



# Planning in Delaware County



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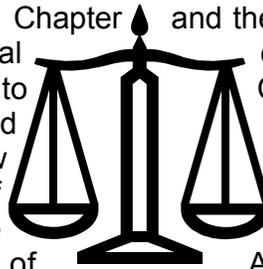
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## **New Law Requires Local Boards to Receive Training**

A bill was signed into law recently requiring local planning and zoning officials to receive a minimum of four hours of training each year. This law will come into effect on January 1, 2007. This includes members of local planning boards, zoning boards of appeal and county planning

boards. The new law, Chapter 662, provides several ways for municipalities to receive the required training including, New York Department of State trainings, the State Association of Towns, Conference of Mayors



and the New York Planning Federation. The Delaware County Planning Department will also be offering training to local boards who participate in the County's Town Planning Advisory Service (TPAS) program.

## **NYS Hazard Mitigation Grant Program**

On behalf of the Delaware County Board of Supervisors, the Delaware County Planning Department submitted an application for the Hazard Mitigation Grant Program to the New York State Emergency Management Office on October 18, 2006. The purpose of the grant, if funded, will be to buy homes that were substantially damaged in the June 2006 flood and demolish them leaving vacant land to keep the residents out of harms way incase of another flood. The New York State Emergency Management Office (SEMO) has offered this grant in the past; however, for this particular situation, they broke the grant process into two phases. Phase I of

the grant is only available to those properties declared substantially damaged by the municipal code enforcement officers; substantially damaged meaning that the cost of the damages to the home were 50% or more of the Fair Market Value. Phase II will be for all property types; however, it will only be available if there is funding available. SEMO created the two phases so that the people who were eligible for Phase I could go through the buyout process in less time than it would take if they were offering the grant as they have in the past to all property types.

The Planning Department advertised the grant in seven local papers and the local radio sta-

tions. Four meetings were held in different communities to educate the public on the process of the grant. Eighty properties were voluntarily submitted to the Planning Department by the property owners. Department staff went out to each property to do site visits and take pictures of the damaged homes. Although 80 properties were originally submitted, only 42 were eligible to be sent to SEMO. The properties are located in the Towns of Andes, Colchester, Franklin, Hancock, Middletown, Sidney, Walton and the Villages of Deposit, Sidney and Walton.

At this time the Planning Department is waiting for SEMO's approval of the grant.

**The Southern Tier East Regional Planning Development Board (STERPDB)** is sponsoring their annual workshop to discuss the 2007 Appalachian Regional Commission (ARC) grant program. The workshop will be held at 2:00 p.m. on April 17, 2007 At the Delaware County Public Safety Building in the multi-purpose room. For additional information please contact Shelly at the County Planning Department at 607-746-2944.

## New York State GIS Conference

GIS Analyst, Spencer DeVaul and GIS Coordinator, Jennifer Harvill attended the 2006 NYS GIS Conference in Lake Placid, New York in October of this year. Funding for their attendance was made possible by the Southern Tier East Regional Planning Development Board through a Water and Sewer data collection grant. The meeting is an annual meeting of GIS professionals from the private and public sector in New York State and involves information exchange, presentations, educational seminars and outreach on a variety of topics, most importantly for Delaware County, Emergency Response, Water Resources, Addressing, Infrastructure and GIS and Internet Applications.

A few of the highlights from this year's conference included lectures by Dr. David Maidment on GIS in Water Resources. Other

lectures were:

- Modeling Nonpoint Pollution Impacts on the Carmans River by Horace Shaw
- Enhancing GIS to Support Public Safety and Emergency Preparedness Requirements by Peter Meade, Asst. Fire Marshall for Fire and Rescue Services, Nassau County
- Plenary Speakers by Talbot Brooks and Twyla McDermott
- Integration of GIS and IT – 2006 Nassau County GIS Architecture by Joe Jones
- Water Utility GIS – Building a Base For Growth by Paul Rooney, ESRI

- Outfall Inventory and Mapping in the Town of Bethlehem by Jason Baum
- The Proposed NYS GIS Tax Parcel Model – John Trimmer, Weiler Mapping

There were two informative grant sessions, one on the NY SARA Grants and a brief overview of the changes for the next round of grants. There is no longer a cap on the amount that SARA will fund for data conversion. There was also a session on the ORPS grants, which, unfortunately, Delaware County does not qualify for.

This conference was a great opportunity for Delaware County to share what they have been working on and to learn how the other surrounding counties are addressing the same issues with GIS.

## Welcome Kristin Janke!

Kristin Janke has joined the staff at the Delaware County Planning Department as Environmental Technician. Kristin is from the Town of Lapeer in Cortland County. After graduating from high school, she attended the SUNY College of Environmental Science and Forestry in Syracuse. While earning her Bachelors of Science degree in natural resources

management, she became actively involved with the school's timber sports team and attended competitions in New York, New Hampshire, Ontario, and Quebec. After competing in Andes last summer, she decided to come back to Delaware County to apply for the Environmental Technician position. After graduating from SUNY-ESF in December of 2005, Kristin trapped

whitetail deer for a Chronic Wasting Disease research project. Before coming to Delaware County she interned for the Tar River Land Conservancy in North Carolina. Kristin is looking forward to working with the Planning Department staff, as well as the other County Departments.

## Farewell and Best Wishes

Jennifer Harvill has resigned her position of GIS Coordinator at the Planning Department to take on the duties of Natural Resource Specialist at the Tug Hill Commission in Watertown, NY. Jennifer has been with us for eight years. Her contributions to the County include assisting at the Emergency Operations Center (EOC) during States of Emergencies, working to implement the County's COMIT Website, submitting grant applications to NYSED for the GIS Needs Assessment and Implementation Plan, organizing the GIS Steering Committee, working with the Town Planning Advisory Service, and assisting many County departments including Emergency Services, Real Property, and Public Health. Jen has proven herself as a valuable and dedicated employee and will be missed. Best wishes, Jen, to you and your family!

## New York City Watershed

As you may know, the Filtration Avoidance Determination (FAD) is in the process of review for renewal. NYC DEP (DEP) was required to submit their Long Term Watershed Protection Plan, the basis of the next FAD, to the US Environmental Protection Agency in mid December. The DEP is also seeking continuation of the current Land Acquisition Permit (LAP). The LAP is granted to the DEP by the NYS Department of Conservation which enables the DEP to purchase lands outside their municipal boundaries for water quality protection. The DEP has requested, as provided for in the FAD, for a continuance of the LAP for another five years. The NYS Department of Environmental Conservation Commissioner has sole authority to grant that request. We are proposing that it undergo a review and have suggestions for changes based on the past ten years of experience before continuance is granted.

West of Hudson county staff have worked diligently to develop positions and propositions to improve the next FAD and LAP. We provided that information to the Coalition of Watershed Towns (CWT). The process of negotiating those improvements is in the hands of the CWT. As staff we will continue assist with information to acquire as many changes as we can. Issues include storm water, stream corridor management, regulatory relief, agriculture and continuance of the LAP and associated concerns, such as historical uses.

Recently, there has been considerable coverage regarding conservation and agricultural easements in the press. While they each have slightly different objectives for the purpose of this article I'll refer to them collectively as easements.

Clearly, they may hold positive options for private land owners. These types of easements have been around for decades so they are not a new land issue. I'll attempt to bring out the concerns voiced by some of the Towns based on discussions I have been a part of and observations I have made but, I certainly don't speak for them. Obviously, it is the acquisition of easements by New York City and the Watershed Agricultural Council that has brought this issue into more prominence. To be clear, this discussion also applies to other easements such as those purchased by the New York State Department of Environmental Conservation or private land trusts. There have been instances where individuals have not done their due diligence to protect their interests and find themselves unhappy after the fact. This occurs inside and outside the watershed.

Easements place permanent deed restrictions on these properties and that gives cause for taking a closer look at their long-term impact. Land owners should know that changing these transactions once complete may be nearly impossible and if possible, the cost may be prohibitive.

The issue raised by some Towns in the county is that the consultation process for easements of all kinds has not allowed for adequate review for comment on unencumbered portions outside the easement. It appears to me that most legal experts opine that easements, where a portion of the property is set aside outside the eased portion are not subject to subdivision review. Under Environmental Conservation Law easements are not considered to

be subject to subdivision review therefore a municipality that passes a local law that may impede or appear to impede the sale of an easement may find itself facing a lawsuit.

It is important to note that the Towns that are expressing concerns are always mindful of a landowner's private property rights. On the other side however, there is significant concern that landowners considering easements be fully aware of the local laws that may affect the long-term viability of the unencumbered portion of the property involved in an easement transaction. Towns, as I have observed, want to assure landowners that the unencumbered portions remain viable parcels long into the future.

If you are considering selling an easement to public entity or private trust of any kind I recommend that you hire an attorney to assist you in negotiating your easement. Second, but no less important, I recommend that you take the time to consult with your local planning board to make sure the goals you have for your building envelope or unencumbered portion of the property are achievable. There are numerous things you should consider, most of them pretty basic. The ability to site a septic system, if the one you currently have fails or if you plan to build a new home in an identified building envelope, is not a trivial matter. The difference between a conventional system and an alternative system can be tens of thousands of dollars. Is the building envelope big enough to accommodate a septic system? Do you have a potable water supply? Does your building site meet the access requirements to

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*Watershed continued...*

county, state or town highways? Will your building envelope involve stormwater compliance? Resolving stormwater challenges can be complicated and very costly. Are you retaining control of access to your envelope and will the access accommodate emergency services and utility services to your home or new building envelope? This is clearly not a complete list. The ordinances in each town are not the same so that only heightens the importance of knowing exactly what the requirements of the Town you reside in. These are the types of concerns raised by local boards. Towns want to be sure that you do meet local requirements so you can use unencumbered properties the way you intend.

In the larger universe, there is concern at the County level with

regard to what the long-term impacts are on the villages, towns and county. The purchase of easements by municipalities creates a different dynamic in that public funds are being used to purchase the easements. When you have a public entity buying property, particularly outside its municipal boundaries it should require a closer look especially when the long-term consequences on the community and local economy are not fully known. Some argue that there isn't a negative consequence to easements at the community level. My view is that a cumulative impact study should be done to assess the potential impacts of easements on communities and our local economy. I maintain, that conclusion is not reachable until an analysis is done. In some neighboring states, where there is a longer history of easements, they are now seeing some issues evolve

that need a second look. I propose that the public good value of easements in highly urban areas may be significantly different in predominantly rural settings. Whatever your view is on easements they hold potential to have an impact on municipalities. Some of them may not be recognized for years. Even a few self described advocates of easements have begun to take a closer look and we should all learn from their experience because most easements are in perpetuity. That is a long time.

Delaware County has been meeting with DEP and the Watershed Agricultural Council to seek ways to improve communication and provide better information to local municipalities. At this writing, I am optimistic that the progress made to date will continue.

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