

PLANNING ADVISORY BOARD
Wednesday, March 23, 2011
SCOTT HEYMAN CONFERENCE ROOM
125 East Court Street

MINUTES

Members Present – Martha Armstrong, Todd Bittner, Dick Coogan, Fernando de Aragon, John Gutenberger, Dave Herrick, David Kay, Dooley Kiefer, Pam Mackesey, Gay Nicholson, Monika Roth, Kathy Schlather, John Spence, Andy Zepp

Members Excused -- Mina Amundsen, Sue Cosentini, Scott Whitham

Member Absent – Rick Couture

Others Present – Scott Doyle (TC Planning Dept.), Joan Jurkowich (TCPD), Ed Marx (Commissioner of Planning & Community Sustainability), Kathy Wilsea (TCPD)

Call to Order – The meeting was called to order at 9:02 AM by the Vice Chair, Gay Nicholson. There were no changes to the agenda.

239 Review Process – Ed Marx provided background, saying General Municipal Law allows for review of development projects within 500 feet of municipal boundaries and State or County roads and properties for impacts that are potentially negative. This is open to a wide range of interpretations. The Tompkins County Charter provides for the Planning Commissioner to make these decisions. TCPD usually responds within two weeks of receiving a project from a municipality. The law allows that the scope can be defined, and TCPD offered agreements to municipalities a few years ago exempting some projects, like side setbacks in neighborhoods, and minor subdivisions. Most municipalities signed agreements. Since the County Comprehensive Plan was passed, TCPD has tried to review projects for Comp Plan parallels. Staff occasionally receives feedback from municipalities, some positive and some negative.

Discussion today is because staff seeks comments from PAB members. Staff used to make technical comments, in part because many planning boards don't have any staff. With County budget cuts, TCPD will only be reviewing for actual recommendations for modification or denial, although recommendations for denial are seldom made. In instances when TCPD makes recommendations for modification or denial, the municipal board reviewing the project is required to consider the comments. If they won't follow the recommendations, they need a supermajority (majority plus one) to approve the project. The 239 law was enacted in response to NYS having no regional planning function.

Dick Coogan asked what happens in case a controlling board acted without having received the TCPD response. Ed said there has been a court decision on this, and the board action is invalid. They must go back and review. David Kay said he recalled an action like that by the City's Planning and Development Board. It was not challenged, but they met again and repeated their vote. Ed pointed out the public hearing can be held before the County comments are received, but the decision-making board is not supposed to take final action. Gay asked if 239 reviews pertain to ordinances, and Ed responded that it would only concern ordinances for planning or zoning.

Scott Doyle spoke of recent reviews that resulted in letters that the project may have negative impact, saying they mostly fell into two categories: housing density and natural features protection. Staff commented that housing density bonus projects should have an affordable housing component, and recommended stream buffers when development was planned near streams. Usually the stream buffer comments are for projects near State Parks. Natural Features Focus Areas, Agricultural Features Focus Areas, and Unique Natural Areas are on the checklist used by staff and provided to PAB for information.

Fernando de Aragon asked if this process could be used for education on the Development Focus Areas, and Ed responded it would be hard because this is a reactive tool. Staff does occasionally comment on access to

transit and pedestrian facilities. Joan Jurkowich added that 239s also provide an opportunity for staff to comment on zoning proposals and comprehensive planning projects, which get more extensive reviews. In such cases, it works best if staff has an opportunity to start in the draft phase.

John Gutenberger asked if there is any dialog with the project applicant when staff is going to make a determination of negative impact. Ed said there is not. The law provides for County review of materials from the municipality. Staff would dialog with a developer if contacted, but he wouldn't want to say something that the municipality wouldn't recommend. Sometimes a municipality has sent an applicant to TCPD to find out how to improve a particular point that drew comment from TCPD. TCPD is limited in their ability to be proactive. And if TCPD acted selectively, it could be even more problematic. Sometimes the letter is stated publicly at a municipal meeting, but it is not a mechanism for public outreach or education on the part of TCPD. Dooley Kiefer felt that going to minimum review and comments loses the best way for TCPD to comment. Ed responded that the annual letter to municipalities mentions that TCPD will comment further if a municipality requests that. Some municipalities resent the comments. TCPD would need to be consistent in its work so there is no resentment. David Kay said he supports that attitude and recognizes staff constraints. He appreciates support of good and compelling points, too. Producing comments that are resented is worse than a waste of Planning Department time. Ed said the letters are the same as in the past, except they do not provide comments outside the 239 review process. Fernando asked if there is a way to get involved early in the process, and Ed said he prefers to be invited in. TCPD has good relationships with some municipal staff, but not all. David Kay asked if stream corridor recommendations are consistent and functional – what purpose do they serve? Ed said much research has been done on that, and overwhelming tangible benefit has been shown on water quality and wildlife habitats. Staff recognizes that existing development in urbanized areas sometimes doesn't leave room for buffers, and manmade waterfronts are different. But buffers are important for natural streams and, absent buffers, Cayuga Lake would only get worse. Buffers are the single best thing we can do. David Kay said the thought behind it doesn't always come through. Andy Zepp said he receives copies of letters with stream buffer recommendations and he follows up on them. He recognizes there is only so much the County can do. Ed said buffers may be an issue in 10% of letters concerning possible negative impacts. Joan suggested staff could add a paragraph to such letters on the purpose.

Gay asked what kinds of comments are received as feedback when staff sends a letter of possible negative impacts. Joan said it can lead to long discussions on planning boards in small municipalities. Gay said she sees lots of turf issues. Dooley asked about the last review item on the list, emergency issues. Ed said that is a look at tall structures. Kathy Schlather asked if municipalities are aware of the items on the review list, as they don't match the letter sent to municipalities. Scott acknowledged they are not an exact match. Ed said the top items are part of State law, but open to wide interpretation, and shaded area concerns the Comp Plan.

PAB Interest/Participation in Other County Planning Initiatives – Ed asked what topics are of interest to members, and if they want them included in PAB agendas in the future. Monika Roth expressed interest in the work of other PAB members, as they are stakeholders in this group. Andy said, in addition to what members have learned through discussion on Development Focus Areas, he would like to learn more points on transportation, especially about concepts that are ahead of the curve. Fernando was interested in Town/City coordination, and keeping up with their comp plan issues. Gay concurred on that, especially learning about red flags. Dooley wondered if the Planning Department climate adaptation work will be part of hazard mitigation, and welcomed that as a topic for PAB focus. Kathy said she remains interested in updates on housing status. Ed commented that we haven't seen solutions yet to adding affordable housing units to developments. Pam Mackesey stated an interest in learning about the Frandsen housing project in Newfield. Todd Bittner would like to hear from Darby Kiley and have a snapshot on her work on gas drilling. Gay brought up the topic of long-term education in municipalities on sustainability. Fernando said a map of development projects would show impact on transportation, and how the problem is not the impact of any one development. Joan said staff sees plans for the majority of big developments of ten or more houses. Martha Armstrong pointed out the Health Department has projects not on infrastructure. Fernando suggested informing all municipalities of good development examples. Kathy asked at what level is the percentage of affordable housing not acceptable. John Spence said private projects have no obligation to incorporate

affordable units, and projects cannot be specific to Section 8. He asked if there is an opportunity to update the 2006 Housing Needs Assessment, as the economy has changed. Ed said Tompkins County will participate with Downtown Ithaca Alliance on a housing study, and Census data will be published soon. He doesn't feel the market has changed much for long-term trends. The retirement housing study is based on continuation of existing conditions. Andy would like to receive background materials in written form, which would cut down on meeting time.

Commissioner's Report – Ed Marx reported things are moving forward, but slowly, on sustainability efforts. ▪ Staff recruiting continues for two vacancies. ▪ Energy financing and efficiency efforts continue. ▪ Staff did a presentation at SEEN recently, with 75 participants providing good discussion and responses. Joan noted 90% of the SEEN crowd had not been at previous public meetings, and they were very engaged. ▪ The Housing Fund is experiencing some delays with contract documents from the City, but he hopes they will disperse funds soon. All projects are continuing, but none are at the construction phase yet. His recollection was that the Housing Fund is providing partial funding for 165 units so far.

Approval of Minutes from January 26 and February 23, 2011 – January minutes moved by Dick, seconded by Fernando and accepted by voice vote with one change. February minutes moved by Fernando, seconded by Andy and accepted by voice vote with no changes. Final minutes are available on the Planning Department website: www.tompkins-co.org/planning/ under Advisory Boards.

Announcements – Andy announced DEC is in the public comment period for the Rapid Waters Strategic Plan (Shindagin Hollow and Danby State Forests) and the very end of the document includes the possibility of gas drilling. He recommended that members go to the DEC website if they want to comment. Fernando said a coalition of agencies is using federal funding through ITCTC to develop a Regional Transportation Study. They are in the beginning stages of the project, which will take 12 to 18 months, and will examine regional mobility and what improvements can be made. Gay announced two events coming up for Sustainable Tompkins: 3/29 Neighborhood MiniGrant awards event at La Tourelle and 4/6 Energy Security event at Women's Community Building. She will send more info by email.

Adjournment – The meeting was adjourned at 10:25 AM.

Respectfully submitted,

Kathy Wilsea, Secretary
Tompkins County Planning Department

Minutes adopted by PAB on June 22, 2011.

Membership:

Mina Amundsen, At-Large
Martha Armstrong, Economic Dev.
Todd Bittner, Natural Environment
Dick Coogan, Local Planning (non-urban)
Sue Cosentini, Business
Rick Couture, Education
Fernando de Aragon, Transportation
John Gutenberg, Education
Dave Herrick, Facilities/Infrastructure

David Kay, Local Planning (urban)
Dooley Kiefer, Associate Member
Pam Mackesey, Planning Committee
Gay Nicholson, At-Large
Monika Roth, Agriculture
Kathy Schlather, Human Services
John Spence, Housing
Scott Whitham, Cultural & Historic Pres.
Andy Zepp, Land Pres./Public Land Mgmt.