed legislators from less populated areas of the state that low-cost, minimal travel training options

were available. Further, the law imposes no training format or content; local bodies may adopt resolutions detailing the type, method, and content. The law is silent about how board members are certified as trained, leaving this important detail to be decided locally.

Fourth, the state legislature was aware of increasing and potentially costly litigation because of the actions of untrained members of land-use boards.

A concern that a training requirement could increase the probability of litigation when board members failed to comply was addressed by a provision in the law that no board decision will be declared invalid because of one or more board members' failure to comply with the training requirement.

Finally, the law contained an opt-out provision: a local legislature may waive or modify the training requirement if it finds that it is in the best interest of the locality to do so.

Tiffany Zezula recruits candidates for the Pace University program. She notes that interest in these programs has skyrocketed since she joined the staff of the Land Use Law Center four years ago. "Our recent one-day program in Columbia County was a standing-room-only affair," she says. "Nearly 90 local leaders signed up for that program in a county where there was little interest when I started. I think this is because of heightened concern over development pressures and the new state law that requires zoning and planning board members to receive training."

Robert Elliot, executive director of the New York Planning Federation explains why New York became the latest state to adopt a mandatory training bill: "Public sentiment and knowledge has changed considerably in recent years," he says. "Citizens know from firsthand experience the adverse impacts of sprawl. They have also learned that our home rule tradition relies on local volunteer board members to make the critical decisions that will prevent sprawl, promote needed conservation, and provide balanced land-use patterns. There has been a public awakening about the deterioration of community life, the nature of the land-use system, and the importance of equipping and supporting their key decision makers. It was this sentiment that convinced the state legislature to adopt New York's mandatory training bill in 2006."

VOLUNTARY TRAINING PROGRAMS

The University of North Alabama. The university's Office of Continuing Studies and Outreach offers a large number of classroom and home study programs on comprehensive planning, zoning and subdivision regulations, planning and zoning law, local board duties and responsibilities, meeting management, and dispute resolution. A planning or zoning board member who completes several of these courses in on-site training formats will become a "certified Alabama planning and zoning official." Mayors, city council members, professionals, and citizens are encouraged to take these courses and become certified. Each course runs a half day or a full day at a cost ranging from \$79 to \$139.

Lincoln Land Institute. After years of conducting classroom training for land-use professionals in Cambridge, Massachusetts, the institute now conducts place-based training programs—albeit selectively. In conjunction with institutional partners in various regions of the country, the institute's training programs put land-use and design tools into the hands of the local leaders responsible for making key decisions about growth and conservation. Training is concentrated in areas with mounting development pressures and where leaders are committed to changing land-use patterns. Practical case studies are used to demonstrate how leaders have confronted and resolved land development problems in other locales. Programs are supplemented with materials from the institute's publications program and leaders are assisted by technology-based information programs. The institute has a free Citizen Planners Resource Kit that includes publications on a variety of smart growth techniques and a film, *Making Sense of Place*, together with free online access to courses for citizen planning officials.

Mayors' Institute. Few training programs involve chief elected officials. A notable exception is the New Jersey Institute, which conducts programs modeled after the Mayors' Institute of City Design. Carried out in conjunction with the Regional Plan Association, the institute gathers a half dozen mayors and a resource team of professional designers and planners. Mayors talk about the planning and design problems faced by their communities to which the resource team responds, triggering in-depth discussion.

Mayors learn from local examples discussed by the resource team and the team members and chief elected officials learn from one another.

Georgia Department of Community Affairs. The department's Office of Planning and Quality Growth conducts a two-day workshop designed for local board members and

Government Trust and the Governor's Office of Planning and Budget. The partners present a two-day seminar on land-use practice. Individuals pay a modest fee to register. The participants are largely planning commission and zoning board of adjustment members, elected officials, and local staff members. Standardized materials are provided for par-

Most training programs are geared toward planning and zoning board members with an emphasis on newly appointed volunteers—a strategy that is pragmatic and hard to debate.

staff. Training includes sessions on land-use law, street design, green space preservation, ecological and economic considerations, and innovative regulations—the tools and techniques of effective planning and quality growth.

Utah Certified Citizen Planner Seminar. This seminar series is run by the University of Utah's Center for Public Policy & Administration in conjunction with the Utah Local

participants and are also available online. Sessions include the role of local boards; the basics of land-use regulation, zoning, and subdivision approval; and due process in public meetings. Trainees who complete the seminar receive a certificate of completion.

Massachusetts Citizen Planner Training Collaborative. Seven planning groups, state agencies, and an academic institution formed the collaborative to provide training workshops, on-demand training, database services, and an annual conference for citizen planners. The core curriculum includes an introduction to zoning, subdivision control, and the roles and responsibilities of planning and zoning boards. Also provided are intermediate courses on nonconforming uses, community participation, exemptions, variances, and special permits. Specialty programs are available on writing land-use decisions, reading subdivision plans, affordable housing, and holding public hearings. Nearly three dozen trainers work with the collaborative to provide these courses on a recurring basis throughout the state. This program is assisted by the State of Massachusetts, whose legislation authorizes the State Department of Housing and Community development to establish a program for training local planning officials.

Michigan State University Citizen Planner Program. This program awards a citizen planner certificate through the Michigan State University extension to individuals who

TRAINING TIPS FOR BOARD MEMBERS AND STAKEHOLDERS

- Involve local elected legislators who help adopt zoning and land-use laws; establish the standards that planning boards enforce; appoint members to boards; and determine whether to provide training for their appointees.
- Include a spectrum of stakeholders involved in local land-use decision-making and sensitizing board members to the full range of interests involved.
- Provide training regarding innovative land-use strategies (smart growth, affordable housing, conservation strategies, and mixed use, higher density development), and community-based decision making.



⊕ Program formats will vary, but peer-to-peer training and interactive exercises in land-use planning are particularly useful. In the images above and below local officials (many of them planning commissioners) participate in an interactive exercise that takes them through the comprehensive planning process. Commissioners are presented with a real-world scenario of having to decide how a community will accommodate 2,000 (fictitious) new residents and still adhere to the goals of the comprehensive plan.



Photos courtesy of Michael Davidson

complete seven core courses and have 30 hours of community service in land-use planning. Serving on a local land-use board fulfills the service requirement. The program states that over 14,000 local volunteers in Michigan serve in the capacity of “local land-use decision maker.” Its research indicates that “the total membership of local planning commissions and zoning boards changes, on average, every five years.”

More than 75 instructors teach the core courses and a few select elective programs to groups of trainees averaging 30 participants. Core course topics include the basics of planning and zoning, legal foundations, plan implementation, innovative tools, citizen participation, and conducting effective meetings. Courses are conducted locally by on-site instructors working in conjunction with county extension offices operated by Michigan State University. Participants are prepared to work with other stakeholders in the land-use process and learn how to forge relationships with their counterparts in other communities. Most participants are zoning and planning board members or members of local elected bodies.

The Land Use Leadership Alliance Training Program in New York and Connecticut. The Land Use Law Center’s Land Use Leadership Alliance Training Program (LULA) was also created with the support of the New York State Extension Program through the Natural Resources Conservation Service (NRCS) of the USDA. Using the extension model, this program started in three counties in the lower Hudson River valley region and has expanded to include local land-use leaders from 10 counties more than 250 municipalities. It has been successfully transferred to the Finger Lakes region in upstate New York and the lower Connecticut River valley in Connecticut, working through the Connecticut NRCS.

LULA provides four-day and one-day training programs and conducts strategic workshops with its graduates in their communities. It recruits 30 to 35 local leaders for each round of four-day training and selects participants based on their respect in the community, diversity of interests, and “open-mindedness.” Candidates for each round of training are nominated by earlier graduates of the program or by local chief elected officials. Each group contains local board members,

developers, environmentalists, and other land-use stakeholders.

Based on research on the diffusion of innovation and adult education practice, the program uses peer-to-peer training, break-out sessions, interactive exercises, and training in community consensus-building. It provides an online database of sample ordinances, commentaries, and case studies. The program sends its graduates an electronic newsletter every quarter covering their progress, exemplary case studies, new resources, and upcoming events and conferences. More than 1,000 leaders in New York and Connecticut have graduated from the LULA training program, and more than 100 local governmental legislative bodies have passed resolutions of support for it.

The program is funded by governmental agencies, foundations, environmental organizations, developer contributions, and other sources. Participants are required to attend four days of training as a condition of acceptance. The curriculum for each round of training is shaped by the land-use issues confronted by the trainees. The four all-day sessions are spaced over a six-week period to allow trainers and participants to fine-tune each day's content.

CONCLUSION

Most states have yet to pass legislation either mandating or encouraging citizen planner and local land-use leader training. But the trend to do so has increased rapidly during the past several years. State encouragement and facilitation of citizen planning is also expanding. Furthermore, non-governmental participation is also on the rise—although it is important to note that APA chapters and other planning, conservation, and development organizations have engaged in the training of local leaders for years.

Most training programs are geared toward planning and zoning board members with an emphasis on newly appointed volunteers—a strategy that is pragmatic and hard to debate. Local boards make important decisions and yet most board members are inexperienced volunteers with a high rate of turnover. It is important to allocate training dollars and personnel for new members, with some focus on continuing education.

As training programs grow in popularity so does the breadth of topics they cover. The zoning movement similarly began with the adoption of a single comprehensive zoning

law in 1916 and spread to over 500 municipalities in less than a decade. Consider what has occurred since this publication last covered this topic in 1998: an explosion of activity and innovation in citizen planner education. This is an altogether good trend and one that deserves support, study, and emulation.



ZONING REPORTS

THE POLITICS OF PLACE: A HISTORY OF ZONING IN CHICAGO

Joseph P. Schwieterman and Dana M. Caspall.
Lake Claremont Press, 4650 N. Rockwell St.,
Chicago, IL 60625. 2006. 204 pages.
Available from APA's PlanningBooks.com.
\$19.95.

Only in Chicago can
zoning be epic. . . .
How the face of
Chicago came to be
is a story of
enterprise, ingenuity,
opportunity—and
zoning.

Only in Chicago can zoning be epic. Chicago is renowned for its distinctive skyline, its bustling Loop business district, and its diverse neighborhoods. How the face of Chicago came to be is a story of enterprise, ingenuity, opportunity—and zoning. Until now, however, there has not been a book that focuses on the important, often surprising, role of zoning in shaping the "The City that Works."

From the nuisance laws of the 19th century targeting Chicago's notorious filth to its cutting-edge new code, this meticulously researched book chronicles the use of zoning as both handmaiden for the just and tool for the self-serving. City planners and urban historians will delight in the colorful tale of how a city's backbone—and zoning is indeed Chicago's backbone—supports its broad shoulders.

LAND USE IN A NUTSHELL

John R. Nolon and Patricia E. Salkin.
Thomson/West, 610 Opperman Drive, P.O. Box
64526, St. Paul, MN 551264-0526. 446 pp.
2006. Available from APA's PlanningBooks.com.
\$27.50; \$25 for APA members.

Those who need a handbook-sized, but remarkably thorough, summary of American land-use law and how it applies to current practice would do well to invest in this new edition (with new authors) of a primary resource. Every chapter gets to the point efficiently and clearly in well-crafted prose. Topics include common law origins of land regulations, comprehensive plans, zoning, subdivision controls, and modern movements such as smart growth. More than a reference work, it can actually provide an interesting refresher on many points that many of us sometimes forget. This book can also serve well as a readable training tool for planning commissioners or inexpensive textbook for university planning students or those studying for the AICP exam.

On the cover: APA's *The Commissioner*, an educational resource for Planning commissioners and zoning officials. Design concept by Lisa Barton.

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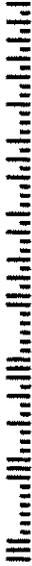
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AMERICAN PLANNING ASSOCIATION

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Suite 1600
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