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The Planning Commission in Pennsylvania

Planning Series #2

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The Planning
Commission
in Pennsylvania

Planning Series #2

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The Planning Commission

Introduction

The Commonwealth of Pennsylvania has a long and rich tradition of local leadership in issues of land use and development. Today, across the Commonwealth, communities face unique opportunities and challenges that require the insight, intuitiveness and energy of local residents if challenges are to be met or overcome. For most of Pennsylvania's 2,567 communities, members of the planning commission play a central role in determining the course of their community's land use, economic development, natural and historic resources and the character and sense of place which they pass on to future generations.

Today is a time of great change and challenge, and to be a member of a planning commission ensures a role in shaping your community's, region's and the Commonwealth's future. Playing an active role on a local planning commission not only means being a leader in your community, but gives you an opportunity to engage citizens and to ask them to share their hopes for their community and to work to make their dreams a reality.

Land use planning is very relevant to economic development, environmental protection, agriculture, education and transportation. Land use is in the forefront of many debates. State agencies, county and local governments, business and industry, charitable and private foundations, as well as environmental organizations, all identify land use as a crucial public policy issue. The trend among many of the nation's state legislatures, and within the Pennsylvania's General Assembly itself, shows that planning has been central to legislation, providing broad authorization for all levels of government. A close look reveals ways to achieve general consistency among local, county and state entities for promoting sustainable land use patterns – particularly in terms of multi-municipal planning and the conservation of natural and agricultural resources.

At the municipal level, Pennsylvanians realize that land is not only one of our most valuable natural resources, but also the engine for the Commonwealth's future economic development. We must balance the way it is used with the preservation of our natural resources and our working lands. 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. The planning commission plays a crucial role in finding that balance and preserving property owner's rights, while furthering the best interests of the public.

This publication assists local planning commission members as they work to lead their communities in addressing critical land use and planning issues. It is intended to be a guidebook to understand the reasons for and roles of the planning commission in municipal land use decisions. It addresses the statutory authority and composition of the planning commission in Pennsylvania, and the specific powers and duties of the commission. It concludes with a detailed discussion of the common roles of commission members – particularly in terms of hiring planning consultants – and a series of appendices providing model ordinances and procedures for the establishment of planning commissions and the adoption of a community's comprehensive plan.

Reasons for a Planning Commission

Planning for where one lives is a visionary task. The greatest responsibility is to lead their residents in developing a view of their future. Local planning commissions are usually established for one basic reason: to guide land use and development at the municipal level. There are two chief ways that a planning commission

can guide land use and development in accordance with their community's wishes. First, the planning commission has the responsibility of implementing those wishes through the development and implementation of a comprehensive plan and, second, through the reviews of proposals for new developments and public projects in their municipality.

After the vision is developed, many technical skills are required to implement that vision, and make it a reality. Many technical skills are required to implement the plan. The planning commission provides technical advice to a governing body. This normally takes the form of recommendations for action by the governing body. The planning commission is the governing body's surrogate on issues of land use – a relationship that ensures the governing body has assistance with important planning issues they may not otherwise have the time or resources to tackle.

The nature of local government requires that the governing body dedicate itself to the many issues of day-to-day operations – who plows the roads, how best to structure the budget, what the next labor agreement will look like – and land use can often be lost in this mountain of important, but time-consuming demands. The planning commission, as an independent advisory body, gives the governing body the assurance that the important issues of land use and future growth are given the necessary attention.

Fundamental Challenges & Common Roles of a Planning Commission

Planning commissioners are on the front line regarding the issues that matter most to many communities. Their leadership is crucial in developing recommendations for implementing change in land use as well as promoting responsible and sustainable land use practices. Planning commissions assist in defining how the community should grow, review subdivision and land development plans and assume primary responsibility for developing the ordinances necessary to guide future growth.

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. In order to do so, commissions can gather data, analyze information and coordinate efforts between other community organizations. Understanding development and demographic trends, economic activity and acquiring real estate market data all aid local elected officials in their decision making process for future development.

In order to plan in a rational and reasonable manner the planning commission must use the information it collects in order to anticipate the need for public improvements and provide sensible means for meeting those identified needs. One of the greatest challenges that planning commission members must face is the need to balance a variety of public and private interests in the development process.

Members of a planning commission can play a crucial role in identifying, analyzing and balancing environmental, economic and human resources and interests. All of these resources are important to the welfare of our communities and, 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.

Balancing public concerns requires public input, and one of the common roles of the planning commission is to be a resourceful forum by holding public meetings and hearings to filter concerns and ideas from citizens. Such are crucial to determining the pros and cons of development and planning proposals and such meetings can also serve as proving ground for new and 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.

Another fundamental challenge for the planning commission, as well as the governing body, is ensuring a diversity of experience and expertise in the composition of the commission's membership. While the planning commission is a citizen's advisory body, and therefore is often composed of members with no formal training in planning, engineering, real estate development or the legal profession, all of these fields can contribute invaluable insight into the commission carrying out the delegated responsibilities. The synergy of a cohesive, but diverse group is amazing.

Members of various professions should be sought out for membership, and sitting members of the commission should endeavor to increase their own level of planning education during their time on the board. There are no formal requirements to serve on a planning commission – only that no one member may sit on both the Zoning and Hearing Board and the Planning Commission. However, the governing body, when appointing members, should review applicants' qualifications carefully.

The planning commission itself, when faced with a vacancy, should review applicant's qualifications and make recommendations to the governing body. Appendix I: Additional Resources and Readings for Planning Commissioners provides a few resources to help commissioners with their "on-the-job" training.

Finally, one of the most important roles a planning commission can play within the community ought to be one of coordination. Generally, planning commissions participate in the preparation and development of comprehensive plans and review of development proposals. In those preparations, many stakeholders, community organizations, and regional interests must be sought out, listened to, and managed throughout the process. Planning commission members can play the chief coordinating role between these many interests – a good planning commission balances divergent interests and manages the process so that planning is truly a community effort. By working together locally as part of a community-wide effort, Pennsylvanians can begin growing and living smarter.

Authority for Planning

A governing body has several choices when it decides to create a planning organization within its municipality. It can create a planning commission, 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 form of organization. Unless otherwise stated, any reference to the planning commission in this guidebook refers to all other forms of planning organizations as defined by the MPC.

The most recent data available tell us that more than 60 percent of the municipalities in the Commonwealth have planning commissions. In addition, all 66 counties have planning agencies or departments. In fact, there are more municipal planning commissions than water and sewer authorities or police departments in the Commonwealth.

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.

The MPC 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 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 organization 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 commission 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 or counties delegate this approval authority to the planning agency and many such municipalities and counties are large enough to 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 any time. 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 un-expired 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 (under the Local Agency Law) upon removal. The member requests the same in writing.

The Commonwealth has a long history of volunteer involvement in local government and, until recently, the duties and responsibilities of the planning commission were carried out by citizens on a volunteer basis. However, recognizing that the responsibilities of the modern planning commission have grown extensively, and that communities in Pennsylvania occasionally have difficulty attracting qualified candidates to fill vacant positions, the General Assembly amended Section 202 of the MPC in 2002 to allow for compensation for planning commission members.

The statutes states, "Except for elected or appointed officers or employees of the municipality, members of the commission may receive compensation in an amount fixed by the governing body. Compensation shall not exceed the rate of compensation authorized to be paid to members of the governing body." In addition, members may 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 will also prove to be useful, and should be included in the informational packet. 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.

Statutorily Defined 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 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 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.

Examples of Specific Planning Commission Responsibilities

While the general roles that planning commissioners play, and the challenges they face, were addresses earlier in this guidebook, there are many specific responsibilities conveyed on the planning commission by MPC Section 209.1 that deserve additional comment. Subdivision and land development review, public meetings, sewage facility planning as per the Pennsylvania Sewage Facilities Act, Act 537 of 1965, as well as planning for multimunicipal efforts and integrating the new Pennsylvania Uniform Construction Code (as per Act 45 of 1999) are all specific responsibilities planning commissions will face through their tenure. Additional information on these topics is provided within Appendix I: Additional Planning Readings and Resources for Planning Commissioners.

The Planning Commission and Subdivision and Land Development Review

While providing the leadership for planning and land use decisions is the first priority of the planning commission, in practice most of a planning commission's time is devoted to administration of the subdivision and land development ordinance. Often this technical function of the planning commission consumes so much of the planning commission's time and attention that other responsibilities – such as updating the comprehensive plan and zoning ordinances and reaching out to community members for input – cannot be sufficiently addressed. While the review of subdivision and land development plans is the commission's chief administrative and legal responsibility, and members should balance the efforts of the board between subdivision review and their other responsibilities.

For further information on the technical process of reviewing subdivision and land development plans please see *Planning Series #8: Subdivision and Land Development in Pennsylvania*.

The Planning Commission and Sewage Facilities Planning

The purpose of the planning agency's review of the official Sewage Facilities Plan is to ensure 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 inconsistencies 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.

Planning Commission and Public Meetings

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.

The Planning Commission and Multimunicipal Relationships

In recent years, the Pennsylvania General Assembly has sought to encourage local governments to begin thinking of their land use planning within a regional context. Land use decisions made by communities with the same region both directly and indirectly affect each neighbor's own land use, and the economic health and stability of the municipality. As a result, planning commissions in Pennsylvania are encountering greater opportunities to communicate and plan with their neighbors and to develop multi-municipal or joint municipal comprehensive plans.

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 that 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.

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 include 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.

The Planning Commission and Building Code Enforcement

One of the planning commission's specific duties, as outlined in Section 209 is to "prepare and present to the governing body of the municipality a building code and a housing code and make recommendations concerning proposed amendments thereto." Act 45 of 1999 establishes the Uniform Construction Code (UCC) for the entire Commonwealth. This new comprehensive building code establishes minimum regulations for most new construction, and additions and renovations to existing structures within the Commonwealth. Planning Commission members should familiarize themselves with as the regulations and be educated about how building codes affect the general goals of community development.

A strong housing or community development section of a comprehensive plan should take into account the enforcement of the UCC and ways in which building code enforcement carries out the community's stated goals and objectives. Likewise, an enhanced historic preservation element of a comprehensive plan ought to simulate careful review of provision of a zoning ordinance related to historic preservation. If a Historic Architectural Review Board exists recommendations can be made regarding the historic code.

Planning Commissions and Hiring Additional Planning Services

Planning for the future of any community is a complex endeavor: requiring time, expertise and resources that can be beyond the scope of the members of a planning commission. Planning commission members have traditionally been part-time volunteers, and the recent change permitting compensation does not change the essential part-time nature of the position. For the majority of Pennsylvania's municipalities, a line for full-time planning staff is simply not in the budget, yet the challenges and opportunities presented to the planning commission must still be addressed. For most communities, the planning commission's and governing body's response to this need for planning services is to hire a public or private sector consultant. This section is intended to help planning commission members in their selection of a consultant, and in managing the planning process through their relationship with the consultant.

Why Hire a Consultant?

As stated before, often times the requirements of a specific planning project – like the actual development of a comprehensive plan, a stormwater management plan or a plan to address traffic congestion – requires planning expertise and time beyond the scope of the members of the planning commission. However, there are a number of other reasons – besides the need for additional time and expertise – why communities hire outside planning services. Outside consultants can provide a level of objectivity to the planning process as well as a certain degree of added credibility with the public. In addition, consultants can allow a local government additional flexibility to meet certain time constraints – a consultant specializing in one particular type of plan can develop a product considerably faster than in-house planning staff that may be trained to fulfill broader planning goals.

Hiring an outside consultant can, at times, be the less expensive option for a community to meet their planning needs. While the initial cost estimate for private sector planning services can appear high, it can often end up being less expensive when considering the costs of hiring an additional full-time planner, and the support staff, resources, and potential overhead that will accompany a new hire. Consultants may appear expensive at first glance, but a smart planning commission must take into account the hidden costs of the alternative when debating the pros and cons of hiring an outside consultant.

Choosing a Consultant

Choosing the right consultant for the job, and for your community, is a critical step in developing a successful plan. There are a wide variety of sources for planning services from which a community can seek assistance – the private sector is most often considered first; however, government agencies at all levels of government (state agencies, regional planning commissions, and the federal government) provide various forms of planning assistance. Many states provide economic development assistance that is often tied to land use and planning efforts, and the federal government provides planning assistance to support such efforts as urban housing and to support its large investment in transportation infrastructure. A third resource for consulting assistance is through universities, and individual faculty. University-community partnerships have become increasingly popular in recent decades, and many communities have received excellent planning assistance through their local educational institutions at often a lower cost than private or other public sector planning assistance.

Once a source is located for planning services, the planning commission and the governing body must determine what it is they want the consultant to do – in very specific terms. A successful consultant search has four elements: a set of precise goals for the plan, a vision of what the final product should look like, a well constructed and transparent budget and a realistic timetable for completion. The realistic budget is a particularly important key – for most consultants to take any local government planning effort seriously, the governing body should make a firm commitment to funding it up front. A speculative consultant search without a dedicated funding stream – as a line item in next year's budget or some other source – will be unlikely to secure much serious interest among consultants.

Any consultant search should include these elements as a foundation; however, one key aspect of the search is far more intangible and often hard to classify – the level of familiarity of the consultant with the community, and the level of comfort the consultant has with the planning commission and the governing body. There are pros and cons to both consultants who are new to a community and those who are old friends of the mayor – the former can bring a greater level of objectivity and perhaps a fresh look at the opportunities and challenges facing the community, and the latter is often more familiar with the nuances of the community and the unique situations that will impact a project’s successful completion and implementation. Being aware of how these intangibles affect the final product is a crucial consideration within the selection process and can often determine the success of the process.

When it comes to the actual selection procedure, local governments have a number of options by which they can choose their consultant. Perhaps the most commonly used, and the one most planning commissions are familiar with is the Request for Proposals process (RFP’s). An RFP is developed by the planning commission, or governing body, and is the “calling card” for the community, and the specific planning project. The request should include a description of the community, the scope of the project, the amount budgeted and the evaluation criteria for the consultant. Consultants will then return proposals based on those criteria and the planning commission can then determine how best to choose which proposal will be ultimately successful in getting the job.

A second method for determining a consultant is similar to the RFP but relies more on determining a consultant’s qualifications for the task. The Request for Qualifications process simply consists of asking for consultants past project history and the resources that they would be able to bring to the project.

Often, planning commissions will use a hybrid of the two processes – a two-part RFQ/RFP process that begins with an announcement of the project and a request for qualifications. The commission then narrows down the qualified firms, individuals or departments and sends them a more detailed RFP. The consultants chosen will then develop a proposal and the planning commission can decide among a group of firms who they are already confident can do the job.

Managing a Consultant and the Final Product

Once the consultant is chosen, and a formal contract is signed, the relationship enters a new phase. Now, the planning commission’s responsibilities shift toward a management role. Each relationship with a consultant will be different – due to the different composition of the project teams, the nature of the project itself, and the budget allocated; however, what should not change is the level of involvement by the planning commission members themselves. There is often a tendency by local governments to become hands-off once a consultant is chosen. However, the best plans and planning processes are still dependent on local input, and by reducing the level of planning commission-consultant communication (once the consultant is hired) often results in lack-luster plans that don’t really address the community’s key concerns. In short, tell the consultant what your needs are.

In order to manage the project, the planning commission should make communication a key priority in the relationship. The first steps in developing a strong relationship with the consultant lies in properly preparing them for the politics and culture of the community. In fact, inviting the consultant to the area even before the formal process is begun is a plus, but the consultant should spend time early in the process meeting the stakeholders in the community, and developing a geographic and historical sense of the region. A series of briefings should be held by planning commission members or the planning agency staff to outline the political dynamics and introduce community stakeholders to the consultants. Most importantly, structured time should be scheduled between the consultants and the individuals who will be making the final decisions on the acceptance and implementation of the consultants work – usually the governing body. This time is important both in terms of ensuring the correct product, but also in developing a relationship between the consultants and those who will have the final approval of their work.

From an administrative standpoint, managing a consultant requires the development of workplans, deadlines, and a rather detailed description of what a successful product should look like. These administrative details can be worked out through the planning agency's staff, or through a lead contact on the planning commission. The most important thing to remember is that the consultant should have a firm sense of what the final product should look like, and a mechanism should be put into place for evaluating the consultant's work. In the vast majority of cases, the consultant's work will be satisfactory and may only require a few revisions. In some cases, the work may not be presented in a satisfactory manner, and the consultant should have an opportunity to address those concerns and make any necessary changes. Finally, in the rare cases where a "for cause" termination of the relationship is necessary, the planning commission may work out a satisfactory resolution with the consultant, or may need to resort to mediation or legal action. In all cases, the planning commission should ensure that the legal contract signed has a provision for such cases, and that the local government's legal counsel is contacted for advice.

A Note About Studies...

Finally, a note of caution. The most common service provided by a consultant is in the form of surveys and studies. Consultants are often more capable of amassing the large quantities of data and managing the data collection and interview process needed to develop a sound plan. However, if there is no clear objective in mind and no firm commitment to utilize the findings of the study, the time and money spent to hire the consultant may be a waste.

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 concern 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 an efficient use of public resources, and leads to the public misconception that such survey work does not lead to concrete outcomes.

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 lay idle quickly becomes out-of-date and therefore irrelevant and of no further use in making sound planning decisions. If a planning commission utilizes a consultant to conduct a survey, it must make sure it gets its money's worth – and that means utilizing and implementing the plans and not allowing them to collect dust on the shelf.

Issues Every Planning Commission Member Should Consider

Approaching the Art of Planning: Reactive vs. Proactive

Planning is often more of an art than a science and, as such, a good deal of successful planning relies on timing. The members of a planning commission have a decision to make regarding the approach that they take in carrying out their duties and responsibilities. As stated at the opening of this guidebook, the planning commission member's first responsibility is to help his or her community develop a vision for the future growth, and then seek out a way to implement that vision through the comprehensive plan and by reviewing plans for new development. There are very different approaches to how those two items – the comprehensive plan and the review of new development – can be addressed by the members of the commission. They 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. However, if 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.

Public Participation

One of the most critical elements of any successful plan, and the successful implementation of the comprehensive plan through the activities of the planning commission, is the degree to which the public is involved. Planning commission members are entrusted with the responsibility of guiding their community forward with regards to how the community will develop and use its land. However, in order to develop the vision for such growth, the members must seek out and learn from their citizens.

There are many issues involved in determining the level of public involvement in planning efforts, and, even more important, the timing of such involvement. In the past, the public was often included very late in the comprehensive planning process – often when a plan was nearly completed and a public meeting was held to “sign off” on the plan and to fulfill the legal obligations required by the state planning enabling legislation. Pennsylvania's Section 302 (a) of the MPC requires that “before adopting or amending a comprehensive plan, or any part thereof, the planning agency shall hold at least one public meeting before forwarding the proposed comprehensive plan or amendment thereof to the governing body.” Through practice, it has become evident that the most successful planning processes are those in which public involvement is sought from the outset of the process, not only at the end.

A planning commission, as well as the governing body, must decide how best to involve the public. This is often determined by the characteristics of the comprehensive plan, or the depth and breadth of the plan amendment being considered by the body. *Planning Series #3: The Comprehensive Plan in Pennsylvania* details the statutory requirement for any comprehensive plan within the Commonwealth, and additionally discusses the many different styles of plans that can be developed. The type of planning that a planning commission undertakes can determine how best the public can be involved. Those plans driven by the analysis of trends and statistics are often technical and can leave little room for involvement except through generalizing how the trends will affect the municipality.

Plans that are driven through a process based on issue identification and goal setting can lead to the public contributing much of the substance of the plan through their comments. Again, the leadership exercised by the planning commission and the governing body is the most critical element for a successful plan; however, leadership without significant and early public involvement can often lead a lack of public support, and possible long term failure in the implementation of the plan. Decisions regarding when and how to include the public can be the key to the success or failure of the entire planning effort, and should be given substantial consideration.

Ethics

As public officials, ethical conduct must be a chief concern to planning commission members. 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 its members are not elected to their planning commission positions, the activities of the planning commission come under the scrutiny of the public. It is therefore important that any activities of the planning commission avoid 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, who 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 or contact the Pennsylvania Ethic's Commission for further details and clarification.

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.

“You are Not Alone” - Resources for Planning Commissioners

No planning commission is an island. However, with the rush of development approvals, comprehensive plan revisions and updates, and the many challenges of community outreach, the job of planning commissioner can often feel isolating. Luckily, there are many resources available for planning commissioners to utilize to develop a successful relationship with the community, and plan with foresight and experience. Appendix I (Additional Resources and Readings for Planning Commissioners) is a valuable bibliography and resource list for members, and provides the basic resource library for any planning commissioner here in the Commonwealth.

Located at www.landuseinpa.com, the Governor’s Center for Local Government Services also provides an excellent electronic library of planning resources from around the Commonwealth, as well as other planning guidance and informational guidebooks to give the planning commissioner a “one stop shop” for planning information. The e-Library is a new service from the Governor’s Center intended to provide the most current information on specific plans and ordinances in many of Pennsylvania’s local governments.

One word of caution; users of the e-Library should contact the individual county and/or municipality prior to making any decisions about using elements of these plans and ordinances in their own planning efforts. Make certain that the ordinances under review are for a similar community as yours, and the planning commission and staff should remain aware the resources being used as a model were developed for a community other than yours. Therefore, be selective and flexible in using other community’s plans and ordinances, and make certain they will work for your community before including them in your own planning efforts.

Finally, while many of these readings and resources will be valuable, often hands-on training in the more detailed responsibilities of the planning commissioner are useful. The Pennsylvania Municipal Planning Education Institute (PMPEI) was created in 1992 to fill this training role, and provides courses in community planning and land use regulations for planning commissioners, zoning hearing board members, zoning administrators, elected officials and other interested citizens. PMPEI is an excellent resources and can be located on the web at <http://cax.aers.psu.edu/pmpei/>

Conclusion

The job of the planning commission is not an easy one, and commissioners must juggle many difficult tasks if they are to be ultimately successful. This guidebook is designed as a primer for many of those tasks, and is intended to be a starting point for local governments as they either begin, or further develop their planning capabilities.

Planning commissioners are leaders in their communities, and as such, have great potential to shape the future of their homes. As a whole, the planning commission also has many responsibilities. 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 service are usually difficult to discern. However, thousands of individuals across the Commonwealth willingly provide their time and services to serve in such a capacity. They are leaders, and they are visionaries. For Pennsylvania’s many communities, that task falls first to the planning commission. It will not be easy, but a healthy, vibrant Pennsylvania – in all of its regions, cities, townships and boroughs – is the reward.

Governor's Center for Local Government Services

Planning Assistance

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 \$1,200 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 organizations. The Center is proud to be a collaborative partner with any organization to draw on their understanding and experience in planning and growth issues to develop, promote and conduct new courses.

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

Appendix I

Additional Resources & Readings for Planning Commissioners

Resources

Governor's Center for Local Government Services:	www.landuseinpa.com
American Planning Association:	www.planning.org
American Planning Association Planning Commissioners Service:	http://www.planning.org/commissioners/
Pennsylvania Planning Association:	http://www.planningpa.org/index.html
Pennsylvania municipal planning education institute (pmpei):	www.cax.aers.psu.edu/pmpei/
Pennsylvania state association of township supervisors – one source municipal training:	http://www.psats.org/onesource_courses.html
Pennsylvania state association of boroughs:	http://www.boroughs.org/index.stm
Planning commissioners journal:	www.plannersweb.com
Planetizen: the planning & development network:	www.planetizen.com

Further Reading for Planning Commission Members

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Best Development Practices: Doing the Right Thing and Making Money at the Same Time. Reid Ewing
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Best Development Practices: A Primer for Smart Growth. Reid Ewing with Robert Hodder. International
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Brownfields: Cleaning and Reusing Contaminated Properties. Charles Bartsch and Elisabeth Collaton.
Northeast Midwest Institute, 1997.

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Changing Places: Rebuilding Community in the Age of Sprawl. Richard Moe. National Trust for Historic
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Crossroads, Hamlet, Village, Town: Design Characteristics of Traditional Neighborhoods, Old and New. Randall Arendt. American Planning Association. PAS 487/488, 1999.

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Growing Greener: Putting Conservation into Local Plans and Ordinances. Randall Arendt. Island Press, APA, Natural Lands Trust, and ASLA, 1999.

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Guidelines for Preparing Urban Plans. Larz T. Anderson. American Planning Association. Chicago, Ill. : Planners Press, 1995.

How Superstore Sprawl Can Harm Communities (And What Citizens Can Do About It). Constance Beaumont. National Trust for Historic Preservation, 1994.

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Land Use and the Constitution. Alan Weinstein & Brian W. Blaesser. American Planning Association. Chicago, Ill. : Planners Press, 1989.

Local Tools for Smart Growth: Practical Strategies and Techniques to Improve Our Communities. National Association of Counties, The Joint Center for Sustainable Communities & the Smart Growth Network, 2001.

Making Places Special: Stories of Real Places Made Better by Planning. Gene Bunnell. American Planning Association. Chicago, Ill. : Planners Press, 2002.

Managing Growth in America's Communities. Douglas R. Porter, in cooperation with members of the Growth Management Institute. Washington, D.C. : Island Press, 1997.

Model Subdivision Regulations: Planning and the Law. 2nd Edition. Robert H Freilich and Michael M. Schultz. American Planning Association. Chicago, Ill. : Planners Press, 1995.

Neighborhood Planning: A Guide for Citizens Planning. Bernie Jones. American Planning Association. Chicago, Ill. : Planners Press, 1990.

Once There Were Greenfields: How Urban Sprawl is Undermining America's Environment, Economy and Social Fabric. F. Kaid Benfield, Matthew D. Raimi and Donald D.T. Chen. Natural Resources Defense Council, 1999.

Pedestrian and Transit Friendly Design: A Primer for Smart Growth. International City/County Management Association, 1999.

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Saving America's Countryside : A Guide to Rural Conservation. Samuel N. Stokes, A. Elizabeth Watson, & Shelley S. Mastran. National Trust for Historic Preservation. Baltimore, Md.: Johns Hopkins University Press, 1997.

Saving American Farmland: What Works. American Farmland Trust. Northampton, Mass.: American Farmland Trust, 1997.

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Small Town Planning Handbook. 2nd Edition. Thomas, Daniels, John W. Keller and Mark B. Lapping American Planning Association. Chicago, Ill. : Planners Press, 1995.

Smart Growth for Neighborhoods: Affordable Housing and Regional Vision. National Neighborhood Coalition. 2001.

Street Design Guidelines for Healthy Neighborhoods. Dan Burden. Local Government Commission, 1999.

Strategic Planning in Local Government. Roger L. Kemp. American Planning Association. Chicago, Ill. : Planners Press, 1992.

Strategies for Successful Infill Development. Charles Bartsch, Elizabeth Collaton, Ann Eberhart Goode, Christopher Hudson, Shelley Poticha, and Andy Shafer. Northeast-Midwest Institute & Congress for New Urbanism, 2001.

Visions for a New American Dream : Process, Principles, & an Ordinance to Plan & Design Small Communities, 2nd Edition. Anton C. Nelessen. American Planning Association. Chicago, Ill. : Planners Press, 1994.

Why Smart Growth: A Primer. International City/County Management Association with Geoff Anderson. A Smart Growth Network Publication, 1998.

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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 _____ (*Township, Borough, City*) of _____ (*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*), _____ (*County*), based on physical, social economic and governmental conditions and 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 _____ (*Township, Borough, City*) of _____ (*County*).

Section 1. That the _____ (*Board of Supervisors/Board of Commissioners/Council*) of the _____ (*Township, Borough, City*) of _____ (*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 _____ (*3-9*) members, 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
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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 _____ (*Governing Body*) of the _____ (*Township, Borough, City*) of _____ (*County*), Pennsylvania held the day of _____, 19____.

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 VIII. 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 or amendment, before voting upon enactment, the governing body shall at least ten days prior to enactment readvertise, 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 MPC 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.

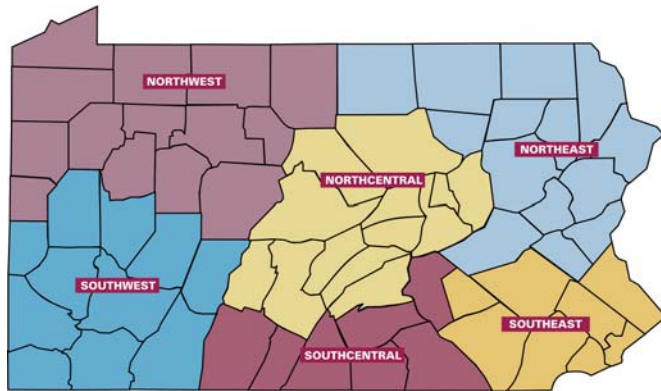
Special meeting - a meeting scheduled by an agency after the agency's regular schedule of meeting has been established.

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 governing body of the county.
See MPC Section 306(b).

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