



VERMONT LAND USE
Education & Training Collaborative

Roles and Responsibilities in Municipal Land Use

Overview

- Roles and responsibilities are delineated both by statute and by function
- Three Primary Functions:
 - legislative, quasi-judicial, and administrative
- Different ground rules depending on which function is being fulfilled

Legislative Function

- Policy making activity
- Shared by planning commission and local legislative body (selectboard, city council, or village trustees)
- Drafting and approval of plans and bylaws
- Conducting public hearings
- Inviting public participation
- Determining direction of community

Quasi-judicial Function

- Occurs after policy has been determined (through plan, bylaws, etc.)
- Involves interpreting and applying land use regulations to specific applications
- Occupied by whichever panel(s) are designated to conduct development review
 - E.g. Development Review Board, Zoning Board of Adjustment, Planning Commission

Administrative Function

- Also applies the bylaws to applications
- Non-discretionary actions such as issuing permits, assisting applicants, and enforcement
- Occupied primarily by the administrative officer or “zoning administrator”

Planning Commission

- Primary function is legislative: prepare and amend municipal plan and bylaws
- Provide community leadership on planning matters
- Broad statutory authority
 - Capital budgeting, capacity studies, retain consultants, other tasks “deemed necessary or appropriate to full duties of Chapter 117”
- Most commissions are appointed by legislative body
- May also be elected.

Planning Commission

Legislative Ground Rules

- When legislating (making policy):
 - Conduct broad outreach to the community at large
 - Actively seek participation from the public
 - Represent all members and interests of the community
 - Put the general welfare of the community above any personal interests
- Many commissions also conduct development review...different ground rules apply

Planning Commissions

Quasi-judicial Role

- When conducting development review, pc is serving as an “appropriate municipal panel” (AMP)
- AMPs are quasi-judicial bodies because they act like a court and apply the regulations
- What is appropriate in legislative capacity is often inappropriate in a quasi-judicial capacity
- Commissions must be very conscious of “which hat they have on”

Appropriate Municipal Panels

- AMP is any board designated in local bylaws to conduct development review
- May be a planning commission, development review board, zoning board of adjustment, or local legislative body

Ground Rules for AMPs

- Only approve applications that comply with the applicable bylaw or state law
- Only levy conditions authorized by bylaws or state law
- If a project meets the applicable criteria, AMP must grant the approval
- Opinions of individual members must not affect decision-making of board
- Avoid conflicts of interest and refrain from discussing an application outside of a hearing

Two Common Organizational Models for AMPs

1. Planning Commission / Zoning Board of Adjustment.
2. Planning Commission / Development Review Board

Planning Commission / Zoning Board of Adjustment

- PC fills both legislative and quasi-judicial roles
 - Prepare plan and bylaw amendments
 - Review site plan and subdivision applications
- ZBA occupies quasi-judicial role
 - Hear ZA appeals and review conditional use applications

Planning Commission / Zoning Board of Adjustment

- Many municipalities operate under PC / ZBA
- Can be difficult for planning commissioners
 - Actions which are appropriate when legislating (planning) may be inappropriate when conducting development review (quasi-adjudicating)
 - Less time for planning
- Can be difficult for applicants
 - One application often requires review by both boards

Planning Commission / Development Review Board

- Planning commission legislative entity
- DRB quasi-judicial entity
 - Conducts all development review
 - Hears all ZA appeals
- Simplifies roles for board members
- Simplifies process for applicants
- Allows more planning to occur

AMP Conclusion

- Two models exist
 - Either is fine so long as members understand differences in roles and responsibilities
- No conflict if individuals serve on both a planning commission and a DRB / ZBA
- Municipalities with low levels of development may wish to appoint same members to both boards

Administrative Officer (Zoning Administrator)

- ZA is face of local land use regulation
 - Great influence over integrity of process
- Required by law to administer bylaws literally
- Primary functions
 - Review applications where AMP approval is not required (and refer applications to AMP as necessary)
 - Assist public and applicants with process
 - Coordinate unified development review process
 - Initiate enforcement proceedings for violations
 - Provide staff support to local boards

Administrative Officer (Zoning Administrator)

- All actions (or inactions) are appealable
- Accountable to local legislative body or municipal manager
- Appointed for three year term by local legislative body, after nomination by the planning commission
- Only removable for cause after consultation with the planning commission

Staff Planner

- More and more municipalities have hired a staff planner; some share a planner
- Planner is not defined in statute; may occupy unique roles depending on needs of community
- A professional planner can:
 - Assist PC with plan and bylaw updates
 - Apply professional knowledge to difficult problems
 - Facilitate good public participation processes

Local Legislative Body

(Selectboard, City Council, Village Trustees)

- Critical role in successful land use program
- Primary functions
 - Make infrastructure decisions based on plan
 - Appoint and remove officers
 - Adopt municipal plan and bylaws
 - Set a tone that supports land use planning
 - Foster an open dialogue among officials

Accountability of Land Use Officials

- Legislative body represents the voters
- Appointed planning commissioners removed at any time by unanimous vote; elected planning commissioners may not be removed
- AMP members may be removed “for cause” by majority vote
- Administrative officers may be removed for cause by majority vote
- Any for cause removal requires a hearing

Municipal Manager / Administrator

- Manager is chief administrative officer and supervises all staff and programs
- Manages budget, advises legislative body on all matters, interacts with legal counsel
- Ensures performance among staff and facilitates communication among boards
- Administrator may serve in similar capacity

Municipal Clerk

- If no manager, clerk is most visible local official; often first stop when seeking information
- Like the legislative body, the clerk is elected and is accountable only to the voters
- Duties include certifying plans and bylaws, recording public records such as subdivision plats, and filing hearing minutes
- May assist with warning meetings and hearings

Regional Planning Commission

- Regional planning commissions serve every municipality in the state
- Professional planning staff provide local officials with technical assistance and education
- Staff assist with land use, water quality, transportation, and emergency management
- Coordinate regional planning process.
- Governed by a board of commissioners representing each municipality in region

Planning Consultant

- Consultants provide expert assistance with drafting plans, bylaws, capital budgets, etc.
- Address difficult issues such as downtown revitalization or difficult traffic intersections
- Allows planning commission and legislative body to focus on needs of community

Advisory Commissions

- Broad authority to assist legislative body or planning commission with furthering plan
- Role is to provide counsel, expertise, and advocacy on matters within their purview
- Must have at least three members, all appointed by legislative body
- Most common are conservation, housing, historic preservation, and design review

Municipal Attorney

- Municipal attorney plays a key role in an effective land use program
- Ensures procedural compliance, advises boards during deliberations, and assists with enforcement when needed
- Applicants will often be represented by counsel; municipality should be as well

Roles and Responsibilities

Summary

- Three primary roles
 - Legislative, quasi-judicial, and administrative
 - Unique ground rules for each
- Legislating
 - Reach out broadly to the community
- Quasi-adjudicating
 - Focus on the parties and the proposal, not policy
- Administrating
 - Little discretion, focus on requirements of the bylaw. ys
a key role in an effective land use program