

# DRAFT

## One Region Forward Land Use Working Team

Meeting 4  
August 5, 2013

Dave Stebbins, Buffalo Urban Development Corporation  
Amy Fisk, Niagara County Department of Economic Development  
Larry Rubin, Kavinoky and Cook LLP  
Brian Dold, Olmsted Parks Conservancy  
Bill Krebs, Mayor, Village of Springville  
Matt Pelkey, Anspach Meeks Ellenberger LLP  
Jessie Fisher, Buffalo Niagara Riverkeeper  
Dan Howard, Town of Amherst Planning Department  
Julie O'Neill, Buffalo Sewer Authority  
Laura Smith, Buffalo Niagara Partnership  
Michaela Shapiro-Shellaby, Coalition for Economic Justice

### Online Working Team Contributors:

Erin Carmina  
Justin Imiola  
John Szalasny

*Comments made by Working Team Contributors online after the in-person meetings are reported using purple font. [Click here](#) to learn more about the Working Team Contributor process.*

Review of goals and strategies...

- Added “vibrant.”
- Added “ecological services.” May need to reword but...
- Added a goal on “public literacy on planning” to build support.
- Haven’t added or changed strategies...
- Pull out “add capacity at the municipal level” as part of a broader strategy.
  
- No, all the goals appear to be appropriate. *(Justin Imiola)*.
- Obviously the support of the public/residents is needed to continue these goals...I'm assuming that is what is meant through the addition of goal #9. Along this same idea goal #1 mentions the concept that the places being maintained and created "are loved by the people who live there" but I'm wondering if the term love connotes their devotion/dedication/commitment to keeping these goals alive and in place? Longterm sustainability of these goals has been mentioned on numerous occasions and is built in to many of the goals the addition of "improving public literacy" was very much needed. Other than these queries I believe that these are very well thought out goals. *(Erin Carmina)*.

# DRAFT

## Case studies presentation.

(See PPT)

- Ideas look good and representative of our options. Perhaps some specific examples may be conjured regarding where these policies could have been used to solve an issue we currently have. (*Justin Imiola*).
- On slide 4 the Urban Growth Boundary map cuts off part of the text. Local governments sharing responsibilities to see these goals to fruition is obviously important but funding concerns makes me wonder if local non-profits would also be able to supplement assistance if/when needed? (*Erin Carmina*).

## Review of Strategies:

### Strategy Theme A: Structure and Process of Land Use Planning

#### 1. Create a regional planning board.

- Earlier suggestion was actually to create an Erie County planning board, which would have regulatory power 239 and SEQR reviews, that is, a formal review. (Rubin)
- Can we think about a role for GBNRTC? What if it morphed into something stronger and broader than it is now? Even now, GBNRTC is something more than advisory. (Rubin)
- One version would be to expand the powers of GBNRTC to take into consideration other kinds of planning. They do transportation planning. They are indirectly doing land use planning insofar as transportation planning assumes land use changes. Instead of creating a new body, expand their roles. (Stebbins)
- Look at Capital District regional planning board and MPO. Also look at Rochester as an example. (Howard)
- NFTC, which became GBNRTC, was once part of ENCRBPB... It's sort of "back to the future." (Stebbins)
- Should such an entity take on a role for IDA funding coordination? (Pelkey)
- Policy discussions about (some issues) ...are happening at the IDAs – in the absence of a regional planning entity. (Smith)
- Can we do training, technical assistance? Sometimes baby steps work. Think about which things can be implemented. Don't throw so many things in all at once that it invites rejection. (Smith)
- If we take an incremental approach, we can avoid the objections that killed it the last time. Gorski wanted to cut a million dollars and the planning board was a good target. (Rubin)
- Hal Morse would say he doesn't have the capacity to do it the way he's funded now. (Howard)

# DRAFT

- There's a significant cost factor. Three planners = \$250K and then Erie and Niagara counties can fight over who pays how much. (Rubin)
- We're missing the Council of Governments case study. In a COG you're not creating a new level of government but bringing people together to talk about shared services, etc. wide agenda possible. The existing board of GBNRTC is at its core is a COG, including counties, cities, agencies and others. It's already formed. Waste management, sewage treatment are the low hanging fruit. (Stebbins)
- We already have an Erie County council of governments... Maybe we should aim higher. Maybe we can combine them together. (Smith)
- Do we have an inventory of the collaborative processes that are already happening? (Howard)
- Keep in mind that there is funding available from the State. (Smith)
- The existing Erie County council of governments is mostly suburban and rural. I won't call it "social" but... they're not really interested in regional planning issues. They don't have an aggressive agenda. The city doesn't attend. (Rubin)
- Mayor Brown was there once long ago. Tobe and Whyte attend. But it is more of a forum for information sharing and networking. Sometimes they may pass a resolution. No staff involved. There's no one there to talk about implementation. (Krebs)
- Recognize that networks exist as information channels, etc. (Smith)
- Only three members of ECAG are serving on 1RF. The Food Policy Council proposal recently met with objections from suburban and rural interests. (Krebs)
- If you show these case studies you will get a lot of attention. When you start talking about regional planning people think you are working toward Portland and nobody wants to go there. The issue is how do you soft-pedal regional planning but not so soft that it doesn't do anything? (Rubin)
- We need a matrix to analyze what we are already doing. On one axis would be the functions that a regional planning body might do elsewhere. On the other axis would be what agencies are carrying out those functions here now, whether they are water, sewer, emergency management. "We do a lot of these things; we just don't have a central command." (O'Neill)
- There is a great deal of cooperation but not focused on achieving most of the goals we have set here. "When water talks to water they talk about water." How do you get them to aim that toward goal of combatting sprawl instead of the immediate goals of the agencies? (Rubin)
- It's important to have a benchmark... to describe what we are already doing in the way of regional and inter-municipal collaboration? (Fisk)
- Is that a next step? Who is going to do it? Jajeau:
- Also pay attention to who funds what. (Smith)

# DRAFT

- Theoretically we have a regional waterfront greenway planning system. All the municipalities have signed on. They have a mandate, a budget, a funding source, a plan. But what are the gaps? How do we make it better? The same could be said of sewers. (O'Neill)
- A planning board was proposed under the Framework for Regional Growth. The legislature passed it. Collins vetoed it. Several times. (Rubin)
- Would that happen again? (Rose-Burney)
- Erie County used to have a planning board. It was dissolved in 1974 in favor of Department of Environment and Planning, which made decisions administratively. If you had two planning boards, they could get together occasionally. You may not want a third board to cover two counties that's not connected to the two county boards. They can simply meet board to board. (Rubin)
- The previous proposal was too political – too many powers distributed in ways that drew controversy. (Rubin)
- The 239 review comes out of the commissioner's office in Erie County. No board action is taken. (Howard)
- By state statute, once you have a county planning board, 239 reviews, SEQR reviews have to go there. Capital budgets could go there, too. (Rubin)
- Niagara County planning board is all-volunteer. If we add anything beyond the monthly meeting it is very difficult to get them to participate. It's hard to get them to do their four hours of training. (Fisk)
- We review the 239 M referrals. (Fisk)
- Green Code is motivated by the same rationale as the creation of Department of Environment and Planning was. It's easier to do things administratively than to have a board review them. (O'Neill)
- The different board members bring different perspectives to the work, however. (Fisk)
- Such boards are reviewing projects, not necessarily doing visioning and planning. Where does the policy come from? (Smith)
- A once or twice a year meeting between Erie and Niagara boards would be useful. (Fisk)
- If you can get people talking and thinking about planning, support for planning is possible. This is what we mean by literacy about planning. Public education and public sentiment will drive policy. (Rubin)
- Niagara River Greenway is an interesting case. They created an agency. They conducted a planning process. They produced a plan. But at the end of the day the municipalities had to endorse it. In contrast, the NYSERDA-funded sustainability plan has been endorsed by no one at the local level. (O'Neill)

# DRAFT

- The thing is the carrot... HUD gave us a boatload of money to do this plan. How do you incentivize the ongoing work? (Smith)
- REDC plan directed a comparable amount of money to the Greenway Plan. But municipalities weren't asked to endorse that plan. (O'Neill)
- If you raise consciousness about core planning issues, eventually there will be a public demand to do something about them. (Rubin)
- We should spend the last six months of this process, going to each county and each municipality to endorse the plan. (Stebbins)
- We need an education process. (Howard)
- Assuming they adopt it. (Pelkey)
- And if not why didn't they? (O'Neill)
- There's an educational component that is missing from all of this. (Pelkey)
- There's a lot of suspicion that if there was an Erie County board, the decisions about what is going to be built in their town would be made in downtown Buffalo. It's not just the rural towns but the big suburbs – Amherst, Orchard Park. So, it's not just education, it's also politics. A lot of people on local planning boards couldn't define smart growth. And their roles are limited. They react to projects, never framing a plan. (Krebs)
- They're not trained. How do you train them? One of the keys is the grant funding, the CFA criteria. Projects in line with master plans, master plans updated, in accord with smart growth. (?)
- Our Amherst plan has language about mixed use and a land use plan that shows where it belongs. The pending hotel is a higher density mixed use and consistent with the master plan. The policy is there. The design criteria are there. Board approves because the code says it's okay. But people are still against it. (Howard)
- People get defensive when you start dealing with their communities... (Pelkey)
- Maybe the name "board" gives the wrong impression. We should think of something else to call this. (O'Neill)
- Metro Atlanta board – don't know their powers – but their informational resources are extraordinary. Citizen planning school is a big piece of this. Take it as far as you can take it. Education would generate support. (Howard)
- The reactions to "smart growth" vary. Some places want the big hotel, others don't want anything like that. Strike a balance between what development community wants and what the neighbors want. (O'Neill)
- It happens in other communities because they have different tax structures... (Rubin)

# DRAFT

- There's a difference between what will be accepted for a downtown buffalo location and what will be accepted in Elmwood Village. (O'Neill)
- At Elmwood and Forest... they're putting the hotel where it belongs. Tearing down buildings that give Elmwood its character was not a good idea. Putting it in an adaptive reuse – the Richardson Center – is a good idea. (Rubin)
- We need a way to negotiate these issues, not through an adversarial process... (Rubin)
- We need to get people to sit down and work out what characteristics they object to and what they support. (Howard)
- Why are we talking about hotels? They get built with subsidies for wealthy developers. They don't add to the community. Why are they the focus? (Shapiro-Shellaby)
- It's the issue of density we're addressing, not hotels per se... and everything is getting subsidy, senior housing and everything else. (O'Neill)
- What's the net benefit to the public? (Pelkey)
  
- Actors: Local Govt - County, City, Town, Village State Govt - NYS Division of Local Government Services, DEC, DOT Specialists - Academics and professional planners Business - developers, land brokers Crusaders - People like Tim Tielman and Kevin Gaughan (*John Szalasny*).
- Dave Stebbins mentioned expanding the role of the GBNRTC as opposed to creating a new governing body but what would be needed to make this happen? It does seem like an obvious solution but further investigation into the pros/cons of this happening as opposed to a new body. (*Erin Carmina*).

## 2. Broaden the base of public service provision.

- Schools is a loaded topic to put under this heading. (O'Neill)
- Let's go for it. (Stebbins)
- What drives sprawl? School districts. And municipalities that compete for tax revenues. (Rose-Burney)
- Definitely. (Krebs)
- We'd be dishonest to the process if we didn't address schools. (Pelkey)
- What's the gap? What's the added benefit? (O'Neill)

# DRAFT

- It drives sprawl. I don't think you can talk about land use planning without talking about schools. (Fisher)
- Some of this is already happening. A couple of rural school districts are talking about consolidation. Cheektowaga schools are talking about it. (Stebbins)
- Say Yes is likely to have a big impact on schools, parents, and where people choose to live. (Fisher)
- It's the biggest cost item for local governments, and for individuals. (Stebbins)
- The challenge is the declining school age population – and districts trying to deal with it. (Howard)
- We need to start with an assumption that no one's level of service will be lowered. (Fisher)
- KIPP schools – private charter model – are promising alternatives. (Pelkey)
- Olmsted School was driver to stabilizing our neighborhood. You can't get into that school without an IQ of 130. Other schools could help stabilize other neighborhoods. (Fisher)
- BOCES is emerging as a way to provide vocational education service to Buffalo. What's really missing in Buffalo is vocational education. Not everyone will go to college. (Stebbins)
- The goal of public education is to educate every student within the district. Talk about KIPP or Charter – but we shouldn't be making these decisions. In any case, this issue should be up there. Funding mechanisms, accountability procedures – all are changing now. (Krebs)
- If we want to attract development and people to already developed areas, we have to deal with the schools... It is hard to do neighborhood schools when neighborhoods sprawl or get depopulated. (Fisher)
- I don't think we should talk about schools in this plan. We should take it off the table. Where do you draw the line? We're drifting away from a planning document. If you focus on the infrastructure, the support services (police, fire, education, etc.) will follow them. (Rubin)
- This is a big issue. For parents in the city, there are two issues. First, we're not dealing with neighborhood schools. You find out in June and July where your kids are going to school. Not when you buy the house. Second, they make decisions phenomenally late. So, you can't prepare... And, third, even if you get into the best schools in Buffalo it can be very hard to find a house. (O'Neill)
- We might not talk about schools. But what about other services? (Smith)
- There are already some policies in place about limiting water and sewer lines. (O'Neill)
- Not extension of sewer lines. No extension of sewer district boundaries. (Rubin)
- Do you think we should be talking about any of that? (Krebs)

# DRAFT

- Yes, sewer and water. Yes transportation. Transportation can be a point of leverage... to produce better decisions. You can discuss everything. But schools, parks, police, and fire follow development. (Rubin)
- You're talking about physical things – roads and sewers, etc. (Howard)
- What did we start with in this process? The fact that we are producing four new houses for every new household. (Rubin)
- This is what Portland did. They said “this is where services stop.” What we're doing now is incentivizing sprawl. We need to establish criteria of efficiency and effectiveness need to be met. (Fisher)
- We also need to consider the regulatory framework. Lots of agencies are under consent decrees to deal with storm water or other issues. (O'Neill)
- Start with most recent county data - utilize outside specialists with no other agenda at the table: Agronomists, Geologists, Environmental Scientists, Urban Planners, etc (*John Szalasny*).
- We need to ensure that there is enough room for the uniqueness of each place to have a concept that works well and is going to be sustainable in the long run. It's obvious to this group that there is no one clear answer to our regions land use problems. I would also be concerned with areas that need more attention than others, or have less funding/means to improve or expand. (*Erin Carmina*).

### **3. Broaden the base of public service provision**

- Not really sure what this one means (*John Szalasny*).
- The notes from the Working Team meeting look like there is some honing in on this specific strategy. I think the schools are a big concern but obviously the main issues are with the city schools and not so much in the suburbs...if this is truly a regional plan it may not be the role of this groups to solve the school issue (although on personal note I would like it to). (*Erin Carmina*).

### **4. Redesign revenue raising structures to promote land use goals.**

- We're not competing with other towns for development. We're reacting to people who come to us with development proposals. They've already made their locational decisions. (Howard)
- Even if we didn't offer incentives to do development “out there” we still haven't overcome the disincentives for development in the city (demolition, remediation, etc.) (O'Neill)
- Towns like Clarence and Lancaster are more competitive. They have the same policies but they apply them more liberally. There are still differences in what they offer. They have a tax base that depends on development. It might be better for the region to keep land in agriculture but those towns need to go after development. (Stebbins)
- The competition language could be reworded because it demonizes municipalities that need new revenue to cover rising costs. Language like 'our current tax raising structure leaves municipalities on their own to struggle with rising costs' might be more accurate. (Rose-Burney)

# DRAFT

- A lot of decisions are made on the fact that we have a shrinking or stagnant economy. Paladino's hotel in Williamsville was the right thing to do. It was a tactic to keep people on Main Street in an area of shrinking population. So you bring in transients with money. East Aurora put up a hotel for a similar reason. It's not just one factor that shapes the decision. (Rubin)
- These hotels are a response to Canadian retail trade. (Howard)
- It's not just a hotel. There's also residential in the Paladino project. BNMC wants more people living there to deal with parking issue. We want people to be able to walk to work. (Stebbins)
- What are the solutions? (Rose-Burney)
- We should provide incentives for preserving farmland, open space, and unserved land. We should provide incentives for infill and redevelopment of brownfields. We should impose limits on extension of services. (O'Neill)
- Can we shift incentives to things that will stay if company folds or moves? Instead of giving away money, provide training, invest in local infrastructure, etc. (Smith)
- Need to maintain match-making function in economic development – people to help firms find the right location. There's also a data gap. Need to provide info on locations, incentives, etc. (O'Neill)
- Our traditional way of taxing property is not necessarily the best way to go. Dan Minicozzi's analysis suggests we might change how property is assessed. Maybe we could go to more fee-based assessments. One of the perversities in Buffalo is having homestead and non-homestead rate. Residential property gets taxed at a lower rate than commercial, even though residential generates the most service demands. (Stebbins)
- Hotel tax is a regional tax. Sales tax all goes to Albany? (Rubin)
- You're looking at this from the revenue side. Is there a cost side of the equation that needs to be discussed? (O'Neill)
- Isn't cost-cutting the object of the previous two strategies? (Stebbins)
- What's the specific cost driver? How do we address that? (O'Neill)
- Personnel is the fastest growing piece. (Howard)
- Some kind of county wide system... You could go to an income tax. (Stebbins)
- We're already like Minnesota in a way. Sales tax is distributed here according to 1970 population and school demographics. If it was updated it would stop being redistributive. Maybe if you held the assessed valuation in place and let the company go anywhere it wants. (Rubin)
- The problem with a system based on the growth in revenue this is that a lot of the tax increment is already given back to the developer in the form of subsidy. We have less to redistribute. (O'Neill)

# DRAFT

- Commercial development doesn't generate more service demand than revenue it generates. (Rubin)
- The cost of residential is \$1.20 vs. \$0.30 for commercial. (Howard)
- We might have a regional economic development fund... (Stebbins)
- This is happening in a soft way with CFA. It's easier to accomplish these changes with state funding redesign than with a local or regional revenue redesign. (O'Neill)
- What happened with the idea of a library district with its own taxing authority? (Fisher)
- Poloncarz wasn't interested... and it went away. (Rubin)

## Other comments:

- I'm wondering if there is someone/organization that the group would benefit from by having their expertise involved in further meetings regarding some of these strategies. (*Erin Carmina*).