

Land Use and Local Government Advisory Panel Meeting

December 17, 2020 | 2:00-4:00pm

At a Glance

- The LULGAP was updated on external engagement including:
 - feedback from the Climate Action Council;
 - the local official roundtable; and
 - and activities of other Advisory Panels, which included
 - the Climate Justice Working Group
 - and the Transportation Advisory Panel smart growth roundtable.
- Connor Hilbie (Research Assistant, Pace University School of Law) presented on California's Sustainable Communities Program and fielded questions from Advisory Panel members
- LULGAP strategies were presented by staff and Advisory Panel members volunteered to be on subgroups that will dig deeper into the strategies as the LULGAP develops recommendations
- Working sessions and opportunities for cross-panel collaboration will continue in early January

Members in Attendance

- **Chair**, Sarah Crowell – Director, Office of Planning, Development, & Community, Department of State
- Ed Marx – Former Commissioner of Planning, Tomkins County
- Eric Walker – Climate and Clean Energy Strategist
- Gita Nandan – Board Chair, RETI (Resilience, Education, Training, and Innovation) Center
- Jayme Breschard-Thomann – Senior Project Manager, Bergmann PC
- Jessica Bacher – Managing Director, Pace University School of Law, Land Use Law Center
- Juan Camilo Osorio – Assistant Professor, Pratt Institute School of Architecture
- Kathy Moser – Senior Vice President, Open Space Institute
- Katie Malinowski – Executive Director, NYS Tug Hill Commission
- Mark Lowery – Assistant Director, Office of Climate Change, Department of Environmental Conservation

Members Not in Attendance

- Kevin Law – President & CEO, Long Island Association
- Priya Mulgaonkar – Project Manager, Hester Street Collaborative

Staff Who Participated in the Call

- Paul Beyer, State Director of Smart Growth, Department of State
- Brad Tito, Program Manager, Communities & Local Government, NYSERDA

Notes

Welcome and Roll Call

Sarah Crowell, the Advisory Panel Chair, provided welcoming remarks, conducted roll call, and went over the agenda for the AP meeting (see 'Meeting Agenda' slide).

External Engagement Updates

Sarah Crowell provided a brief overview of feedback from the Climate Action Council (CAC) on the Land Use and Local Government report out to the CAC (see 'Climate Action Council Feedback' slide).

Sarah Crowell went on report on several key topics of conversation from the roundtable. After each topic, the Advisory panel engaged in discussion, which is captured in these notes. Please see the slides for the summary of the roundtable discussions, as reported by Sarah Crowell.

- Local Officials Roundtable Discussion – Accelerating the Development of Renewable Energy (see slide)
 - Gita Nandan: We had great representation from across the state. We got a lot of suburban/rural jurisdictions, but we didn't get a lot of urban representation (NYC, Albany, etc.). We should try to gather those voices as well. The event was great, but we want to make sure we have equal representation in the sorts of areas folks represent.
 - Sarah Crowell: Absolutely. We did have Albany and Rochester, but we can continue to identify other folks through the survey and/or additional conversations.
- Local Officials Roundtable Discussion – Reducing the Carbon Footprint of Local Government Operations and Facilities (see slide)
 - Sarah Crowell: We may be able to coordinate with the waste panel on municipal wastewater facilities.
- Local Officials Roundtable Discussion – Promoting Smart Growth and Reducing VMT (see slide)
 - Mark Lowery: There has been some literature on reimagining big box stores and malls. We may need to apply the same thinking to vacant office space in downtown areas as more people work from home as a lingering effect of COVID.
 - Sarah Crowell: Agreed.
 - Kathy Moser: Can you remind us how we will re-engage with this group? Is there another opportunity for more roundtables?
 - Sarah Crowell: Yes, there will be opportunities for further engagement. We've done a survey. These folks are willing to stay involved and we will continue to engage them in whatever way is appropriate.
- Themes from Preliminary Local Officials Discussion (see slide)
 - Sarah Crowell: How do you envisioning continuing to engage the local officials group?
 - Katie Malinowski: I think as we get into the nitty gritty of recommendations, we should use the local officials' expertise to ground-truth the recommendations.
 - Kathy Moser: I was thinking the same thing. Could send them the recommendations and give them a deadline to submit feedback. They want to be involved and would be a good sounding board.
 - Jessica Bacher: Agreed. Targeted outreach based on the topic of the recommendation and whether it relates to the characteristic of their town and geography would make sense.
 - Ed Marx: We might ask for their feedback on the timing of how things roll out. There may need to be phases in the rollout of action. What can they do in the near-term versus what would take longer?
 - Sarah Crowell: Do you mean in terms of the recommendations themselves?

- Ed Marx: Yes, these local governments cannot take a lot on at one time. We should prioritize which ones they're best able to respond to now and phase others in over time.
- Stakeholder survey – local government representatives (see slide)
 - Jessica Bacher: How is the survey being distributed?
 - Sarah Crowell: it went out through clean energy coordinators and was distributed through all of you. We also have the web address to the survey in the final slide, if folks want to use it.
- Public Comments – Public Emails and Chat Comments (see slide)
 - Sarah Crowell: We are logging all public comments to share with AP moving forward. We have received several interesting comments and will continue to monitor

Sarah Crowell reported on cross panel coordination and collaboration.

- Climate Justice Working Group (see slide)
 - Juan Camilo Osorio (who participated in the Climate Justice Working Group): It was excellent to hear from them. It was great to have community leaders giving guidance on how to integrate what they're working on, but also to hold us accountable for upholding the environmental justice requirements in CLCPA. There was an emphasis to learn from land use planning models that are coming from the grassroots. Particularly folks from PUSH buffalo, UPROSE, and the New York City Environmental Justice Alliance highlighted important examples that the LULG could use. There are some examples of these on SharePoint.
 - Sarah Crowell: We will continue to collaborate with them moving forward.
- Transportation Panel Roundtables (see slides)
 - Sarah Crowell: This is the start of a lot of collaboration with transportation on land use
 - Paul Beyer (one of the organizers of the Smart Growth Panel): There were two overarching goals for the smart growth roundtable. (1) Commit to doubling public transportation capacity upstate and significantly increase Mass Transit Authority (MTA) by 2035. (2) Mode shifting to low- and no-carbon transportation modes. This includes a commitment to "Complete Streets", emphasizing biking, walking, transit, microtransit, and car hailing services (in some cases). The Transportation Advisory Panel has committed to taking those two goals and aligning strategies to LULG recommendations.
 - Juan Camilo Osorio: Question – I'm wondering if value capture as a public financing strategy has been discussed for smart growth? This is something that is controversial, and the environmental justice community has been very careful with.
 - Paul Beyer: Yes, it did come up with along with its sister concept of taxing through financing and even some intersection with Industrial Development Agencies (IDAs).
 - Juan Camilo Osorio: We should bring that into our agenda as well. It is an important topic that we can collaborate on. We need to ensure we prevent the unintended inequitable impacts of the strategies.
 - Paul Beyer: On the point regarding equity – we need to decide where we concentrate our growth areas. The transportation panel is focus on transportation-oriented development, targeting brownfield sites and Brownfield Opportunity Areas. We're also waiting for a definition of disadvantaged communities. We can target everything to

environmental justice communities, but public transit is particularly important for those communities.

- Eric Walker: I'm concerned about complete streets, particularly where they're being prioritized (i.e. not in environmental justice communities) and the granularity with which it is looked at and implemented. They often end up not being connected to intermodal transportation options.
- Paul Beyer: Yes, this is something we'll look at. We're required to, morally and statutorily, to ensure Environmental Justice communities are served.
- Sarah Crowell: Agrees. This is why cross-panel coordination is so important. It is something to consider for deep dives in January.
- Katie Malinowski: I have sat in on meetings with the forestry advisory panel. They were talking a lot about tax incentives for land owners and 480a was mentioned quite a bit. I will continue to sit in, but they're pretty deep already on the forestry side of things.
- Kathy Moser: Forestry advisory panel has reached out to me. Adaptation and resilience is an area of collaboration; maybe our adaptation and resilience subgroup can do a joint session with some of the forestry & agriculture people.
- Sarah Crowell: Another area of collaboration is on development of renewables. We should also coordinate with the power generation advisory panel. In fact, there are several panels we should coordinate with, including: transportation, agriculture & forestry, power generation, and energy efficiency & housing.

California's Sustainable Communities Program

Connor Hilbie and Jessica Bacher from Pace University presented: "SB375: AN Overview on California's Attempt to Regionally Reduce GHG emissions" (see slides). The following captures Q&A following the presentation.

- Eric Walker: Thank you. I'm curious to know whether you looked at the larger California climate investment portfolio? Maybe looking at the environmental justice investment fund to look at gaps in funding from metropolitan planning organizations (MPOs)? Did that surface in your research and/or did you have any chance to explore it?
- Connor Hilbie: It did come up in some articles, but I didn't dig into. I can pull that info out to have it moving forward.
- Gita Nandan: Thank you. I want to dig in a little more. Going around the California Environmental Quality Act (CEQA) requirement makes me nervous. Are there any case studies on the implementation side? I want to understand what the implications have been and/or any negative outcomes on environmental factors. I want to understand better that the methodologies being used on the fast track process are equally as good as going through the CEQA process.
- Connor Hilbie: I agree. I haven't done research on case studies. But looking at the bill itself, the requirements for exemption are pretty extensive. Not as much as the CEQA process. But for example, you cannot develop on wetlands. There also need to be endangerment assessment made by an environmental assessor. I'm not positive as far as case studies and/or implications, but can look into it more.

- Juan Camilo Osorio: Thank you. Follow up on potential opportunities to learn from CEQA – are there any learnings to leverage for affordable housing? For example, (1) how do we prevent potential displacement or other unintended consequences around climate displacement? (2) Can there be a benchmarking mechanism that uses indicators that identify projects that meet the requirements and accomplish better impacts? How can we support and encourage them?
- Connor Hilbie: To the first point on affordable housing – there is a whole section about affordable housing in SB375. I did not go in-depth looking into it, but can do so to look for potential information on displacement. I'm not 100% sure what you're talking about with regards to benchmarking.
- Juan Camilo Osorio: How do we use CEQA to identify folks who go above and beyond the bottom line?
- Connor Hilbie: Not sure, but it's a good idea to look into ways to identify and incentivize those individuals.
- Jessica Bacher: I've been working on some other regional models. What can academics and nonprofits do? We have a program we started called the Mayors Redevelopment Roundtable. Mayors in upper Hudson convene to look at their needs in the region. For example, if they wanted to adopt a green building standard, they want to make sure they're not just driving development to other areas. If they all take similar actions, they can prevent this type of competition. Another piece is ways to streamline the process and be redevelopment ready. Part of that is related to updating zoning using generic environmental impact statements. The valuation of the impacts of a project are done at the zoning change level. But then the supplemental process, which is much more streamlined, will be done project by project. There is also opportunity to streamline CEQA, but then identify the issues by doing screening up front. The Mayors Roundtable has been a great opportunity for local officials to collaborate on regional models. It has also expanded to include training for several stakeholders (e.g. housing advocates, sustainability committees) so they can understand the steps in the process and be local champions. One of the major components of this regional model is education on how to engage the community, including how to have conversation with developers. Engagement is important because you need to get ahead of it. If you wait too long, you get resistance. Then you can't ask for environmental benefits if this gets lost in resistance. Regional support models are helpful to do this in different ways.
- Sarah Crowell: Thanks and that speaks to one of the things Connor mentioned about a need for local education and outreach.
- Paul Beyer: One of the amazing outcomes is that they've avoided competition among municipalities for development.
- Ed Marx: In evaluating this we need to understand the differences in planning laws and frameworks between California and New York. They are quite different. (1) Counties play a bigger role in California than they do in New York and you don't have the proliferation of municipal zoning crosses. Do they have a housing fair-share plan in California (a mandate to identify areas for additional housing development)? MPOs have more power in CA than in NY due to air quality issues. We need a comparison of the major issues at play. This will affect conversations about how it would work here versus there. There is no regional planning in New York that has teeth to it, which would make this less effective. It is a whole different

development environment across municipal boundaries. Without a regional enforcement mechanism, it may not be very effective.

- Mark Lowery: California has not had a great deal of success in stopping sprawl or reducing its transportation emissions. They also have a lack of MPO authority. Ultimate decision is still home rule. Incentives are there, but incentives aren't enough to overcome tendency to build more cheaply in a sprawling way. Question – can you talk about what is meant by incentives (or maybe it was exceptions)? I can't assume they're completely exempt from environmental review in California. Is there anything from a state perspective that is preventing a state from trying this?
- Connor Hilbie: Incentives go into effect if they hit certain requirements. It is a go-around for CEQA requirements. There are limited CEQA requirements too. If they don't hit all requirements, they can be subject to a limited CEQA review.
- Jessica Bacher: The idea is thinking about how you incorporate, through mandates or incentives, a regional approach to planning. How do you streamline from there?
- Mark Lowery: My own observation is – whatever we're doing now isn't working in terms of reducing VMT, so more of the same isn't going to get us to where we need to go.
- Eric Walker: Is there some visual you've come up with for the process flow for your work with the mayor's roundtable?
- Jessica Bacher: I can see if I have something that would be helpful.
- Katie Malinowski: All that is good. But more hand-holding will be needed.
- Ed Marx: There is a provision in law that could do what we're talking about and that is Generic Environmental Impact statements. If there was something in state law that said that in order to do Generic Environmental Impact statement, you need to have some smart growth component, that could work. However, it's not how NY is set up now and it's why it won't work well.
- Jessica Bacher: There needs to be a revolving fund to fund GIS that can be billed back to developers as projects come online. What you need to do is have resources to bump it up to earlier in the process. Ed is right, but you also need funding.
- Sarah Crowell: Thanks for the conversation. We should keep in mind that market forces are hard to overcome as we come up with recommendations. If sprawl is cheaper, we need to consider how to change the market forces.

Strategies

Sarah Crowell provided an overview of the process on starting to develop recommendations in January. The following captures relevant comments on the topic.

- Sarah Crowell: We're going to start developing recommendations in January. These don't include adaptation and resilience. They have an extended timeline. We're going to get back on track for those starting in the new year.
- Mark Lowery: We need to engage with all of the Advisory Panels for adaptation and resilience. The reason the deadline is different is because of the integration analysis that needs to be done by NYSERDA. It gives Advisory Panels more breathing space to focus on mitigation in the near-term. At some point in January, we will start to raise adaptation and resilience.

Sarah Crowell asked Paul Beyer and Brad Tito to walk through the strategies slide and indicated that she is looking for high level feedback and volunteers who want to be part of the working groups that will dig

in deeper to these topics to come up with recommendations. The following captures comments on the strategies and members who volunteered to be on subgroups. For details on the strategies, please see the slides.

- Strategy: Support local and regional initiative to promote efficient land use/smart growth (see slide)
 - Juan Camilo Osorio: One thing missing is the ideas to connect efficient land use and smart growth with shared ownership.
 - **Volunteers:** Ed, Jayme, Jessica, Juan, Mark
- Strategy: Foster the expansion of low-/no-carbon, energy efficient mobility options (see slide)
 - **Volunteers:** Gita
 - Paul Beyer: We'll do a second wave of recruitment
- Strategy: Maximize carbon sequestration potential of both developed and undeveloped lands (see slide)
 - **Volunteers:** Kathy, Ed, Jayme, Katie
 - Katie Malinowski: I need to leave early, but have shared choices with Sarah.
 - Paul Beyer: Sidebar, on the absence of public health – it is part of the analysis. There is currently an absence of language, but it will be embedded in every one of these strategies.
- Strategy: Build capacity at the regional level and streamline/enhance support to municipalities (see slide)
 - Juan Camilo Osorio: We need to enhance and expand the availability of baseline data to actually do the work. We need to connect adaptation with mitigation. We need to look at CO2 emissions, heat, and vulnerability.
 - Paul Beyer: Absolutely. I've added that.
 - **Volunteers:** Jayme, Jessica, Gita, Juan
- Strategy: Increase Energy efficiency in new development and promote energy efficiency retrofits (see slide)
 - **Volunteers:** Gita, Juan, Eric (nominated)
- Strategy: Accelerate development and adoption of clean energy sources (see slides)
 - **Volunteers:** Jessica, Mark, Katie, Eric (nominated), Priya (nominated)
 - Sarah Crowell: this one will require collaboration with other panels and is critical to CLCPA.
- Strategy: Reduce emissions associated with municipal operations, buildings, facilities, and fleets (see slide)
 - **Volunteers:** None
 - Sarah Crowell: This may integrate into EE and codes
 - Brad Tito: We'll think about how to bucket these to limit the number of subgroups

Next Steps

Sarah Crowell discussed next steps and wrapped up the meeting.

- Recommendation Development (see slide)
- Sarah Crowell: Expect doodle polls to schedule working sessions. Staff will also be supporting the work. We can invite outside experts as well.

- Sarah Crowell: The just transition working group has a power plant reuse sub-working group. They are exploring how to repurpose powerplant sites that are going to be closed in coming years as a result of the transition to clean energy. It is a good opportunity to collaborate. Send an email to Sarah if you're interested in participating. The meeting will be in January.
- Juan Camilo Osorio: I want to be part of it.
- Sarah Crowell: Other opportunity for cross panel collaboration – the Energy Efficiency & Housing Advisory Panel is interested in working on codes and building decarbonization, including holding a session on local laws and services. How do you address existing buildings? That meeting is in early January. It is optional. We will be inviting members of their panel and this panel and staff working on this issues. Advisory Panel members will get an invitation for that. There's a lot more coming up, but wanted to mention those two.
- Wrap up and next steps (see slide)