



The Planning Commission in Pennsylvania

PLANNING SERIES #2

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The Planning Commission in Pennsylvania

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The Planning Commission

Introduction

A planning commission plays a major role in giving advice and providing recommendations to a governing body. Today, land use is an important issue at the local and state level. Land use planning is a topic among state agencies, county and local governments, business and industry, charitable and private foundations, as well as environmental organizations. A planning commission is on the front-line regarding land use issues. Its job is to advise locally elected officials on planning and community development matters.

At the state level, the Governor created the 21st Century Environment Commission and charged it with a mission. The final report identified many urgent issues requiring attention and concluded that: “Among all these urgent matters, however, we give top priority to the challenge of promoting responsible land use. Promoting land use stewardship may be the most important issue, but correcting our land use patterns is the most pressing.” At the local level planning commissions are crucial in developing recommendations for implementing change in land use and promoting responsible land use practices.

On January 7, 1999, Governor Tom Ridge issued Executive Order 1999-1 implementing the land use recommendations formulated by the commission (See Appendix I - Executive Order 1999-1). The order recognizes that: “Pennsylvania’s land is a precious, yet finite, resource.... [and] the role of Pennsylvania’s local government in land use planning is an important and vital part of our heritage...” A planning commission is a local organization that can assist local governments in implementing change in future growth patterns. Change in land use patterns is an important part of the future of Pennsylvania.

By June of 2000, the General Assembly passed and Governor Ridge signed several significant land use enabling statutes modernizing planning in Pennsylvania. Particularly, the most recent legislative session resulted in passage of four acts that impact the way state agencies, county and local governments do planning. Collectively, Acts 32, 67, 68 and 127 of 2000 provide broad authorization to look closely at areas that are already developed, examine natural areas for conservation and achieve general consistency among local, county and state entities for promoting sound land use. Each component of the legislation constitutes an important connection in implementing basic principles of sound land use.

At the municipal level, Pennsylvanians realize that land is one of our most valuable natural resources and the way it is used or developed creates a significant part of our physical surroundings. Any change in land use becomes a permanent part of our daily lives in the future. Yet all valuable resources must be used reasonably, economically and equitably to benefit both the property owner’s interest as well as the general public.

An important power of local government is to plan for and guide the way land resources are used. A planning commission can play a significant part in guiding the use of land resources. We hope that this publication assists local commission members in this stewardship and planning endeavor. The power and authority to plan for future land use patterns rest primarily on the municipal officials that serve the citizen of the Commonwealth as volunteers.

About Planning Commissions

A governing body has several choices when it decides to create a planning organization within its municipality. It can create a planning commission or planning department or both; it can also designate a planning committee of members of the governing body. Since most communities opt to establish a planning commission, and not a planning committee or planning department, this publication specifically addresses itself to the planning

commission. Unless otherwise stated, any reference to the planning commission refers to planning committee, planning department in any form as a municipal planning agency in Pennsylvania.

The most recent data available tell us that more than 60 percent of the municipalities in the Commonwealth have planning agencies. In addition, all 66 counties have planning agencies. In fact there are more municipal planning commissions than water and sewer authorities or police departments in the Commonwealth. Appointment to a police department results in a paid position, but appointment to a planning commission is a goodwill endeavor. That is, all members serve on a volunteer basis and cannot be compensated for their time-consuming community service. Municipal officials can and should budget funds to reimburse members for reasonable and necessary expenses in performing this community service.

One of the most important powers and responsibilities of local government is its authority to plan and guide growth of municipal services and public improvements so that development occurs in an orderly, rational and reasonable manner. A planning commission assists local elected officials in carrying out these important responsibilities. Commissions can gather data, analyze information, coordinate efforts and educate its citizens regarding the best choices for the community. All of these activities aid local elected officials in their decision making process for future development. Working together locally, Pennsylvanians can begin growing and living smarter.

A planning commission can be a resourceful forum by holding public meetings and/or hearings to filter concerns and ideas from citizens. It can also serve as a useful board for new or innovative concepts. A commission can then report its findings and recommendations to the governing body for legislative action. Planning commission members give the governing body an opportunity to expand its contact and understanding of community concerns by doubling or easily tripling the number of eyes and ears turned to community interests. Everyone benefits and is better served.

An important reason for planning is to anticipate the needs of the people for public improvements and provide sensible means for meeting those identified needs. The process demands that all interests be considered and then balanced. Members of a planning commission can play a crucial role in identifying, analyzing and balancing environmental, economic and human interests. In combination, these interests represent the very fiber of our democratic process and our quality of life. By careful planning, we can determine how to best promote proper use of land, provide for the efficient movement of people and goods, preserve our natural resources, and achieve the most appropriate and economical use of our natural and human resources.

All of these resources are important to the welfare of our communities. Local governments have been delegated the power to plan and guide the way these resources are utilized. Members of local planning commissions can assist our municipal officials in many significant ways.

What follows is a more detailed explanation of what planning commission members can do and some common suggestions to explain how valuable a planning commission can be to the local elected official.

Authority for Planning

The responsibility for planning in Pennsylvania has traditionally been delegated by the state to each local municipality and county. The Pennsylvania Municipalities Planning Code (MPC), Act 247 of 1968, as reenacted and amended, is the legislation that conveys planning authority and sets the ground rules that a municipality must follow. Only the Cities of Philadelphia and Pittsburgh have their own separate enabling legislation to set their rules or procedures governing land use planning and zoning matters. In Pennsylvania, the authority granted in the MPC governs all other municipalities. According to the planning code, all counties (except Philadelphia) and home rule municipalities are included in the definition of municipality.

The MPC now gives specific authorization for municipal governing bodies to engage in intergovernmental cooperation and agree to the joint exercise of the governmental planning function. Specifically these newly authorized powers can be utilized to enact planning implementation agreements. Other statutes contain various limited provisions authorizing cooperation between and among municipalities for specific projects. In the MPC the authorization to enact intergovernmental cooperation agreements is very broad.

Under the MPC, specifically Article II, a community desiring to establish a local planning agency can form a planning commission or a planning department or both. Instead of a commission or department, the governing body may create a planning committee composed solely of members of the governing body. The planning agency is created by an ordinance (See Appendix II) enacted by the governing body and can be abolished in the same manner.

A planning agency acts as an advisor to the governing body on matters of community growth and development. A governing body may appoint individuals to serve as legal and engineering advisors to the planning agency. However, in addition to the duties and responsibilities authorized by Article II of the MPC, a governing body may by ordinance delegate approval authority to a planning agency for subdivision and land development applications. Generally, larger municipalities designate the planning agency with this approval authority and those municipalities that usually have full-time professional staff.

In summary, a governing body has considerable flexibility not only as to which powers and duties are assigned to a planning agency but also as regards to what form an agency will possess. A governing body can create a planning commission or a planning department or both. As an alternative it can assign planning powers and duties to a planning committee composed solely of members of the governing body.

Membership, Appointment and Organization

A planning commission consists of three to nine members who must be residents of the municipality. Legal residence is best determined by where a person lives; it not only includes a person's intention to live somewhere, but also a physical presence. A person cannot declare residence inconsistent with the facts of where one lives. A planning commission member cannot serve on the Zoning Hearing Board (ZHB), which must be created if a municipality has enacted a zoning ordinance. The option to allow one member to serve on the ZHB was eliminated by Act 170 of 1988 to avoid any potential conflict of interest situations. An individual with dual memberships should choose to resign one of the positions immediately.

The MPC does not provide for alternate members to serve on a planning commission at anytime. Members are appointed by the appointing authority, subject to the approval of the governing body (except where both are the same). An appointing authority is the mayor in cities, the board of commissioners in counties, the council in the incorporated town and boroughs, the board of commissioners in townships of the first class, the board of supervisors in townships of the second class or as may be designated in the law providing for the form of government.

The term of a planning commission member is four years. It is recommended that terms should expire December 31 of each four-year term. (See Appendix II – Model Ordinance for Creating a Planning Commission) To avoid major changes at any one time the terms of its members are staggered. Any vacancy occurring during a term of office is filled only during the unexpired portion of the term.

A planning commission must maintain a prescribed number of citizens as part of its complement. Only a certain number of planning commissioners can be officers or employees of the municipality. The ratios are as follows: on a commission of three members, at least two shall be citizen members; on a commission of four or five members, at least three shall be citizen members; on a commission of six or seven members, at least five shall be citizen members; and on a commission of either eight or nine members, at least six shall be citizen members.

It is possible for a member of a planning commission to be removed from office. Removal however, requires a majority vote of the governing body. Any such removal of a member must be based on just cause. The primary grounds for removal could be any of the following: malfeasance - committing an unlawful act in office; misfeasance - committing a lawful act in an unlawful manner in office; and nonfeasance - failure to perform the duties of the office. A member that is threatened with removal must receive fifteen days' advance notice of the intent to take the required vote. The member has a right to a hearing on his removal if he requests the same in writing.

Members of the planning commission provide a voluntary service to the community and, therefore, receive no compensation for their time and effort. Members can, however, be reimbursed for any necessary and reasonable expenses incurred in the performance of their duties. If reimbursement expenses are not part of the annual budget approved by the governing body, approval should be obtained prior to incurring the expense. Allowable expenses would include registration fees for planning conferences, seminars or workshops, reasonable cost of meals while in attendance and mileage reimbursement to and from the training site.

General Operating Procedures for Planning Commissions

Annually the planning commission elects its own chairman and vice-chairman and any other officers that it feels are necessary. Practical experience has shown that it is difficult for a member to serve as a recording secretary and also contribute meaningfully to matters under discussion. An officer serves an annual term and is permitted to succeed him or herself. A planning commission has the power to make, alter, rescind and reinstate rules for its procedure, provided that they are consistent with the rules of the municipality and laws of the Commonwealth. Appendix III (Suggested Bylaws for Planning Commissions) contains a set of suggested bylaws for local planning commissions, which should serve as a guide for planning commissions desiring either to create or to revise a set of bylaws.

The planning commission must keep full public records and ensure that all records become property of the municipality. Each commission member should be provided with a packet containing basic information. For example, the package should certainly include a copy of the MPC, the Subdivision and Land Development Ordinance and the most recent Sewage Facilities Planning Module form and instructions. Copies of the comprehensive plan, the zoning ordinance, the official 537 Sewage Facilities Plan and other pertinent ordinances as appropriate should also prove to be useful. The planning commission is required to make an annual report to the governing body by the first of March each year. Interim reports can and should be prepared as often as necessary or whenever requested by the governing body. It must also be noted that the planning commission is subject to the open meetings provisions of the Sunshine Law, Act 94 of 1986.

Relationship of the Planning Commission to the Governing Body

The MPC provides a planning commission with both mandatory and optional powers and duties. All such powers and duties, whether mandatory or optional, are undertaken only at the request of the governing body. In municipalities operating under a planning "committee," the governing body is directly responsible for the activities outlined in MPC Section 209.1 (Powers and Duties) covered under the next heading.

Generally, the governing body does not conduct the planning functions within the municipality but rather, appoints a planning commission to do community planning activities and coordinate municipal planning programs. A governing body creates a planning commission, specifies powers, duties and functions of the planning commission and adopts or amends comprehensive plans and implementing ordinances. Once a planning effort is in motion, a governing body ought to remain actively involved in the process. Likewise, a planning commission must also exchange information regarding its activities with the governing body.

Powers and Duties of a Planning Commission

Literally, the planning commission has two functions at the request of the governing body: to prepare a comprehensive plan (see Appendix IV for adoption procedures) and to keep records of all its actions. And under MPC Section 209.1, it is also empowered to:

1. Make recommendations to the governing body concerning the adoption or amendment of an official map.
2. Prepare and present to the governing body of the municipality a zoning ordinance, and make recommendations to the governing body on proposed amendments to it.
3. Prepare, recommend and administer subdivision and land development and planned residential development regulations.
4. Prepare and present to the governing body of the municipality a building code and a housing code and make recommendations concerning proposed amendments thereto.
5. Do such other acts or make studies as may be necessary to fulfill the duties and obligations imposed by the
6. Prepare and present to the governing body of the municipality an environmental study.
7. Submit to the governing body of a municipality a recommended capital improvements program.
8. Prepare and present to the governing body of the municipality a water survey, which shall be consistent with the State Water Plan and any applicable water resources plan adopted by a river basin commission. The water survey shall be conducted in consultation with any public water supplier in the area to be surveyed.
9. Promote public interest in, and understanding of, the comprehensive plan and planning.
10. Make recommendations to governmental, civic, and private agencies and individuals as to the effectiveness of the proposals of such agencies and individuals.
11. Hold public hearings and meetings.
12. Present testimony before any board.
13. Require from other departments and agencies of the municipality such available information as relates to the work of the planning agency.
14. In the performance of its functions, enter upon any land to make examination and land surveys with the consent of the owner.
15. Prepare and present to the governing body a study regarding the feasibility and practicability of using renewable energy sources in specific areas within the municipality.
16. Review the zoning ordinance, subdivision and land development ordinance, official map, provisions for planned residential development, and such other ordinances and regulations governing the development of land no less frequently than it reviews the comprehensive plan.

Administrative and technical services may be employed by the appointing authority to carry out any of these duties and responsibilities. Also, the planning agency can accept and utilize funds, personnel, and other services made available to it with the consent of the governing body. Also, the governing body can enter into agreements or contracts for the acceptance and utilization of any such funds or assistance.

Common Roles and Functions of a Planning Commission

A major role or function of any planning commission ought to be one of coordination. Generally, planning commissions participate in the preparation and development of comprehensive plans and review of development proposals. Now under regulations issued pursuant to the Pennsylvania Sewage Facilities Act, Act 537 of 1965, planning commissions also review and sign off on Sewage Facility Planning Modules. Many opportunities exist to coordinate these important activities. Commission members must recognize them and recommend appropriate actions for the governing body to consider.

The MPC encourages and common sense demands that any communitywide plan be coordinated with surrounding municipalities. If municipalities, including counties and school districts, do not let neighbors know their thoughts or share plans, both are apt to waste their resources. Municipal officials are beginning to look beyond municipal boundaries. The county planning agency, contiguous municipalities and local school districts must be informed when comprehensive plans or plan amendments are proposed.

In practice most of a planning commission's time is devoted to administration of the subdivision and land development ordinance. This situation exists in all growing municipalities and leaves little time or else necessitates extra meetings in order to do any planning. Review of development plans is important but so is the consideration and preparation of long-range plan implementation strategies. Fast growing municipalities must make time available for both functions.

Act 170 of 1988 clarified that a planning commission may present testimony before any board. A ZHB is required to hold a public hearing when considering a request for a variance or special exception. For example, a governing body must conduct a hearing for a conditional use application. MPC Section 603(c)(2) requires a planning commission to make recommendations based on express standards and criteria in the zoning ordinance for the conditional use. A planning commission should never miss the opportunity to review and comment on these matters when it has relevant information to contribute.

Role of the Planning Commission in Review of Sewage Facilities Planning

The purpose of the planning agency's review of the official Sewage Facilities Plan is to assure that sewage facilities planning is consistent with comprehensive planning for the municipality under the MPC. Act 537 requires that official sewage plans provide for the orderly extension of community interceptor sewers in a manner consistent with the comprehensive plan developed under the MPC. Official sewage facilities plans are to take into consideration aspects of planning, zoning, population estimates, engineering and economics to project sewer service areas 10 years into the future. It is critical that these official sewage facilities plans consider and are consistent with the municipal comprehensive plan, land use planning and zoning. The planning commission's review and comment on sewage facilities plans plays an important part in assuring this consistency. When the two planning efforts are consistent, adequate sewage facilities can be implemented to serve both existing development needs and provide for planned growth.

Sewage facilities regulations were expanded to address natural resource and environmental protection issues such as; protection of wetlands, rare, endangered or threatened species, prime agricultural land, archaeological or historical preservation and water resources planning. Local planning commissions study these matters when undertaking the comprehensive planning process prescribed by the MPC. When comprehensive plans and implementing land use ordinances incorporate these environmental factors, the Department of Environmental Protection (DEP) does consider comments from a planning commission regarding the impact of the proposed facilities on local planning and protection measures during its review process.

The governing body must also consider the comments of the planning commission prior to adoption of the planning module as a revision to their official sewage facilities plan and subsequent submittal to DEP. If incon-

sistencies with the comprehensive plan, land use planning or zoning have been identified by the planning commission, the governing body may refuse to accept the planning module as complete until these inconsistencies are resolved. DEP is dependent upon review and comments from local planning commissions. DEP wants to hear the views of the planning commission regarding proposed sewage facilities and consistency of those facilities with the goals and objectives of plans developed under MPC guidelines and local land use ordinances implementing the comprehensive plan.

Multimunicipal and Joint Municipal Relationships

The drive for multimunicipal planning can come from many sources. State enabling legislation, litigation, economies of scale, scope of impact can all become forces, which foster municipal coordination, cooperation and collective action. Act 68 of 2000, added Section 212 to the MPC, gives specific authorization for governing bodies to enter in intergovernmental cooperation and into joint intergovernmental implementation agreements. Planning commission members must individually, collectively and continually look beyond municipal boundaries. Not only does the MPC encourage inter-municipal planning and coordination, it *requires coordination* for other matters.

For instance, during the comprehensive plan process a planning commission must prepare “[A] statement indicating the relationship of the existing and proposed development of the municipality to the existing and proposed development and plans in *contiguous municipalities*, to the objectives and plans for development in the *county* of which it is a part, and to *regional trends*.” When a governing body adopts or amends a comprehensive plan it must “. . . consider the *review comments of the county, contiguous municipalities and the school district . . .*” A joint municipal zoning ordinance must be preceded by a joint municipal comprehensive plan. MPC Article III, Sections 301 and 302, and Article VIII-A respectively, emphasis added.)

Litigation has also forced municipalities to consider interests of other municipalities. In *Miller v. Upper Allen Township Zoning Hearing Board*, the Commonwealth Court overturned long-standing opinions that held nonresidents of a municipality could not take part, that is have standing, in an appeal of a land use decision in another municipality even if they were directly affected. Nothing in the MPC suggests that the protections and advantages gained from successful planning commission efforts are to be limited to residents or property owners of that municipality.

After all, both good and bad impacts cross municipal boundaries. In fact the MPC strongly advocates coordination of the planning function between and among adjacent municipalities. Specifically MPC Section 503 (7) suggests that municipalities include provisions in their subdivision and land development ordinance which require soliciting reviews and reports from adjacent municipalities when a particular development plan affects that neighboring municipality.

Municipal officials can approach matters on a regional basis two different ways-informally or formally. Informal arrangements can be made at any time on an ad hoc basis on any issue. Formal cooperative arrangements are more binding and require advance notice to dissolve.

Multimunicipal or joint planning and zoning programs that are formally established obtain a degree of insulation from developers’ exclusionary zoning challenges. For example, the fair share exclusionary zoning doctrine states that a zoning ordinance must provide for each and every conceivable type of residential use. Under this doctrine every legitimate use of land must be provided for somewhere within the municipality. If a use is not permitted or is excluded the burden of proof shifts to the municipality to show that the proposed development would pose a substantial threat to the public, health, safety or welfare. When a municipality fails to meet its burden of proof a court can invalidate the ordinance by declaring the ordinance exclusionary because the prohibition is unreasonable, arbitrary or confiscatory and allow the excluded residential use or development.

The advantage is that challenges to multimunicipal zoning regulations are considered and reviewed within the context of the entire area and not by each individual constituent municipality. In fact on several occasions the MPC was amended to facilitate land use planning and zoning on a regional basis. Section 811-A of Article VIII-A, Joint Municipal Zoning authorizes courts to review regional zoning not only within individual member municipalities but also within the geographic area jointly planned and zoned by participating municipalities. Section 811-A provides a degree of legal protection to municipalities cooperating within a joint municipal zoning ordinance from claims that one or more of the participating municipalities has failed to zone for a given land use or has failed to provide for a fair share of a legitimate use.

Now under Act 67 of 2000, municipalities that adopt a multimunicipal plan and enact generally consistent zoning provisions enjoy the same protection. That protection encompasses all of the advantages on doing things together. That is, regardless of the body hearing the challenge, they must consider the availability of uses under all zoning ordinances within the municipalities participating in the multimunicipal comprehensive plan within a reasonable geographic area or to included the area covered by the joint planning and zoning arrangements. Many planning issues impact beyond municipal boundaries and can best be resolved through cooperative municipal efforts and actions.

Approaches to Planning Activities: Reactive or Proactive?

A planning commission has a decision to make regarding the approach that it takes in carrying out its duties and responsibilities. It can take each item as it presents itself and attempt to deal with it, or it can take an aggressive approach and attempt to head off any potential problems before they occur. By taking the former approach, i.e. just reacting to and processing subdivision and land development plans, the planning commission is technically fulfilling its obligations. It does not attempt to foresee any potential areas of difficulty, it may not be responsibly carrying out its tasks.

When the governing body has adopted a comprehensive plan, its departments, agencies and appointed authorities must submit projects to the planning commission for recommendations. Each project represents an opportunity for a planning commission to influence the direction of growth and development within their community. It should analyze the proposal in terms of criteria provided in MPC Sections 303 and 304, concerning comprehensive plan status as appropriate. At the same time, the planning commission must strive to coordinate the proposal with planning commission functions under MPC Section 209.1 previously mentioned. This is a major effort but must be done for projects that relate to, for example, the location or opening of any street, public ground or watercourse, or the adoption, amendment or repeal of an official map, subdivision and land development ordinance, zoning ordinance or provision for a capital improvements program.

Although the planning commission serves in an advisory capacity, this does not prevent the planning commission from acting as a pilot to chart change within the community. For example, some external factor, such as a new road or interchange location, may significantly alter both the traffic and land use patterns within the community. This could necessitate an update of the comprehensive plan and quite possibly a zoning amendment. An alert planning commission would be aware of this situation and could present both the problem and possible solutions to the governing body.

A Word About Studies and Surveys

Act 170 of 1988 added the following provision to MPC section 301.2 that specifically applies to planning commission activities:

“Surveys by Planning Agency. - In preparing the comprehensive plan, the planning agency shall make careful surveys, studies and analyses of housing, demographics, and economic characteristics and trends; amount, type and general location and extent of transportation and community facilities; natural features affecting development; natural, historic and cultural resources; and the prospects for future growth in the municipality.”

There is a tendency in planning to conduct studies on various subjects. While conducting studies is beneficial, far too many planning commissions, as well as governing bodies, view such studies as an end in themselves. This is not and should not be the case.

A study is conducted to gather facts and provide an in-depth analysis of a particular topic or problem. The finding of any such study should not be static, but should also serve as a basis and a framework for future policies and direction. Often a study is prepared, shelved and forgotten. Obviously, if there were a need for the study in the first place, it was prompted by a matter of connect to the community. To not use the study as a constant reference for a better understanding of an issue or to thwart a future problem is not in the realm of sound planning.

For planning and planning related activities to be meaningful, there must be a process; that is, it must be in a continual state of development with changes made as necessary. A study permitted to lie idle quickly becomes out-of-date and therefore irrelevant and of no further use in making sound planning decisions.

Ethics

Ethics is of concern to a planning commission. The planning commission is an arm of local government, and does deal with matters of importance and concern to the citizens of the community. Even though the members of the planning commission are volunteers, and especially since its members are not elected to their planning commission positions, the activities of the planning commission come under the eye of the public. It is therefore important that any activities of the planning commission are kept “aboveboard,” avoiding even the hint of any possible unethical conduct or activity.

The planning commission may at some time be confronted with an issue in which one or more of its members have either a vested financial interest or a close personal or business relationship. In such instances, the member or members should excuse themselves from any deliberation of the issues or at least publicly disclose the nature of his interest in the matter. Even if the member feels that there will be no conflict of interest it may not appear this way to the public. By explanation of the situation or relationship, the disclosure will “clear the air” and allow the public to make an informed judgment. It’s always wise to consult with a solicitor if doubt about conflict exists and it’s also wise to disclose any potential conflict of interest prior to casting a vote.

There is some question as to whether or not planning commission members are covered by the filing requirements of the Ethics Law. Act 9 of 1989 (P.L. 28) revised the definition of public official. Under the revised definition it could be argued that a planning commission member that merely serves in an advisory capacity to the governing body and would not have decision-making authority on matters before the commission, could be considered to be exempt from the act. However, if the planning commission were delegated final decision-making authority, members are advised to comply with the provisions of the Ethics Law. Planning commission members should seek an opinion from the municipal or planning commission solicitor concerning this matter.

Remember all meetings of the planning commission must be scheduled and conducted consistent with the requirements of the Sunshine Act or Open Meeting Law. Meetings must be properly advertised in accordance with notice requirements. Votes cannot be secret and written minutes must be kept of all meetings. It is imperative to follow the guidelines of the Open Meeting Law, which, among other requirements, guarantees a right of the attending public to use recording devices.

Reasons for a Planning Commission

Local planning commissions are usually established for one basic reason – to guide land use and development at the municipal level. But to do so, the community must decide in what direction to channel any future growth. The governing body and possibly others may have many lofty goals with respect to their community’s future development. Planning is the tool with which these goals can be accomplished.

Goals represent thoughts or feelings about how the community might develop in the future. These thoughts and ideas must be discussed, developed and formalized in writing because for each member of the local governing body, there will be many different views of how the community should grow. Any formally drafted goals and policies must be translated into objective standards in the land use ordinances to enable them to achieve fulfillment.

The planning commission assists in defining how the community should grow, reviews subdivision and land development plans and assumes primary responsibility for developing the ordinances necessary to guide future growth.

Conclusion

The planning commission has many difficult tasks. It is expected to oversee the growth and development of the community and to insure that the community’s infrastructure is prepared for any growth and development that may occur. It must advise the governing body on matters relating to planning and community facility needs. It is obligated to prepare amendments to planning and planning related ordinances if such become necessary. It must bear the responsibility of advising the governing body on the action that should be taken on subdivision proposals and development plans. It can also be responsible for a variety of other activities as are specified in the MPC. The responsibilities are considerable, the consequences are important, and the tangible rewards for providing such voluntary service are usually difficult to discern. However, thousands of individuals are willingly providing their time and services to serve in such a capacity. They are helping to shape their environment and helping to direct or redirect the course of community planning activities.

Appendix I

Executive Order 1999-1

Governor's Land Use Announcement 1-7-99
Commonwealth of Pennsylvania Governor's Office

WHEREAS, Pennsylvania's land is a precious, yet infinite, resource; and

WHEREAS, from 1960 to 1990, the population of Pennsylvania's largest metropolitan areas grew by 13 percent, but developed land area in these areas grew by 81 percent; and

WHEREAS, between 1970 and 1997, Pennsylvania lost 24,000 farms and 25 percent of the total acreage of farms to other uses; and

WHEREAS, Pennsylvania's present growth patterns have long term social, environmental, and economic health consequences to the Commonwealth; and

WHEREAS, the role of Pennsylvania's local governments in land use planning is an important and vital part of our heritage; and

WHEREAS, Pennsylvania's communities are the foundation of our Commonwealth and their social and economic viability are critical to the overall health of Pennsylvania; and

WHEREAS, Pennsylvania's economy will continue to grow as the Commonwealth enters the next century as a leader among states and a competitor among nations; and

WHEREAS, a healthy environment, a dynamic economy, and the well being of Pennsylvania's communities are directly linked; and

WHEREAS, sound land use practices minimize urban sprawl, alleviate traffic congestion, promote efficiencies, reduce environmental degradation, and contribute to more efficient and effective long-term economic growth; and

WHEREAS, Pennsylvania's historical, cultural, and educational resources are integral to sustaining viable communities, strengthening generational and cultural connections, and furthering tourism-based economic development objectives; and

WHEREAS, the Governor has created a Greenways Partnership Commission to promote a network of greenways across the state to contribute to environmentally sensitive growth strategies, provide intermodal transportation options, and improve the quality of life and livability of our neighborhoods and communities; and

WHEREAS, the 21st Century Environment Commission, created by *Executive Order* 1997-4 identified land use to be the most pressing environmental priority facing the Commonwealth.

NOW, THEREFORE, I, Thomas J. Ridge, Governor of the Commonwealth of Pennsylvania, by virtue of the authority vested in me by the Constitution of the Commonwealth of Pennsylvania and other laws, do hereby declare the following to be the policy of the Commonwealth to guide all Commonwealth agencies when making decisions that impact the use of land in Pennsylvania:

1. Soundly planned growth is in the best long term interest of the Commonwealth and should be encouraged at all levels of government.
2. Farmland and open space are valued Commonwealth natural resources and reasonable measures for their preservation should be promoted.
3. Development should be encouraged and supported in areas that have been previously developed or in locally designated growth areas.
4. Because land use decisions made at the local level have an impact that expands beyond municipal boundaries, regional cooperation among local governments should be encouraged.
5. The constitutional private property rights of Pennsylvanians must be preserved and respected.
6. The Commonwealth shall work to improve the understanding of the impact of land use decisions on the environmental, economic, and social health of communities.
7. Sustaining the economic and social vitality of Pennsylvania's communities must be a priority of state government.
8. Infrastructure maintenance and improvement plans should be consistent with sound land use practices.

To support the land use goals of the Commonwealth, the Governor's Center for Local Government Services is hereby designated as the principal state entity responsible for land use assistance and monitoring. The Center is hereby charged to:

1. Develop an inventory of sound land use practices and make the inventory available to interested local governments and developers.
2. Assist local governments seeking to implement the land use objectives of the Commonwealth.
3. Advise the local governments of the existing tools available to manage growth within their communities.
4. Encourage local governments to cooperate with neighboring municipalities and the county when planning and zoning.
5. Assist, in conjunction with the Governor's Green Government Council, other state agencies in identifying
6. Laws, regulations, practices or policies, including the disbursement of public funds, that will advance the Commonwealth's land use objectives.
7. Partner with the Department of Education to identify opportunities for local education agencies to incorporate land use education into curricula.
8. Work in conjunction with the Governor's Greenway Commission to support the incorporation of the statewide Greenways Plan into local and regional land use planning strategies.
9. Form an advisory committee that will help the Center develop and disseminate the inventory of sound land use practices.
10. Report annually to the Governor on land use trends in Pennsylvania and make recommendations, if appropriate, regarding changes in law or policy to support the land use policy goals of the Commonwealth.

Community and Economic Development Enhancement Act.

Consistent with *Chapter 5(c) of Act 58, the Community and Economic Development Enhancement Act*, the Center is hereby authorized to have access to the information, services, functions, and other resources in the possession of executive agencies under the Governor's jurisdiction deemed necessary to fulfill the responsibilities identified in this Executive Order.

Green Government Council.

The Governor's Green Government Council, as the environmental performance manager of state government operations, shall work within its purview to ensure that state agencies are acting consistently with the land use objectives of the administration in their operations, acquisitions, and practices.

Geographic Information System.

The Department of Environmental Protection shall establish a statewide geospatial data clearinghouse which would provide for the sharing of common geospatial data among state agencies and local governments. The department shall use this clearinghouse to provide information to local governments on how land use decisions may impact air quality, water quality and quantity, soil erosion, and other natural resources.

Effective Date. This Executive Order shall be effective immediately.

By Direction of-

Thomas J. Ridge, Governor January 7, 1999

Appendix II

Model Ordinance for Creating a Planning Commission

An Ordinance No. _____

An Ordinance signifying the intention and desire of the _____
(Board of Supervisors, Board of Commissioners, Council)

of the _____ of _____
(Township, Borough, City) (County)

Pennsylvania, to create and establish a Planning Commission under the provisions of the Pennsylvania Municipalities Planning Code, Act 247 of July 31, 1968, reenacted and amended by Act 170 of December 21, 1988, P.L. 1329, for the purpose of preparing and maintaining a plan for the

coordinated development of the _____
(Township, Borough, City)

_____, based on physical, social economic and governmental conditions and
(County)

trends, and to provide for and protect the general welfare and prosperity of its residents.

BE IT ORDAINED and ENACTED by the _____
(Governing Body)

of the _____ of _____
(Township, Borough, City) (County)

Section 1. That the _____
(Board of Supervisors/Board of Commissioners/Council)

of the _____ of _____
(Township, Borough, City) (County)

hereby signifies its intention and desire to organize a Planning Commission under the provisions of the Pennsylvania Municipalities Planning Code, Act 247 of July 31, 1968, reenacted and amended by Act 170 of December 21, 1988, P.L. 1329.

Section 2. The Planning Commission shall consist of _____ members,
(3 to 9)

all of whom shall be citizens of the _____
(Township, Borough, City)

of _____
(County)

The term of office of the members shall be four (4) years and should expire on December 31 or until a successor is appointed, except that the terms of the members first appointed shall be so fixed that on a commission of eight (8) members or less, no more than two (2) shall be reappointed during any future calendar year, and on commissions of nine (9) members, no more than three (3) shall be so reappointed or replaced. In the event of vacancies, the governing body shall appoint a member to fill the unexpired term.

Section 3. The names, addresses, and terms of office of the initial members of the Planning Commission are as follows:

NAME	ADDRESS	TERM OF OFFICE
------	---------	----------------

Section 4 a) The planning commission shall at the request of the governing body have the power and shall be required to:

- (1) Prepare the comprehensive plan for the development of the municipality as set forth in the MPC and present it for the consideration of the governing body.
- (2) Maintain and keep on file records of its actions. All records and files of the planning commission shall be in the possession of the governing body.

*NOTE: Elected or appointed officers or employees of the municipality may serve on the planning commission. However, on a commission of three members at least two shall be citizen members; on a commission of four or five members at least three shall be citizen members; on a commission of six or seven members at least five shall be citizen members; and on a commission of eight or nine members at least six shall be citizen members.

b) The planning commission at the request of the governing body may:

- (1) Make recommendations to the governing body concerning the adoption or amendment of an official map.
- (2) Prepare and present to the governing body of the municipality a zoning ordinance, and make recommendations to the governing body on proposed amendments to it.
- (3) Prepare, recommend and administer subdivision and land development and planned residential development regulations.
- (4) Prepare and present to the governing body of the municipality a building code and a housing code and make recommendations concerning proposed amendments thereto.
- (5) Do such other acts or make studies as may be necessary to fulfill the duties and obligations imposed by the MPC.
- (6) Prepare and present to the governing body of the municipality an environmental study.
- (7) Submit to the governing body of a municipality a recommended capital improvements program.
- (8) Prepare and present to the governing body of the municipality a water survey, which shall be consistent with the State Water Plan and any applicable water resources plan adopted by a river basin commission. The water survey shall be conducted in consultation with any public water supplier in the area to be surveyed.

- (9) Promote public interest in, and understanding of, the comprehensive plan and planning.
- (10) Make recommendations to governmental, civic, and private agencies and individuals as to the effectiveness of the proposals of such agencies and individuals.
- (11) Hold public hearings and meetings.
- (12) Present testimony before any board.
- (13) Require from other departments and agencies of the municipality such available information as relates to the work of the planning agency.
- (14) In the performance of its functions, enter upon any land to make examinations and land surveys with the consent of the owner.
- (15) Prepare and present to the governing body a study regarding the feasibility and practicability of using renewable energy sources in specific areas within the municipality.
- (16) Review the zoning ordinance, subdivision and land development ordinance, official map, provisions for planned residential development and such other ordinances and regulations governing the development of land no less frequently than it reviews the comprehensive plan.

Section 5. The planning commission may, with the consent of the governing body, accept and utilize any funds, personnel or other assistance made available by the county, the Commonwealth, or the federal government, or any of their agencies, or from private sources. The governing body may enter into agreements or contracts regarding the acceptance or utilization of the funds or assistance in accordance with the governmental procedures of the municipality.

Section 6. All other resolutions and ordinances or parts thereof, inconsistent herewith, are hereby repealed.

Duly presented and ordained and enacted at a regular meeting of the

_____ of the _____
 (Governing Body) (Township, Borough, City)

_____ County, Pennsylvania held the _____ day of
 _____, 20_____.

 Chairman/President

ATTEST:

 Secretary

Appendix III

Suggested Bylaws for Planning Commissions

Article I. Name of Commission

The name of this organization shall be _____
(Insert County, City, Township, Borough as appropriate) Planning Commission.

Article II. Authorization

The authorization for the establishment of this planning commission is set forth under Section 201 of the Pennsylvania Municipalities Planning Code, Act 247 of July 31, 1968, reenacted and amended by Act 170 of December 21, 1988, P.L. 1329. Powers and duties are delegated to the Planning Commission by the

_____ (insert "Council," "Board of Commissioners" or "Board of Supervisors," as appropriate) of _____ by ordinance _____ (give number) of _____ (give date) in accordance with the above-mentioned enabling law.

Article III. Membership

Membership shall consist of three, five, seven or nine persons to be appointed by the _____ (Insert "Council," "Board of Commissioners" or "Board of Supervisors," as appropriate). The term of office of members shall be four (4) years and should expire December 31 or until a successor is appointed, except that the terms of the members first appointed shall be so fixed that on a commission of eight (8) members or less no more than two (2) shall be reappointed during any future calendar year, and on commissions of nine (9) members, no more than three (3) shall be so reappointed or replaced. In the event of vacancies the governing body shall appoint a member to fill the unexpired term. Members whose terms have expired shall hold office until their successors have been appointed. All members of the said Commission shall reside within the _____ (Insert "County," "City," "Borough," or "Township," as appropriate). Each member shall be entitled to one vote.

If a vacancy shall occur otherwise than by expiration of term, it shall be filled by appointment for the unexpired term according to the terms of this article. Should the governing body of any municipality determine to increase the number of members of an already existing planning commission, the additional members shall be appointed as provided in this article. If the governing body of any municipality shall determine to reduce the number of members on any existing planning commission, such reduction shall be effectuated by allowing the terms to expire and by making no new appointments to fill the vacancy. Any reduction or increase shall be by ordinance.

Article IV. Officers

Section 1. The Officers of the Planning Commission shall consist of a Chairman, Vice-Chairman, and Secretary.

Section 2. The Chairman shall preside at all meetings and hearings of the Planning Commission and shall have the duties normally conferred by parliamentary usage on such officers.

Section 3. The Secretary shall keep the minutes and records of the Commission, and with the assistance of such staff as is available, shall prepare the agenda of regular and special meetings under the direction of the Chairman, provide notice of all meetings to Commission members, arrange proper and legal notice of hearings, attend to correspondence of the Commission and such other duties as are normally carried out by a Secretary.

Article V. Election of Officers

Section 1. An annual organization meeting shall be held during the first regular meeting in January or at a special meeting following the organization meeting of the governing body.

Section 2. Nomination shall be made from the floor at the annual organization meeting and election of the officers specified in Section I of Article IV shall follow immediately thereafter.

Section 3. A candidate receiving a majority vote of the entire membership of the Planning Commission shall be declared elected, and shall serve for one year or until his successor shall take office.

Section 4. Vacancies in office shall be filled immediately by regular election procedure.

Article VI. Meetings

Section 1. Regular meetings will be held on the (give day of week, week of month) at _____ (time of day) at (location).

In the event of conflict with holidays or other events, a majority at any meeting may change the date of said meeting.

Section 2. A quorum shall consist of _____ (insert appropriate number depending on the size of the planning commission established by the governing body.) A quorum is necessary to transact business. Voting shall be by roll call. A record of the roll call vote shall be kept as a part of the minutes.

Section 3. Special meetings may be called by the Chairman. It shall be the duty of the Chairman to call a special meeting when requested to do so by a majority of members of the Commission. The Secretary shall notify all members of the Commission not less than 24 hours in advance of such special meeting and provide notice to the public as required by the Sunshine Act.

Section 4. All meetings or portions of meetings at which official action is taken shall be open to the general public. Any person attending a meeting shall have the right to use recording devices to record all proceedings. Use of devices such as audio, video or other recording equipment shall be subject to rules and guidelines prepared and approved by the commission. However, in accordance with the Sunshine Act, such rules or restrictions shall not serve to exclude use of recording devices to record the proceedings of a public meeting.

Article VII. Order of Business

Section 1. The order of business at regular meetings shall be:

- a. Roll call
- b. Reading of minutes
- c. Communications and bills
- d. Reports of Officers
- e. Old business
- f. New business
- g. Public comments and questions
- h. Adjournment

*NOTE: MPC Section 207, Conduct of Business, does not set minimum requirements for a quorum to do business at a meeting. A quorum is best determined by a majority of members appointed to the planning commission by the governing body. If a quorum is present, then a majority of the votes cast on any particular matter of business will carry the issue. This is the case even if this number does not constitute a majority of the quorum. It is immaterial if all members present did not vote or abstained. Non-voting members cannot prevent action or recommendation by the planning commission by their silence.

Section 2. A motion from the floor must be made and passed in order to dispense with any item on the agenda.

Article III. Employes

Section 1. Within the limits imposed by the funds available for its use, the Commission may employ such staff personnel and/or consultants as it sees fit to aid in its work. Appointments shall be made by a majority of the entire Commission membership.

Article IX. Public Hearings

Section 1. In addition to those required by law, the Commission may hold public hearings when it decides that such hearings will be in the public interest.

Section 2. Notice of the time and place of such hearings, when on matters of widespread interest, shall be published pursuant to “public notice.”

Section 3. The matter before the Commission shall be presented in summary by a member of the Commission designated by the Chairman, and parties in interest shall have the privilege of the floor.

Section 4. A record shall be kept of those speaking before the Commission at such hearings. (If the governing body has delegated the power to administer the subdivision ordinance to the planning commission, this article may be expanded to describe the procedure so planning commission activity can be expedited by adoption of a clear cut, step-by-step procedure. Details of the procedure will of course be specified in the subdivision and land development ordinance. However, the procedure might well be outlined in the planning commission bylaws.)

Article X. Amendments

These bylaws may be amended by a majority vote of the entire membership of the Planning Commission.
Adopted this date.

Attested:

Secretary

Signature of Chairman

Appendix IV

Comprehensive Plan Adoption Procedures

Appendix IV is a summary of land use ordinance enactment procedures and is intended for quick and easy reference. However, when you are considering action on an ordinance enactment or amendment, please read the appropriate sections of the MPC. Each section is specifically referenced for this purpose.

The following terms, phrases and definitions pertain to proper land use ordinance enactment and amendment:

Publication, Advertisement and Availability of Ordinances

- (A) Proposed zoning ordinances and amendments shall not be enacted unless notice of proposed enactment is given in the manner set forth in this section, and shall include the time and place of the meeting at which passage will be considered, a reference to a place within the municipality where copies of the proposed ordinance or amendment may be examined without charge or obtained for a charge not greater than the cost thereof. The governing body shall publish the proposed ordinance or amendment once in one newspaper of general circulation in the municipality not more than 60 days nor less than 7 days prior to passage. Publication of the proposed ordinance or amendment shall include either the full text thereof or the title and a brief summary, prepared by the municipal solicitor and setting forth all the provisions in reasonable detail. If the full text is not included:
 - (1) A copy thereof shall be supplied to a newspaper of general circulation in the municipality at the time the public notice is published.
 - (2) An attested copy of the proposed ordinance shall be filed in the county law library or other county office designated by the county commissioners, who may impose a fee no greater than that necessary to cover the actual costs of storing said ordinances.
- (B) In the event substantial amendments are made in the proposed ordinance of amendment, before voting upon enactment, the governing body shall at least ten days prior to enactment, in one newspaper of general circulation in the municipality, a brief summary setting forth all the provisions in reasonable detail together with a summary of the amendments.
- (C) Zoning ordinances and amendments may be incorporated into official ordinance books by reference with the same force and effect as if duly recorded therein.

See Sections 506 (a) (b) (c) and 610 (a) (b) (c). (Derived from Local Government Codes.)

Public Hearing – A formal meeting held pursuant to public notice by the governing body or planning agency, intended to inform and obtain public comment, prior to taking action in accordance with this act. **See MPC Section 107.**

Public Meeting – A forum held pursuant to notice under the act of July 3, 1986 (P.L. 388, No. 84), known as the “Sunshine Act.” **See MPC Section 107.**

Public Notice – Notice published once each week for two successive weeks in a newspaper of general circulation in the municipality. Such notice shall state the time and place of the hearing and the particular nature of the matter to be considered at the hearing. The first publication shall not be more than 30 days and the second publication shall not be less than 7 days from the date of the hearing. **See MPC Section 107.**

Selected Definitions from the Sunshine Act (Act 84 of 1986):

Deliberation - the discussion of agency business held for the purpose of making a decision.

Meeting - any prearranged gathering of an agency which is attended or participated in by a quorum of the members of an agency held for the purpose of deliberating agency business or taking official action.

Official action -

- (1) Recommendations made by an agency pursuant to statute, ordinance or executive order.
- (2) The establishment of policy by an agency.
- (3) The decisions on agency business made by an agency.
- (4) The vote taken by any agency on any motion, proposal, resolution, rule, regulation, ordinance, repose or order.

Special meeting - a meeting scheduled by an agency after the agency's regular schedule of meeting has been established.

Comprehensive Plan Adoption And Plan Amendment

1. A planning agency must hold at least one public meeting pursuant to public notice before forwarding the proposed comprehensive plan or amendment to the governing body. **See MPC Section 302(a).**
2. At least 45 days prior to the required public hearing held by the governing body the municipality shall submit the proposed ordinance to the county planning agency for recommendations. At the same time the municipality must forward copies of the proposed plan or amendment to all contiguous municipalities and to the local school district for their review and comment. **See MPC Section 301.3.**
3. Comments from the county, contiguous municipalities and the local school district must be made to the governing body within 45 days of receipt. A governing body cannot act upon the amendment until comments are received or the 45 days review period has expired due to failure to respond. **See MPC Section 302.**
4. In reviewing the proposed comprehensive plan, the governing body must consider the review comments of the county, contiguous municipalities and the school district, as well as the public meeting comments and the recommendations of the municipal planning agency. **See MPC Section 302.**
5. Before voting on adoption of proposed plan or amendment to the plan the governing body shall hold at least one public meeting pursuant to public notice. **See MPC Section 302(b).**
6. If, after the public hearing the proposed plan or amendment is substantially revised, the governing body shall hold another public hearing prior to voting on adoption of the plan or plan amendment **See MPC Section 302(b).**
7. Adoption of the comprehensive plan, or any part thereof, or any plan amendment shall be by resolution acted upon by the governing body at a public meeting. **See MPC Section 302(c).**
8. Within 30 days after adoption, the governing body of a municipality, other than a county, shall forward a certified copy of the comprehensive plan or plan amendment to the county planning agency. Where no county planning agency exists a certified copy must go to the governing body of the county. **See MPC Section 306(b).**

Appendix V

Planning Assistance from the Governor's Center for Local Government Services

The Governor's Center for Local Government Services is available to assist municipalities. Assistance is offered in an attempt to assess the impact of state agency decisions on local planning and zoning activities. Municipalities with an adopted comprehensive plan and zoning ordinance located within a county with an adopted comprehensive plan have the benefit by Commonwealth agencies considering the documents when reviewing applications for the funding or permitting of municipal infrastructure or other facilities. In addition, the Center offers grant assistance to prepare and/or update these important land use documents.

The Land Use Planning and Technical Assistance Program (LUPTAP) is an important component of the Growing Smarter Action Plan of the Governor's Center for Local Government Services. The LUPTAP provides matching grants for municipalities preparing to develop and strengthen community planning and land use management practices.

Guidelines for LUPTAP incorporate the principles of the Land Use Planning Executive Order and the recent changes to the MPC. The guidelines make clear that priority consideration for funding is given to municipalities that incorporate multimunicipal approaches into their planning efforts. Similarly, those municipalities that strive for general consistency between their comprehensive plan, the county comprehensive plan and local zoning ordinances also receive priority consideration.

LUPTAP funding is one of the Center's most significant support programs. It allows municipalities to use funds to develop new or update existing comprehensive plans and land use implementation ordinances. It also allows municipalities to prepare strategies or special studies that will support the comprehensive planning process. LUPTAP funds can be used to develop or update zoning or subdivision and land development ordinances, or to utilize advanced technology, such as GIS. Municipalities are permitted and encouraged to use up to \$1,000 of the funding received toward educational programs on planning issues for local officials. The training and education program offered by the Center's training partners represent an excellent use of the funds.

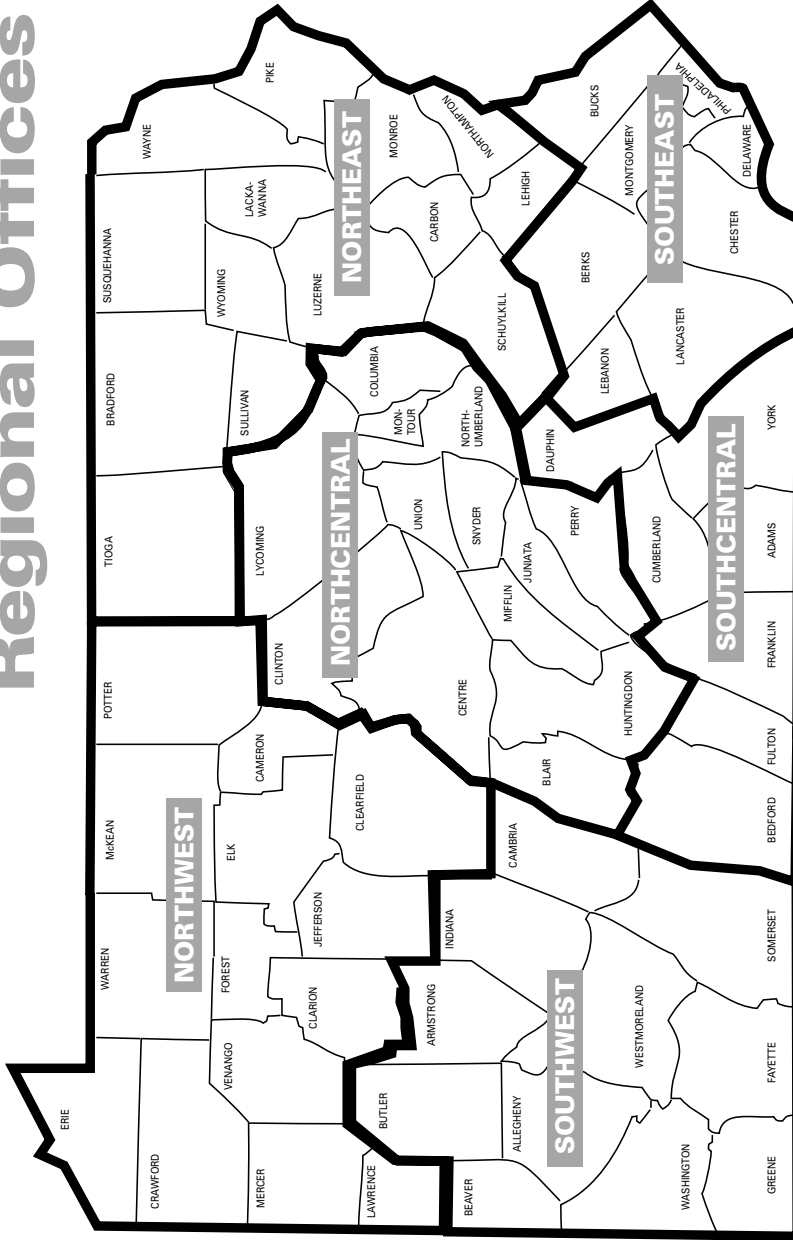
The goal of the Center is to enhance the existing planning curriculum by offering new courses to local government officials through established partnerships with the Pennsylvania State Association of Boroughs (PSAB) and the Pennsylvania State Association of Township Supervisors (PSATS). The Center is proud to partner with PSAB and PSATS and draw on their understanding and experience in planning and growth issues to develop, promote and conduct new courses.

The courses offered by PSAB are directed primarily at economic development and downtown revitalization efforts as alternatives to sprawl. The courses PSATS offers focus on best practices and conservation. The primary audience for education and training programs is local government officials, however, other groups such as professional planners, municipal solicitors, elected officials citizens in general can benefit from these enhanced planning programs.

A community or individual desiring information on planning or planning assistance, either financial or technical, should contact the appropriate DCED Regional Office in their area. Some of the issues that the Department's staff can provide assistance are:

- Community planning and comprehensive plans
- Zoning
- Subdivision and land development
- National Flood Insurance and Floodplain Management
- Other planning related areas such as PRD, historic districts, mobile home parks, sign control, etc.
- Procedural questions involving the Municipalities Planning Code

Governor's Center for Local Government Services Regional Offices



- **Southwest**

Michael S. Foreman
(412) 565-5199

William D. Gamble
(412) 565-2552

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