

ALBERTA PLANNING EXCHANGE

The Newsletter of the
Community Planning Association of Alberta



February 2007



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THE ALBERTA ANNUAL PLANNING CONFERENCE and Education Session

APRIL 2, 3, and 4, 2007 – Capri Centre, Red Deer

The Alberta Planning Conference is the highlight on the Community Planning Association of Alberta (CPAA) calendar each year. Much discussion, creativity and effort go into this yearly event ... and it shows! The Board of Directors take great pride in hosting a conference that is educational, thought provoking, entertaining, and easy on the budget. For those readers who have attended in the past, you have already experienced this for yourselves. If you have never come to Red Deer in the spring for the Alberta Planning Conference, we invite you to come and see what you have been missing!

During the day on Monday we hold an **Education Session**. This year's topic for the Education Session is **Working with Communities, Working with Developers** and is led by CMHC and Glen Lyons, from the development industry. On Monday evening there is an Opening Reception. Over the years Alberta's Minister of Municipal Affairs has hosted the reception. As you are aware, Honourable Ray Danyluk has recently been appointed to this position and he has been invited to carry on the tradition of being our host for this evening. It will be interesting to hear his views of the many issues facing us who are involved in community planning in Alberta.

This year's theme is **Planning People – Friendly Places: Back to the Grassroots**. Tuesday is filled with interesting plenary sessions and breakout sessions presented by highly acclaimed speakers. Then, to wrap up the day of intense thought on serious topics we have a double treat at the evening banquet. Along with the Silent auction, proceeds of which go towards our student services, we have arranged for comedienne, **Sharon Widdup ("Rachel from Around the Bend")**, to finish our day with laughter.

Conference continued

We promise to finish up by noon on Wednesday in order for you to have plenty of time for the drive home. But before then, there is much learning and participating to do. At the **CPAA Annual General Meeting** you can take part in the business decisions of our association. Following this session will be a **Q&A panel discussion** on the theme You will have numerous opportunities to talk with fellow delegates about the difficulties and opportunities facing our individual communities. To wrap the conference Dr. William Rees, author of Our Ecological Footprint will present his closing plenary speech.

***Planning People Friendly Places:
Back to the Grassroots***

As Alberta's population continues to grow rapidly, both our urban infrastructure and rural area face increasing stresses and strains. Water resources, waste disposal systems, public transportation, parks and recreation are all experiencing serious pressures from population growth. While we can expect a variety of solutions to be proposed, those proposals can be discussed at the conference and the delegates can debate these in an effort to find the solution that fits their particular situation.

SOME OF THE INVITED SPEAKERS

- Honorable Ray Danyluk, Minister, Alberta Municipal Affairs
- Morris Flewelling, Mayor, City of Red Deer
- Earl Kinsella, Reeve, Red Deer County
- Mary-Francis Turner, Executive Vice-President, York Region Rapid Transit
- Ross Watson, Town of Cochrane
- James V. Marks Manager for Community Relations, City and County of San Francisco Public Utilities Commission
- Dr. William Rees, Professor, School of Community and Regional Planning, University of British Columbia

Conference Topics

- New Models for Public Involvement
- Housing Choices
- Opportunities and Challenges in Community Planning
- The Art and Science of Community Planning
- Optimizing the Municipal Government Act
- Servicing Growth: Issues and Opportunities
- Implementing Community Designs: Common Planning Mistakes
- Small Steps and Great Leaps - Fostering Enhanced Creativity in Community Planning
- Putting the Community Back Into Community Planning

CONFERENCE REGISTRATION FEES

Registration Fees paid by February 28, 2007..... \$220.00
Registration Fees Paid after February 28, 2007..... \$250.00

EDUCATION SESSION FEE

Registration Fee. \$200.00

Conference Registration Fees continued

STUDENTS

Registration Fee (Conference and Education Session) \$50:00

For registration details please refer to our website www.cpaabiz.com to download the registration form for the conference and the education session.

**For your convenience a Registration Form is included with this newsletter.
A detailed Program Schedule will be available on the web site.**

HOTEL ACCOMODATIONS

Capri Hotel Trade and Conference Centre

3310 – 50th Avenue, Red Deer, AB. T4N 3X9

Reservations: **1-800-662-7197 (TOLL FREE) or direct at (403) 346 2091 ext. 3125**

Room Rates	Standard	\$110:00	single/double occupancy
	Superior	\$130:00	single/double occupancy
	Deluxe	\$150:00	single /double occupancy

(5% Provincial Room Tax and 6% GST are extra)

When you book your room, identify yourself as a delegate of the Community Planning Association of Alberta conference.

The cut-off date for accepting reservations into this room block is March 15, 2007.

Memberships and Board Nominations

The current Membership Fee structure as of January 1, 2007 is as follows:

Individual Membership	\$60:00
Group Membership	\$180:00
Student Membership	\$25:00

When the 2007 CPAA Member Dues invoices were mailed out to the membership with the new rates, invoices inadvertently did not have the name Community Planning Association of Alberta spelled out in full, hence some organizations are questioning who CPAA is.

We apologize for this oversight. If you, and/or the organization you work for, receive the 2007 CPAA Member Invoice with the following address, then you know it has come from the "Community Planning Association of Alberta" office and your information was taken from the 2006 paid membership list.

We are always looking for new board members. If you wish to become a member of the Board of Directors of the Association please contact our Association office at (780) 432-6387 or by e-mail at cpaa@cpaa.biz or contact any member of the Board.

Tom Baldwin Memorial Graduate Scholarship in Planning

At the January 26, 2007 CPAA Board of Directors meeting, held in Calgary at the Faculty of Environmental Design, University of Calgary, Dr. Tim Burton, CPAA Chair, and Dr. Brian Sinclair of the Faculty of Environmental Design proudly announced the creation of the Tom Baldwin Memorial Scholarship in Planning. In attendance at the luncheon were: the Directors of the CPAA, Vicki Hackl, the Association secretary; Dr. Sasha Tsenkova, Director of the Faculty's Planning Program, and a number of first and second year graduate students.

This award is presented in the memory of Mr. Tom Baldwin, long time volunteer Chairman of the Community Planning Association of Alberta. He was Executive Director of the Northern Alberta Development Council and former Executive Director of the Mackenzie Municipal Services Agency. Tom served on numerous other provincial, national and international boards demonstrating with great humor and integrity, his desire to return-to-community.

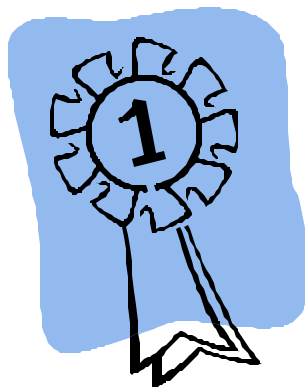
The value of this scholarship is \$1000.00 for the duration of one year.

It is open to candidates enrolled in the second year or more senior year of a full-time Master of Environmental Science Program (Planning)

Applicants must submit a statement demonstrating their interest in Community Planning objectives, including applied studies, research projects, professional and volunteer contributions. This award may not be held more than once and is tenable in the Faculty. The citizenship of the recipient is unrestricted.

A statement of application should be submitted to the Associate Dean (Scholarships) Faculty of Environmental Design. The Faculty of Environmental Design Scholarship Committee will submit a recommendation to the Graduate Scholarship Office.

Deadline for submission for this year is April 30, 2007



UDI (Alberta) v. Leduc (City) - Municipal Off-Site levy Bylaw Upheld

The Court of Queen's Bench recently dismissed a challenge to the City of Leduc's Off Site Levy Bylaw. A legal challenge had been commenced by the Urban Development Institute, Alberta (UDI). Although the challenge was against the City of Leduc's Bylaw, UDI raised issues in the litigation that challenged the positions taken by other Alberta municipalities in relation to off site levy bylaws. Further, this is a "test case" respecting the municipalities' authority to impose transportation off-site levies following amendments to the *Municipal Government Act* in 2003. The Court soundly rejected UDI's challenge.

The Court's decision sends a strong message that a municipality's attempt to pass on infrastructure costs to new development will be supported. A court will only interfere if the methodology is "clearly irrational". This case has significance for all municipalities in the province who face the daunting task of recovering ever increasing infrastructure costs driven by unprecedented growth.

LEGISLATIVE CONTEXT

In 2003, the Alberta Legislature amended the *Municipal Government Act* (the MGA) to allow municipalities to impose off – site levies respecting transportation infrastructure, specifically "new or expanded roads required for or impacted by subdivision or development" and related land (MGA s. 648). Previously, off – site levies could only be imposed for new or expanded water facilities, sanitary sewage facilities or storm sewer drainage facilities, and related land.

In early 2004, Cabinet passed *The Principles and Criteria for Off – Site Levies Regulation* (A.R. 48/2004), which sets out in broad terms the guiding principles relating to off – site levies.

LEDUC'S APPROACH

In 2003, the City commenced a review of it's off-site levies. At the time, water and sewage levies were imposed through an off – site levy bylaw; transportation charges (for arterial roads) were imposed through policy. These charges were modest; clearly, new development was not paying the complete cost if future infrastructure necessitated by new development. Transportation charges were \$6000.00 per hectare.

The city retained consultants, and under took lengthy negotiations and discussions with local developers. The City's philosophy was that new development ought to pay for infrastructure necessitated by new development. The process culminated in the passage of a new Off-Site Levy Bylaw on August 22, 2005.

The 2005 Off – Site Levy Bylaw considered a planning horizon of 40 years. Three infrastructure types were addressed (arterial roads, water and sanitary sewage). The City used the base information contained in its Master Plans, reviewed the information and developed modeling to apportion costs.

UDI'S CHALLENGE

UDI's legal challenge focused primarily on transportation levies, and included these areas:

Cost Apportionment – UDI's main argument was that developers of undeveloped land should not bear the complete cost of future road upgrades, as traffic from existing development would also be using the upgraded road. UDI also argued that cost apportionment should be on a project-by-project basis, not a "two pool" model.

Form of Bylaw – UDI argued that the Bylaw was invalid because details of the cost analysis were not contained on the face of the Bylaw itself.

Scope of Infrastructure – UDI argued that levies could only cover costs associated with the actual carriageway, and could not include costs such as traffic signals and other related infrastructure.

Provincial Highways – UDI argued that levies wrongly included costs respecting provincial highways
Timing – UDI argued that the City's Bylaw (passed in 2005) could not cover costs of certain infrastructure constructed in 2003.

UDI'S CHALLENGE...continued

COURT DECISION

The court of Queen's Bench soundly rejected UDI's challenge on the following basis:

Standard of Review – the Court held that while reviewing a municipal bylaw of this nature, the standard is great deference: a decision of a municipal council should only be set aside if “there is clear demonstration and that the decision is *ultra vires*”. In doing so the court referred to the following passage from a recent Supreme Court decision:

The court ... must not supplant the municipal council to impose their views ... A court must show great difference in reviewing a municipal bylaw adopted pursuant to the City's powers. Municipal councils are made up of elected representatives who are accountable to their constituents ...

Bold and Purposive Approach – the court also recognized that municipal legislation should be interpreted in a broad and purposive manner in keeping with the “new age” of municipal legislation that was adopted in Alberta, and followed by a number of other provinces.

Cost Apportionment – the Court found UDI did not establish that the City's approach was “clearly rational”. The court found that the City's object was to allocate only new costs to new developments; the City's approach was rational. The Court supported the “two pool” methodology as consistent with the special and unique nature of the City of Leduc. The Court was mindful that the City had endeavoured to ensure that the off site levies did not include costs from other sources (regional traffic and existing level of service issues), and stated it was not for the court to second guess the methodology chosen by the council. Likewise, it was impractical to establish a benefiting area and reserve fund for each individual project (as suggested by UDI).

Form – the Court found that the form of the bylaw complied with the requirements of the MGA; the detailed calculations need not be on the face of the bylaw itself.

Provincial Highways – the court found that the City had appropriately discounted costs from regional traffic. Further, the bylaw did not include any costs associated with provincially controlled highways.

Timing – UDI ignored the fact that the City had an off site levy regime in place prior to 2005. The City could therefore include costs from infrastructure constructed prior to the current bylaw.

POINTERS

Off-site Levies are a very useful tool to ensure that new development pays its fair share towards infrastructure costs. An Off-Site Levy Bylaw, if properly implemented, can help ensure that a municipality is not inadvertently subsidizing the infrastructure costs generated by new development. If pursuing an Off-Site Levy Bylaw, consider the following:

- Keep a principle approach
- Seek the assistance of skilled professionals
- Address the unique circumstances of your municipality
- Ensure that costs from other factors (regional traffic, existing level of service issues) appropriately addressed
- Pursue negotiations and discussions with developers
- Keep Council informed and updated throughout the negotiation process
- Ensure proper accounting procedures are in place to track payments and expenditures; and
- Re-evaluate projects and estimated costs periodical

For the complete report and decision of the court contact Jeneane Grundberg of Brownlee Law at (780) 497-4812 or jgrundberg@brownleelaw.com.

News from the Planning Program, University of Calgary

Planning for Change Dr Sasha Tsenkova

The Planning Program at the Faculty of Environmental Design was pleased to host the traditional annual meeting of our students and faculty with Board members of the Community Planning Association of Alberta (CPAA). We would like to develop stronger relationships with CPAA, which will build on existing linkages between our Program and CPAA membership through partnerships on research and professional practice projects. These projects will provide opportunities for our students to work on real life planning studies and assignments meeting the needs of smaller municipalities in Alberta.

The Cities, Policy & Planning lab at the Faculty of Environmental Design (EVDS) was established in 2004 as a research initiative facilitating partnerships with academics, students and professionals interested in interdisciplinary research on a wide variety of planning issues. Through research, professional practice, specialized workshops and publications, the lab provides a mechanism to engage graduate students, faculty, professional planners, social workers, and community organizations in collaborative projects. Current research projects are funded by the City of Calgary, Social Sciences & Humanities Research Council of Canada, Municipality of Big Lakes, Canada Lands, Hopewell Residential developers and the Belvedere landowner group.

The lab is focusing its research and planning projects on sustainable communities. These communities have a vision that is embraced and actively promoted by all key sectors of society, including businesses, disadvantaged groups, environmentalists, civic associations and government agencies. They are places that build on their assets, value healthy ecosystems, use resources efficiently, and actively seek to retain and enhance a locally based economy. Unlike traditional community planning approaches, our work emphasises sustainable strategies through ecosystem protection, social responsibility, broad-based citizen participation and economic self-reliance.

We are always looking for new projects and opportunities. Please **contact Dr. Sasha Tsenkova**, Director of *Cities, Planning & Policy* lab, at 403-220-2125 (tsenkova@ucalgary.ca) to discuss possible collaboration. A sample of recent publications and projects is available at www.ucalgary.ca/cities



EDITOR'S REPORT

There has been a change in the way we are introducing the Newsletter for this and subsequent editions. Instead of Message from the Chair there will be an Editor's report with information from the Board and some editorial comment.

I would like to thank Jeneane Grundberg, Dr. Sasha Tsenkova, Mark Oberg and Vicki Hackl for their contribution to the Newsletter.

Bill Gillespie
Editor

