2.1 Deciding on a Planning Area

The year 2000 amendments allow many possibilities for getting together to develop a multi-municipal plan. A virtue of these provisions is that they allow local governments and counties to decide for themselves what regions are appropriate planning areas. The participant municipalities must be contiguous, but the planning area can be of any size and number of municipalities. The planning area could be:

- An entire county
- A sub-county region of contiguous municipalities
- An area of contiguous municipalities in several counties
- Two or more municipalities in a county or counties

The law provides great flexibility for counties and municipalities to shape planning areas based on inherent regional logic and political willingness. Although a multi-municipal plan can be adopted for as few as two municipalities, the new provisions enable planning on a larger regional scale as well. For many areas, it will make sense to adopt a plan based on or adapted from the county plan and local plans and ordinances.
A. Using Existing Bodies

The multi-municipal provisions of Article XI do not require establishment of a multi-municipal planning commission in order for cooperating municipalities to develop and implement a plan. Municipalities may work together through their existing bodies. However, some structure for cooperation needs to be established through the planning and implementation agreements authorized in Article XI. This manual suggests that cooperating municipalities appoint a multi-municipal planning committee through adopted planning agreements, and assign that committee the sole work of developing a multi-municipal plan to recommend to the municipal governing bodies for adoption. The same committee can be given responsibility for recommending and overseeing implementation measures to be approved by the governing bodies once the plan is adopted. Adoption of the plan and conforming zoning ordinances in each municipality must follow the procedures set forth in Section 302 for the plan and Sections 607, 608, and 609 for zoning ordinances.

Obviously, planning areas can only be defined by willing participants. Local governments that are already working together through pre-existing joint or regional planning commissions or councils of government (COGs) are natural candidates for further cooperation. They may want to use the provisions of Act 67 to take their plans further and implement them through agreements and ordinances. A county can play a major facilitating role in bringing appropriate regions together.

The planning committee or body developing the plan should focus intensely on the plan and not on other issues, as developing the plan will be an all-consuming task. An existing joint planning or regional commission has planning as its only task and is therefore appropriate for the job if it covers an area of willing municipalities. Delegating planning responsibility to a COG may not be desirable because of the breadth of subjects or area that it covers. However, if the COG covers an area of willing participants, the municipalities and the COG and cooperating municipalities
could designate a planning committee of the COG, using some variant of the planning agreement suggested in the appendix. COGs have generally worked together on shared purchase agreements and economic development projects rather than comprehensive planning.

B. Joint and Regional Planning Commissions

It is important to understand the legal status of joint planning commissions under the 2000 MPC amendments. The prior “Joint Planning Commission” provisions of Article XI are saved, but replaced by the “Intergovernmental Planning and Implementation Agreements” provisions of Article XI. (See sidebar.) Under Section 1107, existing joint planning commissions are preserved, so cooperating municipalities may use them to develop and implement plans under Article XI. It does not appear that cooperating municipalities can establish a new “joint” planning commission under the saved provisions. Similarly, regional commissions created under the Regional Planning Commission Law, 53 Pa CSA §§ 2341 et seq., which was saved by earlier amendments to the MPC, can be used if they already exist, but cannot be created new.

If cooperating municipalities wish to establish a more formal joint commission structure rather than a planning committee, they can rely upon the provisions of the Intergovernmental Cooperation Law (ICL), and Article II of the MPC, which together would allow them to do jointly anything that each can do separately. Article II enables a municipality to establish a planning commission in accordance with the requirements of Sections 202-207. Section 2303 of the ICL provides that “two or more local governments may jointly cooperate... in the exercise of their respective governmental functions, powers or responsibilities.” In developing and implementing a plan, the pre-existing “joint” or new joint commission must use the provisions of Article XI if the municipalities want to get the benefits of a multi-municipal plan. Again, the plan will have to be adopted under the requirements of Section 302, which requires action by each participant’s planning commission and governing body.
Joint Zoning. The joint zoning article, Article VIII-A, remains in the MPC. If participants want to adopt joint zoning for their entire region—which may offer the greatest protection against challenges and assurance of consistency between the plan and implementing ordinances—they can do so. Under Section 801-A(b) such an ordinance must be based “upon an adopted joint municipal comprehensive plan.” Considering the new Section 107 definition of “multimunicipal planning agency” in the sidebar, it appears that a multi-municipal plan developed under Article XI by a pre-existing joint planning commission, a planning committee established by a planning agreement, or a regional planning commission will all satisfy the plan requirements for joint zoning.

C. Planning Areas

Possible planning areas might be:

- A natural configuration of political jurisdictions—e.g., a city or borough and surrounding townships or a school district that already shares tax base for schools in the region;
- A natural resource based area such as a watershed;
- A corridor area or area surrounding a proposed highway expansion, interchange, or network. Examples where such planning is initiated or contemplated: the Route 41 area in Chester County; the I-99 corridor, including the Clearwater Creek watershed area in Centre County; the Mon Valley corridor in southwest Pennsylvania; PA18 in the Shenango Valley; US 30 in southwest Pennsylvania; US 322 in Delaware County; PA 23 in Lancaster County; and the Route 113 corridor in Bucks and Montgomery Counties;
An area motivated to get together to preserve viable farmland and/or aquifer recharge capacity by focusing growth in and around boroughs and villages.

An area comprised of municipalities that have more commercial and industrial development and municipalities that are more residential, where services and revenues can be shared to the benefit of both.

An entire county where municipalities agree that the county and sub-regional multi-municipal plans will be developed by the county and municipalities working together to adopt and implement such plans.

**Adopting the County Plan.** It is certainly possible for local governments to choose to adopt the county plan as their comprehensive plan. Depending on the specificity of the county plan, municipalities that choose this course may or may not want to do further, more detailed planning. If the county plan is adopted it will be the plan that must be implemented under new Section 303(d), which requires that “municipal zoning, subdivision and land development regulations and capital improvement programs shall generally implement the municipal and multimunicipal comprehensive plan or, where none exists, the municipal statement of community development objectives.” Under Section 603(j), zoning ordinances must be “generally consistent with the municipal or multimunicipal comprehensive plan or, where none exists, the municipal statement of community development objectives.” Provided the zoning ordinance already is, or is amended to be, generally consistent with the county comprehensive plan, adoption of the county plan would assure that the requirement of 603(j) is satisfied in a relatively simple way.

Although municipalities could simply adopt the county comprehensive plan as their plan, all or at least areas of contiguous municipalities in the county would have to adopt the county plan as a multi-municipal plan in order to invoke the protections and incentives of Article XI, Section 1105.

**Example of a County and Multi-municipal Planning Process:**

Mercer County has undertaken a countywide planning process with its local governments to develop sub-county multi-municipal plans that include all municipalities and a county plan based on those plans.

The countywide planning group recommended five sub-county groups based on the following criteria:

1. Each group contain at least one urbanized activity center;
2. The municipalities in each group have an affinity based on one or more of the following:
   a. social similarities
   b. economic relationships
   c. political/service districts such as schools
   d. shared infrastructure
3. Each cluster is sufficiently compact and small to encourage citizen participation in the meetings.

Contact Denny Puko, Director, Mercer County Regional Planning Commission, 724-981-2412 or dpuko@mcrpc.com.
particularly the judicial review provisions as to distribution of uses in Sections 916.1 and 1006-A. If all of the municipalities in a county adopted the county plan (and their own generally consistent, more detailed plans if they chose), the county plan would be a multi-municipal plan covering contiguous municipalities. (All counties except Philadelphia are “municipalities” governed by the MPC. Section 107 definition of “municipality”.) However, the clear intent of the Article XI provisions is to have multi-municipal plans of contiguous local municipalities that are implemented through agreements and adoption of generally consistent ordinances. While a county plan could be implemented through agreements with each municipality as to location of uses, densities, capital improvement programs, and other measures, it will probably be more manageable and ultimately more sustainable—particularly in developed and developing areas—to have sub-county, multi-municipal plans for areas of the county. (See discussion of standards of judicial review in Chapter 4, page 4-18.) The county can be a participant in or facilitator of these multi-municipal plans, and work to adopt multi-municipal plans that are consistent with the adopted county plan or, if applicable, a new county plan developed at the same time. The county plan will also need to provide for certain uses and needs on a countywide basis. Variations of this approach are evident in planning underway in Mercer, Lycoming, Mont-gomery, Lancaster, Berks, Chester, and Monroe Counties.

D. Cities and Boroughs

The new MPC provisions offer cities and boroughs the opportunity to plan with neighboring municipalities for development in and around their municipalities, making use of and improving their existing infrastructure. Many of these municipalities have been left out as new development moves to suburban and exurban locations. Many are in relative economic decline with less affluent populations and shrinking tax bases; yet they have assets which, with appropriate public and private investment, could make them attractive to homebuyers and businesses.
Cities and boroughs could be ideal locations for infill traditional neighborhood development (TNDs), newly authorized in Article VII-A. Such development could be located in or near a city or borough, so as to take advantage of existing infrastructure. A transfer of development rights program in a planning area that combines rural and urban municipalities would enable farmers to sell development rights to developers for use in a city, borough, or more suburban township within the plan, thereby relieving pressure on rural lands, and helping to sustain developed areas. The use of tax and revenue sharing, if desired, could mean that the burdens and benefits of commercial and industrial development are shared and contribute to the economic health of all the municipalities.

E. Compatible Municipalities

In the end, deciding on a planning area will mean identifying compatible partners so that the plan will serve the interests of all the participants. It will be desirable to work with contiguous municipalities that have and can accommodate a range of uses and densities, so that all uses can be provided for over the region of the plan, as the law now allows. For instance, a municipality that is largely agricultural and rural in character may be able to retain that character by planning and zoning for agriculture, forestry, and recreational uses with compatible residential development on larger tracts, if it is a participant in a plan with municipalities that are developed or developing, and that seek more intense commercial, industrial, and residential development.

Continued from prior page:

These are the kind of communities Pennsylvania has in abundance with its 56 cities and 962 boroughs. However, many of these places have deteriorated housing stock, infrastructure, and downtowns. They need to attract public and private investment and to build new market housing in order to keep and attract residents and revitalize their communities.

According to a study prepared by the Brookings Institution on first suburbs in the Midwest, “the stresses [older suburbs] face are beginning to hamper their ability to remain, or become, economically competitive.” This study describes the experiences and conditions of these places in the Midwest [it includes Pennsylvania data], and identifies the policies that impact them the most, and outlines an agenda for policy reform.

Sources:
2.2 *Identifying County and Municipal Partners*

The new provisions for multi-municipal planning and implementation can be undertaken:

- Working with the county (or counties) and contiguous municipalities as participants, or
- By contiguous municipalities as participants without the county, or
- By contiguous municipalities without the county as a participant, but with the technical assistance of the county.

**A. Working with the County**

Counties are natural allies in the work needed to develop and implement a multi-municipal plan. They are mandated to do comprehensive planning under the MPC, have planning staff and expertise in the kind of information that will be needed to develop a strong plan that can be sustained against challenge in court. Remember, the county cannot impose a plan on local governments. They must agree that the plan serves their interests and ask for the county’s facilitation and help in developing and adopting a multi-municipal plan.

Although local governments can develop and adopt a multi-municipal plan without the county, it will likely be advantageous to use the resources of the county whether or not the county is an actual participant in the plan. In order to develop a sustainable plan with implementing ordinances that will withstand challenge, it will be essential to employ sound planning practices. These include: demographic and growth projections; analyses of transportation and water and sewer facility needs; analysis of housing needs; analysis and evaluation of the need for and impacts of particular proposed regional facilities and development; identification of rural resources areas where agriculture, forestry, extractive industries, and recreational uses will be preferred; and development of a plan for natural and historic resources. Under new Sections 301(7) and
301.4, the county has responsibility for developing some of this data and analysis. Municipalities will want to take advantage of that information, rather than develop it all themselves.

Optimally, the county will work together with all municipalities in the county to define planning areas and to develop multi-municipal plans through negotiations that are based on both county and local plans, ordinances, and shared visions for the future of the cooperating municipalities. This is likely to be the fastest route to achieving implementable multi-municipal plans. Working with the county can also help to assure that no municipality that wants to be included in a multi-municipal plan is left out of the planning process.

The county can also help carry out the plan. For example, the participants may want to contract with the county to administer the plan and implementing ordinances, reserving ultimate decisions to the participating governments.

B. Working without the County

If municipalities do choose to go it alone without the county, they will need to assign responsibilities for collecting the necessary data and information, developing relevant analyses and projections of growth and needs, and identifying appropriate rural lands, as well as natural and historic resources to be protected. The planning agreement discussed in part 2.3 of this chapter is the place to assign responsibilities for developing this information.

C. First Steps

Municipalities may get started on a multi-municipal planning process simply by adopting a resolution authorizing their participation in a multi-municipal planning process. A sample resolution adopted by seven Lehigh County municipalities that have decided to plan together is included in Appendix 2A-1 as an example.

MPC Section 301.4:

(a) If a county does not have a comprehensive plan, then that county shall, within three years of the effective date of this act, and with the opportunity for the review, comment and participation of the municipalities and school districts within the respective county and contiguous counties school districts and municipalities, prepare and adopt a comprehensive plan in accordance with the requirements of section 301. Municipal comprehensive plans which are adopted shall be generally consistent with the adopted county comprehensive plan.

(b) County planning commissions shall publish advisory guidelines to promote general consistency with the adopted county comprehensive plan. These guidelines shall promote uniformity with respect to local planning and zoning terminology and common types of municipal land use regulations.
Choosing a Consultant. The most important first step that a planning committee or joint commission will want to take is to decide what it is they would like to accomplish. They may want to hire a neutral facilitator or professional planner to help them reach consensus on goals, develop a scope of work, and provide technical assistance in selecting a consultant to prepare the multi-municipal plan. The planning committee or joint commission will certainly want to get the help of a qualified professional planner to help them develop the plan. It is a good idea to have a planning consultant for the development of any comprehensive plan. However, a multi-municipal plan will be more complicated than a plan for an individual municipality as it will require bringing together data and maps from all the participants and then deciding together on where growth and infrastructure areas and rural resource areas should be. In addition to possible support from DCED’s Governor’s Center for Local Government Services through a LUPTAP grant, the county may be willing to support the hiring of a consultant and to provide technical assistance in selecting the consultant.

2.3 The Planning Agreement

The intergovernmental cooperative planning agreement authorized in MPC Article XI is the document where participating municipalities can spell out the process for developing and adopting a multi-municipal plan. It is recommended that this be done by establishing an “XYZ” Area Planning Committee (insert name of your choice) representative of the participating municipalities through an agreement, and delegating to that committee the authority to develop a plan to be recommended to the municipalities for adoption. A sample planning agreement is included in Appendix 2A-2.
A. Requirements

Requirements and recommended provisions for agreements under the ICL are discussed in the Governor’s Center for Local Government Services’ *Intergovernmental Cooperation Handbook*, an invaluable resource for municipalities cooperating on any subject. An agreement must be enacted by ordinance (Section 5), and the ordinance must specify (Section 7):

1. The conditions of the agreement.
2. The duration of the agreement.
3. The purpose and objectives of the agreement, including the powers and scope of authority delegated in the agreement.
4. The manner and extent of financing the agreement.
5. The organizational structure necessary to implement the agreement.
6. The manner in which property, real or personal shall be acquired, licensed, or disposed of.
7. That the entity created under this section shall be empowered to enter into contracts for policies of group insurance and employee benefits, including social security, for its employees.

These items can be covered in the ordinance itself, but are usually addressed in the agreement, which is incorporated by reference in a simple authorizing ordinance attaching the agreement.

As stated in Section 2.1, municipalities that want to cooperate on planning may want to do so through a joint or regional planning commission if one has been established under prior MPC Article XI or other operative authority. If either of these bodies already exist and covers an area of willing participants, a planning agreement may not need to spell out representational and procedural requirements, but deal only with planning responsibilities and participation and withdrawal requirements.
Contiguous municipalities entering into the new process authorized by Article XI will want to agree up front that the object is to develop, adopt, and implement a multi-municipal plan. This is so because Article XI authorizes new elements (designated growth areas, rural resource areas, and public infrastructure areas) in the plan and gives new legal significance to the plan, so long as it is being implemented with generally consistent ordinances. While participants in the planning process cannot be forced to adopt and implement the plan that is developed and may drop out, that decision may prove difficult for the remaining participants who will have to adjust the plan accordingly to address growth, fair share, and conservation issues. Thus it will be important to enter into the process with municipalities that also have the desire and intent to adopt and carry out a plan.

B. Provisions

Assuming that municipalities have agreed to establish a multi-municipal committee for developing the plan, what should be in the agreement to do so? The elements described in the sidebar are discussed below in more detail.

1. Establishment and Procedures. The sample planning agreement in the appendix to this chapter contains suggested provisions for establishing a planning committee and governing its work. The provisions of Article XI do not envision the creation of any new bodies; rather they are intended to enable municipalities to use existing bodies—governing bodies, planning commissions, advisory committees—to develop and implement the plan using intergovernmental cooperative agreements to state their commitments and guide the process of developing and carrying out the plan. While the planning agreement may be as simple as the participants want to make it (no specific requirements other than the applicable requirements of the ICL are specified in Article XI), it is probably better to err on the side of specificity in the agreement so that there is a sense of orderly procedure and fairness among the participants.
The sample planning agreement creates a committee to which representatives of the participating municipalities are appointed, and includes provisions for election of officers, rules for the conduct of business, the preparation of a budget, applications for funding and the sharing of expense, assignment of roles and responsibilities for elements of the plan, and provisions for participation and withdrawal from the agreement.

2. Roles and Responsibilities. Section 301 elements are required of any comprehensive plan: “The municipal, multimunicipal or county comprehensive plan… shall include, but need not be limited to…” [emphasis added] the listed elements. (See sidebar.) Article XI adds provisions that a multi-municipal plan may include—designated growth areas, future growth reserve areas, rural resource areas, and “may” plan for accommodating all uses over the region of the plan, for developments of area wide significance and impact, and “for the conservation and enhancement of the natural, scenic, historic and aesthetic resources within the area of the plan.”

The participants will need to examine these requirements and possibilities carefully and decide what data and analyses they need to develop a good plan. The planning agreement should assign responsibilities for gathering such data and providing analyses. Where the county is a participant and/or providing technical assistance, it may be able to provide growth projections, housing, transportation and regional needs analyses, information on water and sewer facility planning for the region, and some data and analysis on prime agricultural and rural lands, natural and historic resource areas. However, it may be desirable to assign municipal representatives or bodies with particular expertise responsibility for some of those aspects of the plan.

Municipal planning commissions, environmental advisory councils, transportation impact fee advisory committees, historic and architectural review boards, school districts, water and sewer authorities, agricultural security boards, park and recreation boards, open space committees, fi
Annual advisory committees, shade tree commissions, neighborhood/commercial area improvement committees, and trail and bike path advisory committees—all could play a role in providing needed information for the plan.

Participants will also want to use the technical assistance and expertise of state, regional, and local agencies such as DCED, PENNDOT, DEP, DCNR, the Department of Agriculture, DVRPC, and SPC; economic development agencies; county housing agencies; and others. (See Chapter 3 on where to get information for elements of the plan.)

Where there is no county participation, it will be essential for municipal bodies to take full responsibility for developing needed information, or assign some of those responsibilities to a consultant. Again, it may be desirable to establish a joint or regional planning commission so that there is an official joint body overseeing the gathering of information and digesting it for the purpose of developing the plan.

Again, whether or not the county is involved, it will be desirable to hire a planning consultant to help with the data gathering, analyses, and deciding what should be in the plan. A sample request for proposal (RFP) for a consultant to work with a multi-municipal planning committee is included in the appendix to this chapter.

3. Schedule and Process. The sample planning agreement in the appendix to this chapter makes provision for assigning tasks needed in the development of a sound comprehensive plan in Section 7 and Exhibit A, which is a chart of responsibility for tasks with a time frame for completion.

While there is no required timetable for the development and adoption of a multi-municipal plan, municipalities that have chosen to do this will undoubtedly want to proceed as quickly as possible to get a plan in place and begin carrying it out. It is a good idea to include an aggressive, but
realistic time frame for completing the plan—anywhere from six months to two years seems to be the experience around the state. Eighteen months to two years is suggested in the sample agreement as being an ambitious, but doable time frame for developing a plan.

By way of process, the sample agreement includes provisions specifying appointment and terms of officers; monthly or bimonthly meetings; representation of municipalities by two members (preferably a member of the governing body and a member of the planning commission) and an alternate with each municipality having one vote; requirements for adopting a budget; establishing a basis for contributions from participants; authority to hire consultants; establishing subcommittees and advisory committees as needed; and suggests a vote of 75% of participants to approve the plan for recommendation to the participant municipalities. These are suggestions that are offered for the purpose of showing what process issues need to be covered. The provisions can be altered depending on the needs and desires of participating municipalities and the advice of their solicitors.

4. Participation and Withdrawal. It will be extremely important to keep all the municipalities participating in development of the plan with the intent of having all adopt it and enter into implementation agreements to carry it out. This is obviously a matter of discussion and negotiation that cannot be controlled by a written agreement. However, it is important to have some rules governing what happens if municipalities decide not to participate, how much notice they need to give the other participants so they can adapt the plan accordingly, and whether non-adopters can remain a part of the planning committee without adopting the plan. The sample agreement makes suggestions as to these provisions in Section 16 and provisions for dispute resolution in Section 18.
Appendices to this Chapter:

- Lehigh County Resolutions/RFP, Appendix 2A-1
- Sample Planning Agreement, Appendix 2A-2
- Southern York County Regional Planning Commission Bylaws, Appendix 2A-3
- Mercer County Regional Planning Commission Organization Profile, Appendix 2A-4
- Multi-Municipal Planning in Lycoming County, Appendix 2A-5

Example—Monroe County Planning Areas. For more information on these multi-municipal planning initiatives, see Appendix 1A-4.

Map courtesy of the Monroe County Planning Commission.