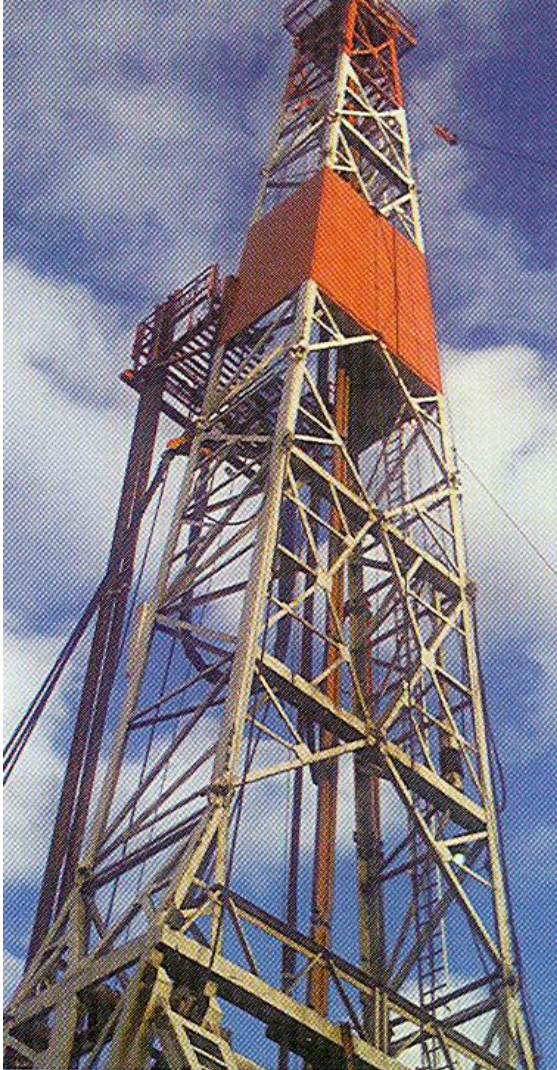


Municipal Impacts of Oil & Gas Development



APA Pennsylvania Chapter

Bucknell University

May 24, 2012

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Act 13 of 2012

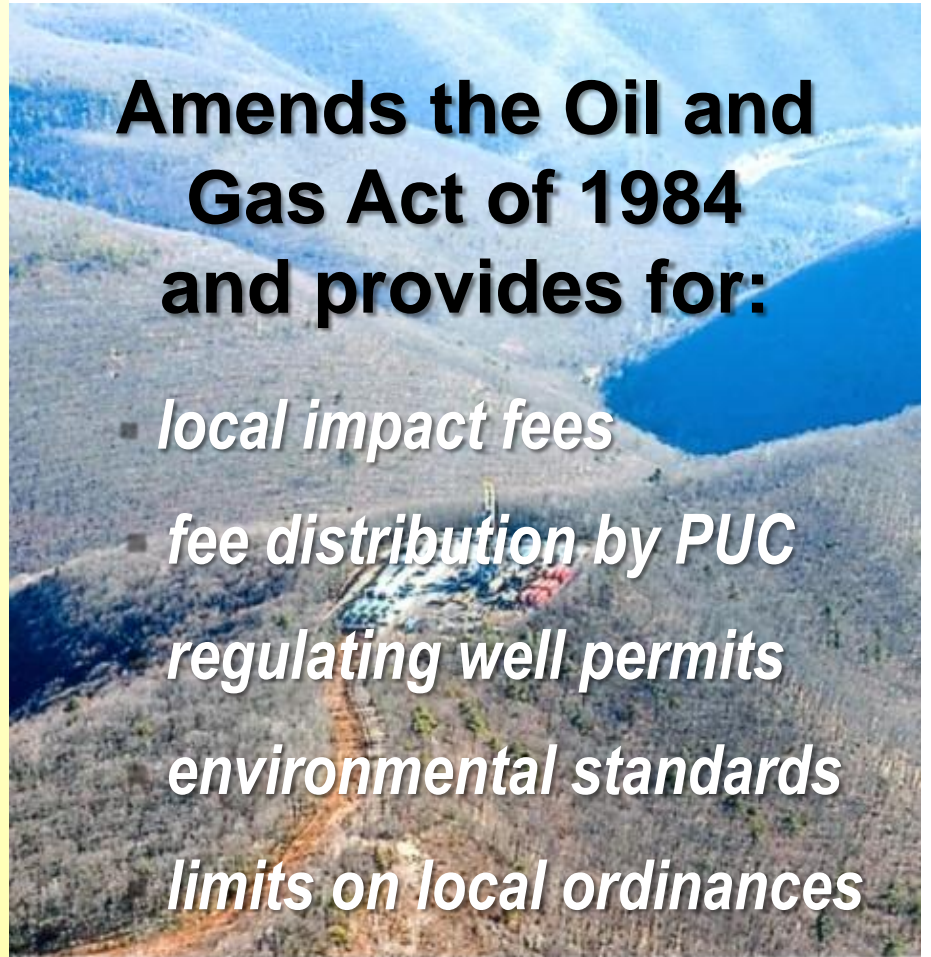
“Unconventional Gas Well Impact Fee Act of 2012”



“**Unconventional Well**” as defined in the Act: *a shale formation below the Elk Sandstone & is extracted by hydraulic fracturing.*

Amends the Oil and Gas Act of 1984 and provides for:

- *local impact fees*
- *fee distribution by PUC*
- *regulating well permits*
- *environmental standards*
- *limits on local ordinances*



A Foundation Principle of Zoning in PA

Zoning ordinances should reflect the policy goals of the statement of community objectives required in section 606,

and give consideration to the character of the municipality, the needs of its citizens and the suitabilities and special nature of particular parts of the municipality.

603(a)

*Modifying the Principle: **What, Where, How***

603(f)

“..forestry activities...shall be a permitted use by right in all zoning districts in every municipality”*

603(1)

“Zoning ordinances shall permit no-impact-home-based businesses in all residential zones of the municipality as a use permitted by right..”**

*Act 68 of 2000 **Act 43 of 2002

*Modifying the Principle: **What, Where***

603(i)

“Zoning ordinances shall provide for the reasonable development of minerals in each municipality”

603(g)

(1) “Zoning ordinances shall protect prime agricultural land...”

(2) “Zoning ordinances shall provide for protection of natural and historic features and resources .”

**Act 68 of 2000*

*Modifying the Principle: **Act 13***

General Rule: all local ordinances regulating oil and gas operations shall allow for the reasonable development of oil and gas resources.

What, Where, How Rules:

Gas Wells, Pipelines: all districts; Permitted Use

Impoundment Areas: all districts: Permitted Use

Compressor Stations: Ag & Ind; Permitted Use
all others- Conditional Use

Processing Plants: Industrial; Permitted Use
Ag-Conditional Use

Zoning and Other Statutes

603(b)

Zoning ordinances

to the extent that those regulations of mineral extraction by local ordinances and enactments have heretofore been superseded and pre-empted by the

*Surface Mining Conservation and Reclamation Act
Oil and Gas Act*

Noncoal Conservation and Reclamation Act

Bituminous Mine Subsidence and Land Conservation Act

Nutrient Management Act

may permit, prohibit, regulate, restrict and determine:

Other Modifications by Act 13

- **Conditional Uses made mandatory**

(Zoning ordinances: may contain provisions for conditional uses...)

- **Shifting regulatory categories**

**A use that doesn't qualify as a Permitted Use
could become a Conditional Use**

(wells within a residential district that cannot be placed so the wellhead at least 500 feet from any existing building [Permitted Use] may be permitted as a Conditional Use) (3304 (b)(5.1))

Questions about what, where, how

- **Where is “multi-municipal planning” within the framework of Act 13** *Can land uses be shared among participating municipalities?*
- **How (or does) The Storm Water Management Act apply to Oil and Gas Operations**
- **“Express standards and criteria” for Conditional Uses-what’s possible?**
- **What can municipalities expect from the PUC?**

More questions

Oil and Gas Operations:

(4) construction, installation, use, maintenance and repair of all equipment directly associated with activities specified (wells, pipelines, compressor stations, processing plants) to the extent that:

(i) The equipment is necessarily located

at or immediately adjacent to

a well site, impoundment area, oil and gas pipeline, natural gas compressor station or natural gas processing plant.

(separate use; an accessory use?)

A Foundation Principle of Zoning in PA

Zoning ordinances should reflect the policy goals of the statement of community objectives required in section 606,

and give consideration to the character of the municipality, the needs of its citizens and the suitabilities and special nature of particular parts of the municipality.

How?

Impact Fees and their use



Show Me
The Money:
Impact Fees

Show Me The Money

Conversation with a Windham Township (Bradford County) at the 2012 PSATS conference.*

Windham is getting \$362,000 from the state under the new impact fee deal.

The supervisors are going to bank most of the money because there are 50 miles of roads in the township.

We love Act 13.

**Reported by Shirley Yannich, AICP, PMPEI Instructor and Warrington Township Supervisor*

Show Me The Money

Impact Fee: \$362,000

Windham Township has 922 residents

Annual operating budget of \$130,000

There are 26 wells in the Township

8 of them are “spudded” and eligible for impact fee funds.

(Impact fee = \$392/resident)

Impact Fee Schedule

The impact fee is established as a “sliding scale” with a duration of 15 years for each well. The scale is based on the price of gas.

Year of Production	AVERAGE GAS PRICE	
	<i>(Low)</i> < \$2.25	<i>(high)</i> > \$5.99
Year 1	\$40,000	\$60,000
Year 2	\$30,000	\$55,000
Year 3	\$25,000	\$50,000
Years 4-10	\$10,000	\$ 20,000
Years 11-15	\$5,000	\$10,000
TOTAL PER WELL	\$190,000	\$355,000

SPUD WELL

- *A “spud well” means the actual start of drilling of an unconventional well.*
- *Impact fees levied against all “spudded wells”*
- *Each bore hole on a well pad is counted separately*
- *Spudding is not the same as production. Fee is suspended if well is capped or doesn’t reach production of 90,000 cubic feet per day*

Impact fee Uses

- *Purposes impact fee funds can be used for is restricted by Act 13*
- *Counties and Municipalities report annually on how funds have been used*

Impact fees **DISTRIBUTION**

40%

County Conservation Districts
Fish & Boat Commission
PUC; DEP
PEMA; Office of Fire Commissioner
PennDOT; Marcellus Legacy Fund

60%

36% Host County *(pro-rated # spud wells in county to statewide)*
37% Host Municipality *(pro-rated # spud wells in municipality to statewide)*
27% Municipalities in Host County
(½ to non-host contiguous or within 5 miles of spud well; ½ to all municipalities in county based on population and road mileage)

Impact fee Uses

- | | |
|--|---|
| <ul style="list-style-type: none">• Roadways, bridges, public infrastructure• Water, storm water, sewer• Emergency preparedness; public safety• Environmental & recreation programs (<i>inc. conservation districts, open space, agricultural preservation</i>)• Preservation & reclamation of water supplies• Tax reductions | <ul style="list-style-type: none">• Safe & affordable housing• Records management, GIS, information technology• Delivery of social services• Judicial services• Deposit into capital reserve for permitted projects• Career & technology training for oil & gas industry• Local/regional planning initiatives under the MPC |
|--|---|

Impact fee Uses

Local Government Policy Choices

Short term v. Long Term

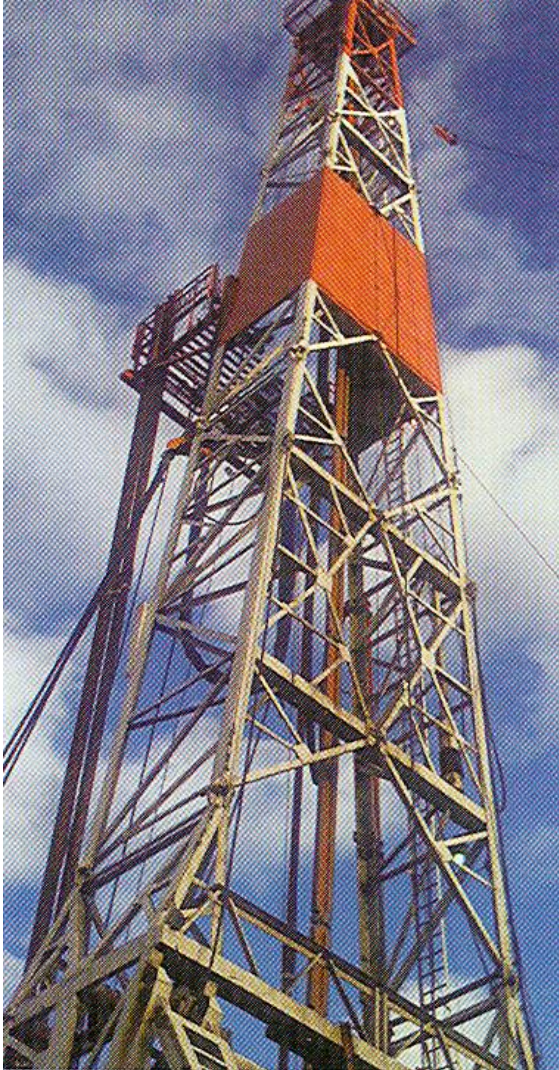
**Repair the past v. Prepare for the
future**

Plan-based v. Ad Hoc

Fairness

How can Planners help?

Municipal Impacts of Oil & Gas Development



***Is There Planning
After Act 13?***

LAND USE & DISTANCE RESTRICTIONS

USE	DISTRICT	HOW	DISTANCE LIMITS
Gas well	ALL	PU	500 ' to existing building
Impoundment	ALL	PU	300 ' to existing building
Compressor Station	AG & IND ALL OTHERS	PU CU	750' to nearest existing building 200' from nearest lot line <60dbA at nearest lot line
Processing Plant	IND AG	PU CU	750' to nearest existing building 200' from nearest lot line <60dbA at nearest property line
Existing water well Water supply intake			<i>No gas well within:</i> 500 ' & written consent of owner 1,000' & written consent of supplier
Wetlands [1 ac+]			No gas well within 300' Edge of disturbed area setback 100'
"Blue-lined "stream			300' bore hole; 100' edge of well

Planning and Act 13

- **Given the limitations of Act 13, and the nature of natural gas development, is there any need for planning?**
- **If there is, what can planning do; what can it add? What should be on the agenda?**
- **If there isn't, why are we here?**

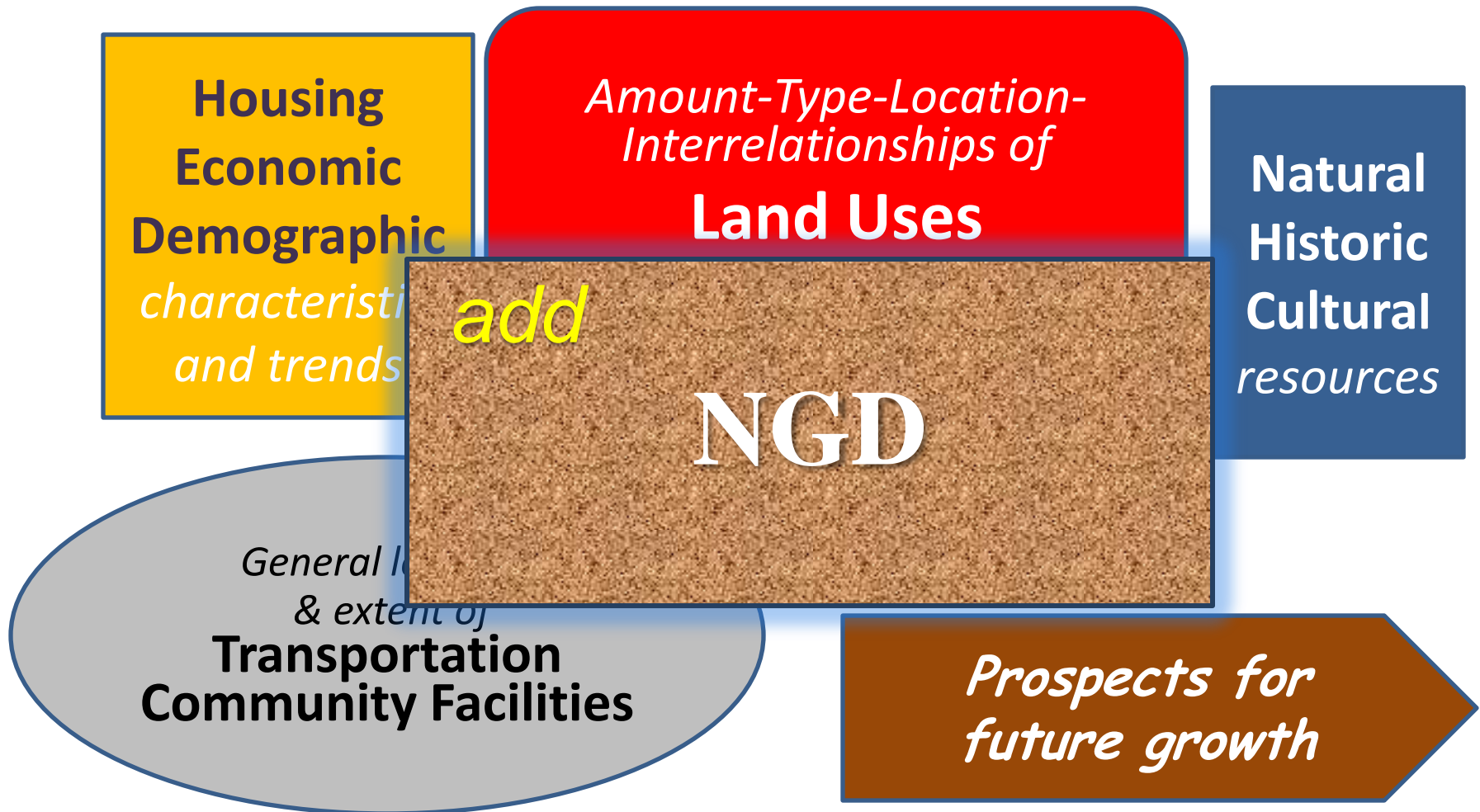
A Planning Agenda

- **Focus on the rest of the community**
- **Revisit comprehensive plans**
- **Assess and prioritize assets**
- **Re-organize/re-orient planning commissions**
- **Network and interact**
- **Grab opportunities; think regionally**
- **Move quickly- there's much that can be lost**

Focus on the rest of the community

- **Zoning of NGD has gotten most of the attention but that shouldn't be the only focus.**
- **There's more to the community than wells, pipelines, compressor stations and processing plants.**
(Relatively speaking, there will be fewer of the last two.)
- **Much of the rest of the community will be untouched but still must be maintained, improved, and invested in: *residential neighborhoods; commercial areas; amenities for current and future residents, community facilities.***
- **Places far from wellsites will be impacted.**

Revisit what the Comprehensive Plan includes-



Comprehensive Plan Elements & NGD

Comprehensive Plan Elements	NGD Considerations
Development Objectives & Goals	
Community Facilities	
Housing	
Transportation	
Land Use	
Implementation strategies	
Natural/historic resource protection	
Water	
Others	

Identify and Prioritize Assets

- **Identify and prioritize community assets**

- **What's**

*important, critical, vulnerable,
irreplaceable, necessary for a
sustainable future*

- **Act quickly**

*Assets may be overtaken by natural gas
development. Timing is critical.*

*A Critical Asset: **Public Water****

3215. Well location restrictions

(a) General Rule

Unconventional gas wells may not be drilled within 1,000 feet measured horizontally from the vertical well bore to any existing water well, surface water intake, reservoir or other water supply extraction point used by a water purveyor without written consent of the water purveyor.

If consent is not obtained and the distance restriction would deprive the owner of the oil and gas rights...the owner shall be granted a variance from the distance restriction...

**also: vulnerable, irreplaceable, necessary for community sustainability*

Act Quickly

The Official Map may be the most valuable tool

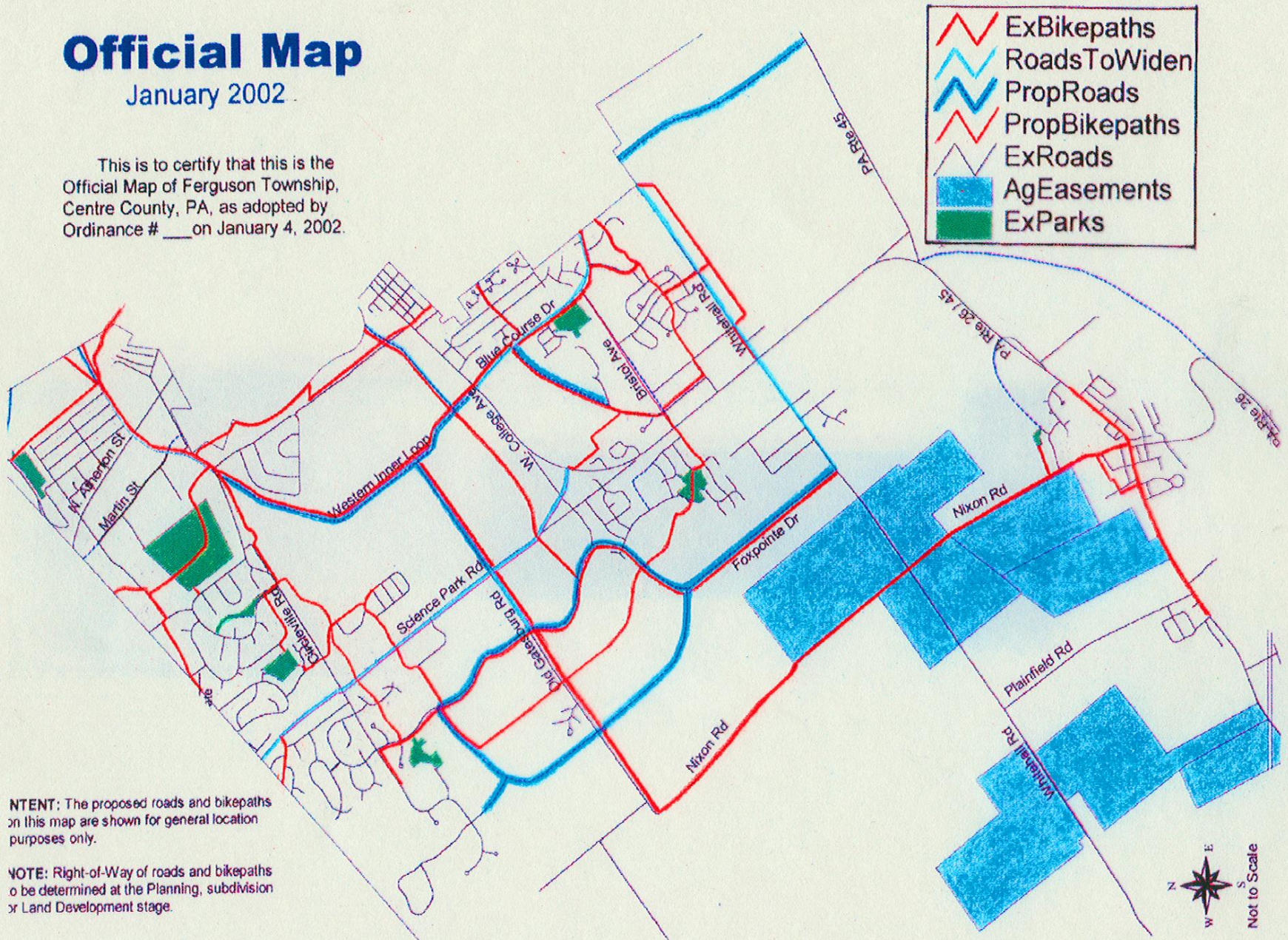
It can reserve what's valuable,
vulnerable and irreplaceable.

Plan to have the funds ready to act.

Official Map

January 2002

This is to certify that this is the Official Map of Ferguson Township, Centre County, PA, as adopted by Ordinance # ____ on January 4, 2002.



NTENT: The proposed roads and bikepaths on this map are shown for general location purposes only.

NOTE: Right-of-Way of roads and bikepaths to be determined at the Planning, subdivision or Land Development stage.

Capital Improvements Budget

CAPITAL IMPROVEMENTS			6 YEAR BUDGET					
PROJECTS	EST. COST*	RANK	2013	2014	2015	2016	2017	2018
Storm Sewers	2,100.	1	225	225	225	225	225	225
Sanitary Sewers	2,100.	2	225	225	225	225	225	225
Water well site acq.	900.	6			450	450		
Fire Equipment	400.	3	200	200				
Parkland acquisition	250.	5		75	175			
Park development	1,750.	7				500	500	500
Major road devel.	3,000.	4	300	300	300	300	300	300
Mun. Bldg. renovation	1,500.	8					500	500
TOTAL	12,000		950	1,250	1,375	1,700	1,750	1,750

* Estimated costs in **000's** of dollars. Funding sources TBD: *taxes, borrowing, grants.*

Local Planning Commissions

**Natural gas development goes on
24 hours a day, 365 days a year.
It goes on for years**

**Planning commissions meet once or twice a
month**

**Planning commissions need to work with
the NGD cycle**

NGD Process & Timeframes



Local Planning Commissions

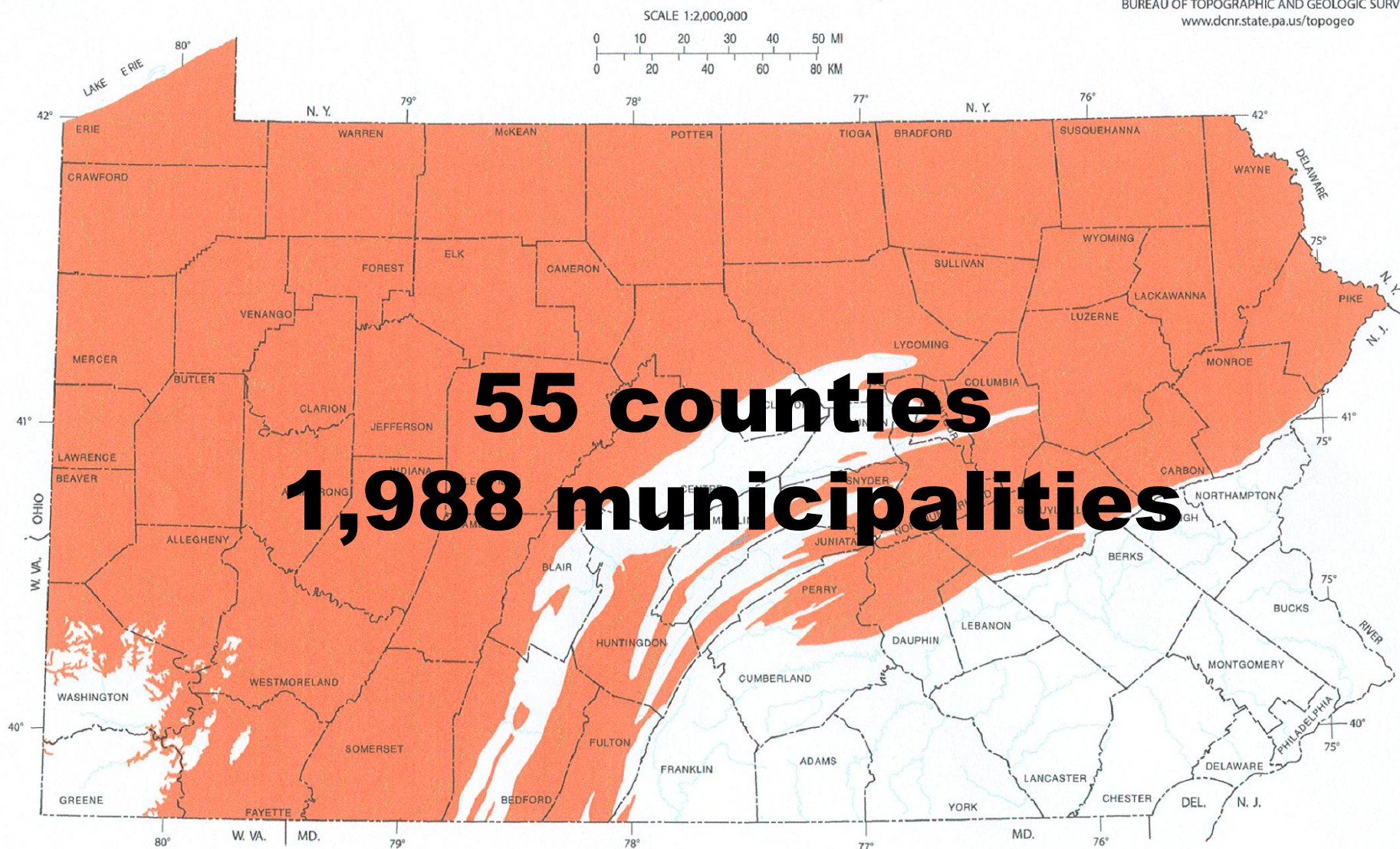
How can planning commissions keep up with the need?

Re-organize to get the job done.

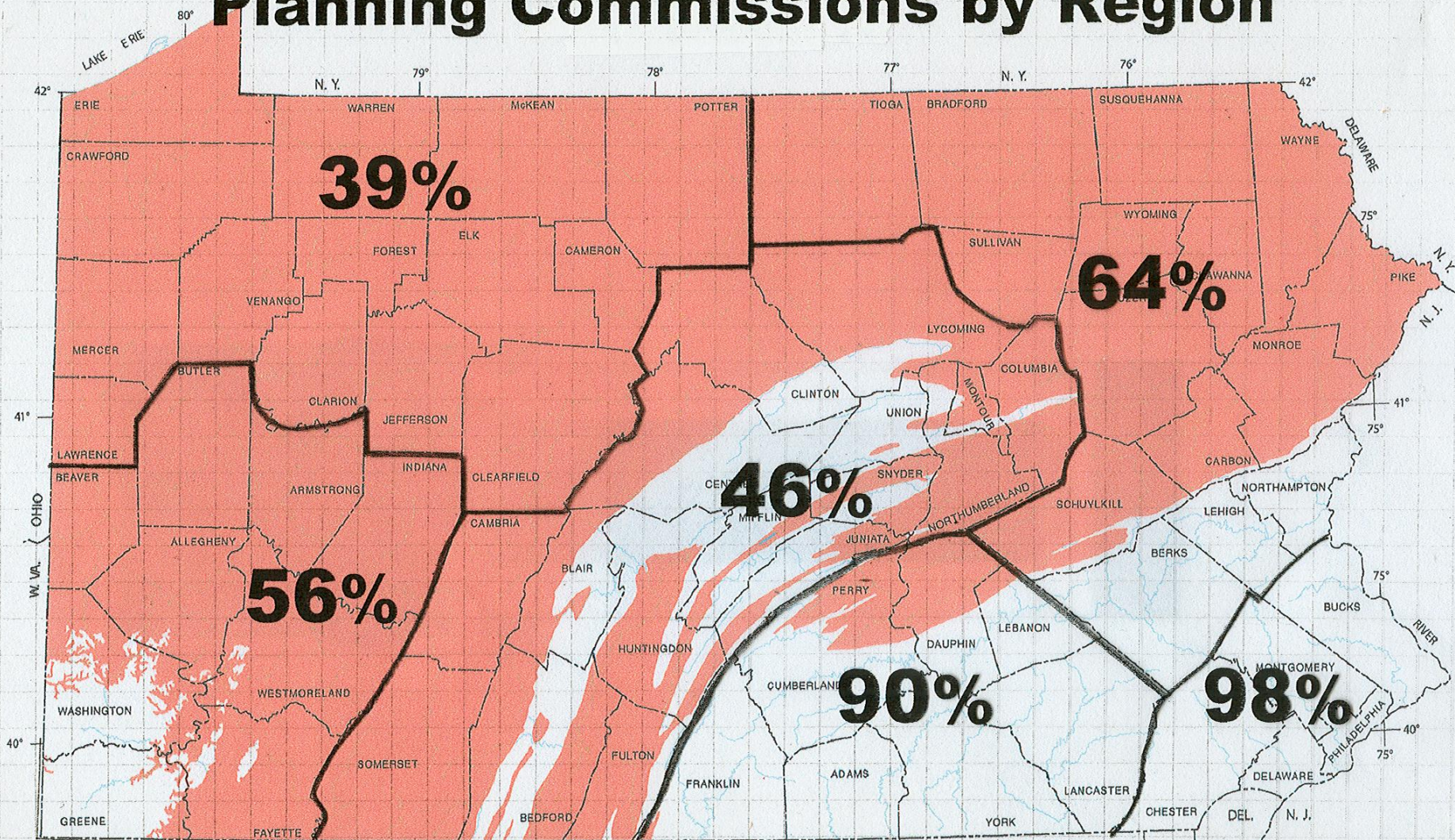
Learn to work with others.

Learn how to be planners.

Unfortunately, there is a disconnect between where the need is and where the resources are.



Planning Commissions by Region



Source: *Measuring the Effectiveness of Comprehensive Planning and Land Use Regulations in Pennsylvania*, Center for Rural Pennsylvania, 2001.

Marcellus shale deposit.

Reorganize Planning Commissions

Planning must be continuous—can't be just
"once-a-month"

Set up a *subcommittee* of the planning
commission to be in charge of this specific
planning issue

Invite residents and others with knowledge
and interest to join the subcommittee

Meet with other planning commissions

Network and Interact with DEP

2 Approvals Needed

- **DEP Permit for well**
(30 day time limit; may be extended)
- **Municipal Zoning Permit**
(30 day time limit “Permitted Use”
120 day max. for “Conditional Use”)

**In a municipality with no zoning
only a DEP permit is needed**



Planners and DEP

3211 (b)(1): Well Permits

Permit application with plat showing:

Political subdivision and county

Municipalities adjacent to site

Name of surface landowner

Name of surface landowners & water purveyors whose water supplies are within 3,000 feet

Acreage of tract to be drilled

Etc.

Can Municipal Planners & Officials develop working relationships with DEP?

Is there information or data municipalities can provide DEP?

Network with DEP –supply data

In making a determination on a well permit, DEP shall consider the impact of the proposed well on public resources, including, but not limited to:

Publicly owned parks, forests, game lands and wildlife areas

National or State scenic rivers

National natural landmarks

Habitats of rare and endangered flora & fauna

Historical and archaeological sites listed on the Federal or State list of historic places

Sources used for public drinking supplies (see sub. B)

***There is a lot of planning
to do after Act 13.***