

**LEHIGH VALLEY PLANNING COMMISSION**  
**Municipal Planning Code Amendments Working Group Meeting**  
**DRAFT Minutes from the Friday, October 29, 2021**  
**In-Person**

The Municipal Planning Code Amendments Working Group met in person on Friday, October 29, 2021 at 10:00 am.

**Members in Attendance:**

Gary Asteak, Attorney	Kristin Mullen, Upper Nazareth
Township Brian Carl, Lowhill/Weisenberg	Janice Myers, Heidelberg Township
Dan DeMeno, Upper Macungie	Ed Nelson, Upper Mount Bethel Township
Percy Dougherty, Lehigh County Commissioner	Brad Osborne, South Whitehall Township
Bob Elbich, Lehigh County Commissioner	Pam Pearson, LVPC Treasurer
Jay Finnigan, Hanover Township	Tom Petrucci, Plainfield Township
Chris Garges, North Whitehall Township	Mikal Sabatine, Williams Township
Steven Glickman, LVPC Vice Chair	Lori Stauffer, Lower Nazareth Township
Brent Green, East Allen Township	John Toner, Upper Macungie Township
Jason Harhart, Moore Township	Melissa Wehr, Hanover Township
Diane Kelly, South Whitehall Township	Irene Woodward, City of Allentown
Dave Manhardt, South Whitehall Township	Greg Zebrowski, LVPC Chair
William McGee, Northampton County	Robin Zmoda, Borough of Pen Argyl
Rick Molchany, Lehigh County	

**LVPC Staff Present:** Ms. Benco, Ms. Bradley, Ms. Ferguson, and Ms. Seitz.

Ms. Bradley called the meeting to order.

**Minutes:**

Ms. Bradley discussed the goal of the Municipal Planning Code Amendments Working Group, which is to develop a single platform and advocacy strategy. The group will outline changes to the Pennsylvania Municipalities Planning Code (MPC) and identify areas where local governments need support in sharpening the tools they have now. Then, the group will develop a single legislative platform for all levels and types of governments, as well as an educational strategy to support better decision-making. An advocacy strategy will be developed, and then the group will advocate for change. The working group will have three meetings prior to the end of 2021 and in 2022 the group will begin their advocacy.

Ms. Bradley outlined the LVPC's role in the working group, which includes organizing and managing the working group, recording issues, researching and confirming with 3<sup>rd</sup> party support from an attorney, writing, designing editing and distributing the platform, and coordinating the advocacy effort regionally, through professional organizations and with the State Planning Board.

**Platform Development**

- **Communities being required to zone for all uses unless in a multi-municipal comprehensive plan and the joint zoning requirements are met. Curative amendment exposure generally that is costly and difficult for communities**

- Mr. Asteak states that municipalities need a mechanism to say no to developers when there is enough of specific land uses and the community has provided their fair share. Right now with zoning you have to allow for all uses, you can't exclude uses in industrial zone
  - Ms. Bradley adds that joint zoning is the only exception, where municipalities can trade uses and distribute them across all participating communities of in a multimunicipal comprehensive plan.
  - Mr. Petrucci states that that it's important for the working group to focus the intent. There is a lot of discussion about preserving open space, but there's already ways to handle open space. The group should focus efforts on how to manage development that's already existing. The MPC is already fairly robust and open space preservation tools exist already, the bigger issue is when a development is already zoned Industrial and a developer says 'it's permitted use, this is what you get'.
  - Mr. Manhardt states that there is a need for a fair share calculation for warehouses, right now the process is ambiguous and should be clearly specified in the MPC. If a community has enough warehouses, what does that mean?
  - Mr. Carl agrees that a fair share determination is needed, and adds that rural communities in a legal validity challenge should be able to know what their fair share is. Communities are concerned that courts will determine their approach is not sound and require a warehouse development. Then, a comprehensive plan's strategy could be thrown out the window due to the lawsuit.
  - Mr. Molchany states that many municipalities don't want to be put in a negative fiscal position, which is why they are approving warehouse developments. There should be a way for communities to determine they have enough of particular land uses, and fair share seems like the way to do it.
  - Mr. Asteak adds that you have to allow for land uses, but you don't have to allow for the uses everywhere in a municipality. They are provided the right in a designated area. Comprehensive plans should limit areas designated for Industrial.
- **Overly complicated, burdensome and inflexible requirements to adopt transportation impact fees and to expend fees once required planning is complete.**
    - Ms. Bradley states that a complication of joint zoning is, although it allows community groups to say they have enough of specific land uses, it becomes complicated with establishing traffic impact fees, especially the process of trying to develop them and get the fees adopted for smaller communities.
    - Mr. Molchany states that it comes down to money. Other municipalities in Pennsylvania that say they would be 'happy' with the Lehigh Valley's rate of development would not be happy when PennDOT has to reallocate money because highway growth can't be supported in those other areas. Today the Lehigh Valley is overwhelmed and has to petition hard to get transportation money, and that may help others start to see development as a costly problem. To communities, the reality is we can't get enough money to maintain what infrastructure we have, and there's not enough liquid fuel money to manage the work needed on infrastructure, and it's a result of huge amounts of development. If the MPC doesn't change, how will municipalities manage their budgets? The region is billions of dollars short of being able to fund what is needed TODAY, let alone 20-30 years from now, and that infrastructure is on the municipalities' backs.

- Mr. Nelson states the importance of planning for infrastructure ahead of time. For example, communities knew the Chrin interchange was coming and should have been planning and designing for the increased development pressure that comes with infrastructure, instead of trying to avoid it.
- **Limits of timing, interaction and enforceability between the subdivision and land development ordinance, zoning and comprehensive planning provisions, the three major pillars of community planning and management.**
  - Mr. Carl states that important infrastructure that is needed with development, like emergency management services, state police, walking trails, pedestrian safety, and schools all come at a price to a municipality and revenue is needed to support it.
  - Mr. McGee states that we have to make sure when local government are reviewing developments that they understand if that development will pay for itself. The more development you get the more communities may need to find ways need to find ways to pay for maintaining additional wear and tear. Some development can be beneficial but, some may not and a focus on development impacts should be a bigger factor in the state law.
  - Ms. Bradley states that once a comprehensive plan is done, the connection between the plan and implementation is where a lot more time needs to be spent by local governments.
  - Mr. Garges adds that zoning is the next step after a comprehensive plan is adopted, and zoning needs to be changed in order for the plan to actually make an impact on the community.
- **Need for specific provisions that coordinate infrastructure, beyond wastewater, capital planning and budgets, to the zoning appeals and subdivision and land development approvals process.**
  - Mr. Osborne states that public education at the municipal level is important, and boards should be required to attend training so they keep up with the planning world. Ultimately it's boards that communicate with the public and make decisions in a community. They need to have discussion about real impacts of the development, not just some criteria on the checklist like sidewalk being on a certain side of the road. Especially as local, county, and state officials change it's important to continue and even grow educational programing. LVPC does a lot now, can this be expanded in light of all the growth pressure?
- **Need to able to establish new types of impact statement requirements and fees to manage and offset the impacts of development.**
  - Mr. Zebrowski states the importance of having umbrella questions that can be asked in the development planning process, such as what is the ultimate end use and what are the environmental impacts?
  - Mr. Petrucci states that communities are having to purchase new fire trucks to serve larger scales of development, and there are more accidents now because of truck traffic.
  - Mr. Zebrowski adds that the freight industry should be contributing finically to prevent accidents.
  - Ms. Stauffer adds that developers often think that fire suppression systems are sufficient to address emergency management. Developers need to be accountable not just for a small amount of money based on traffic impact fees or cash in lieu of recreation space. Ultimately, the taxpayers are left holding the bag to pay the cost resulting from development. How do we get developers to pay

what their impacts actually cost? These development projects involve millions of dollars but municipalities get next to nothing in many cases. Often the municipalities feel helpless to address these issues when looking at a subdivision/development plan. Elected officials need more autonomy, and the developer can't be only one holding all the cards.

- **Structure of the approvals timing regulations to allow for communities and counties to act only if a facility end user is known so true impacts may be assessed in the decision-making process.**
  - Mr. Asteak states that another consideration is how changing or converting a land use impacts the community – for example, where a warehouse was previously fully mechanized and the tenant changes, and the same development now has 200 employees. Those two use types generate different impacts.
- **Requirements for the coordination by developers with all review and regulatory agencies versus the current system of piecemeal and uncoordinated process that allows a developer to pit agencies like the Pennsylvania Department of Transportation against a local government.**
  - Mr. Carl states that coordinating a review with PennDOT can be difficult due to the timing of Highway Occupancy Permit reviews. PennDOT also could use more tools to evaluate and enforce transportation needs.
  - Ms. Bradley adds that many developers go to PennDOT first to get HOP approval, then the developer pits the municipality against PennDOT for approving it and PennDOT cannot reopen the HOP process.
  - Mr. Petrucci adds that municipalities don't always get invited to scoping meetings, virtual meetings are especially difficult to see and hear all of the information. Development consultants use those meetings to direct the whole HOP process.
- **Expansion of zones of impact, that allow communities, counties and the Commonwealth to require maintenance, extensions and improvements to infrastructure beyond the area immediately around a development site.**
  - Mr. Manhardt states that there is a limitation on requiring developers to construct off-site improvements, municipalities can only get them on state-owned roads. On local roads, municipalities can only require on-site improvements. Being able to require off-site improvements would help better manage impacts of that development - that is one of biggest tools needed in the MPC.
  - Mr. Asteak adds that collateral consequences are not considered in the MPC, and municipalities don't have the tools to address them. Stormwater is another instance.
  - Mr. Manhardt states that transportation and economic impacts are the most significant concerns shared by the public during the comprehensive planning process, but once the comprehensive plan is adopted, the municipality doesn't have the tools to make those things happen, unless they're on a state road. If there was a municipal HOP process, that may be a mechanism already in place municipalities could use.
- **Allow impacts across municipal boundaries and associated needs to be accounted for and addressed.**
  - Mr. Glickman states that with stormwater, property owners have to adjust to make sure development does not impact your neighbor. It needs to be the same

with traffic. One municipality's development traffic will eventually go into another municipality. We need to figure out how municipalities can deal with traffic that doesn't come from their own developments

**Adjourn**

Ms. Bradley ended the meeting.

Upcoming Meetings: Friday, December 3, 2021, at 2:00 pm  
Friday, December 17, 2021 at 10:00 am

Submitted by,  
Becky Bradley, AICP Executive Director  
Heather Ferguson, Senior Advisor

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