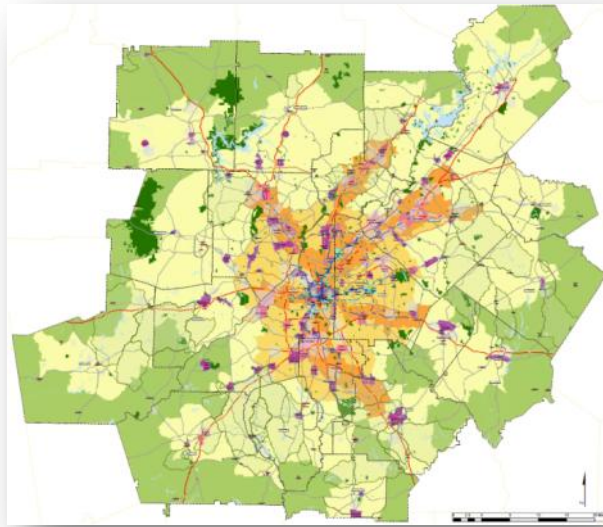


Analysis of Peer Agencies



September 10, 2010

Plan 2040 Implementation Strategy
Technical Memo

White & Smith, LLC | Parsons Brinckerhoff

Analysis of Peer Agencies

PLAN 2040 IMPLEMENTATION STRATEGY

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INTRODUCTION

The Atlanta Regional Commission (ARC) is the Atlanta Metropolitan Area's regional planning agency. The ARC provides a variety of land use, transportation, and human resource functions for 20 counties in one of the nation's fastest growing regions. The ARC is the Metropolitan Area Planning and Development Commission (MAPDC) for the Atlanta area as well as the region's Metropolitan Planning Organization (MPO) for federal transportation planning. As Georgia's only Metropolitan Area Planning and Development Commission (MAPDC), the ARC has implemented a successful set of programs, policies, and activities to assist the Atlanta area's local government community in both managing and accommodating growth. Initiatives such as the *Envision6 Regional Development Plan* and the *Livable Centers Initiative* (LCI) have successfully encouraged the use of more sustainable development patterns.

Plan 2040, currently under development, is the metro Atlanta area's long-range plan for land development and transportation needs. The first component of *Plan 2040* is the Regional Assessment that identifies and focuses on the region's needs. During 2010 ARC staff will undertake a series of meetings with local government elected officials and staff to investigate the possible actions, programs or new policies that should be considered in the *Plan 2040 Regional Agenda*.

Plan 2040 will continue the region's recent initiatives relating to land use and transportation. ARC adopted Regional Development Plan (RDP) policies as the MPO in 1999. The 2025 Regional Transportation Plan (RTP) and a Land Use Strategy were adopted in 2000. The Land Use Strategy specified eight innovative initiatives to encourage successful execution of the 2025 RTP and RDP, and more broadly, to link transportation and land use planning in the Atlanta region. The Land Use Strategy was a significant factor in the issuance of a federal conformity determination for the 2025 RTP in 2000. Ten years after the adoption of the Land Use Strategy, the region has seen new examples of new urbanism, redevelopment, mixed use projects, and transit-oriented development (TOD), and growth management.

During 2005 ARC undertook a land use scenario and RTP development process known as "Envision6". ARC's Envision6 planning process resulted in a resolution that was approved by the ARC Board in May 2006 to adopt:

- Envision6 Regional Development Plan Land Use Policies
- Atlanta Region Unified Growth Policy Map (UGPM)
- Envision6 Regional Place and Development Matrix

A Board supported Envision6 Implementation Strategy was developed based on programs and activities that ARC would undertake during the 2006 to 2009 period to better coordinate and integrate land use, transportation, water and associated regional and local plans.

Even with this recent success, the region must do more to strongly move towards patterns of growth that are more in line with the most progressive regions of the U.S. and world. The Atlanta region remains dependent on the automobile for most transportation needs. The region's housing stock is dominated by low density, single-use development. Additional development options and strategies will be needed as demographic trends create smaller households and buyers seeking new lifestyle choices. Defining the legal framework and authority of regional and local agencies to pursue innovative planning and development strategies is needed to help guide the implementation of the *Plan 2040 Regional Agenda*.

ARC and its constituent communities are undertaking this study to:

1. Facilitate the type of development that meets their goals for design, sustainability, economic development and housing capacity, and
2. Channel development into appropriate locations, such as compact, mixed use centers.

This will require adequate legal authority by ARC to plan and influence local action, and for local government to implement regional initiatives.

ARC has retained a consultant team consisting of White & Smith, LLC and Parsons Brinckerhoff to review ARC's previous actions to implement regional plans during the past decade (2025 Land Use Strategy and Envision6), Georgia Department of Community Affairs (DCA) local and regional planning rules, and Georgia laws related to local planning and development authority (including zoning and subdivision rules). The consultant team will make recommendations regarding programs or actions for ARC and local jurisdictions to consider that are legal under Georgia law, but that may have been overlooked or not attempted previously. As part this effort, the team will also study peer regional planning agencies.

The first phase of the project reviewed plan implementation authority for ARC and local governments in the region. This report examines five (5) peer agencies to assess their implementation practices, along with the lessons those practices might have for ARC. At the suggestion of ARC, the agencies reviewed in this report are the Denver Regional Council of Governments (DRCOG), Delaware Valley Regional Planning Commission (DVRPC) in Philadelphia, Metropolitan Council in Minneapolis-St. Paul (the "Met Council"), the (North Central Texas Council of Governments) in Dallas-Ft. Worth, and the Association of Bay Area Governments (ABAG) and Metropolitan Transportation Commission (MTC) in San Francisco.

The selected agencies are from similar regions in that they are among the nation's 20 largest metropolitan regions.¹ Like Georgia, all the agencies reviewed (except ABAG in California) are also within states that do not have strong state –level growth management mandates. Where such mandates exist (as in Florida, Washington, Oregon, New Jersey or Maryland) the pressure on local governments (and usually their legal authority) to implement Smart Growth –like measures is real and changes the context of MPO efforts. The absence of such state mandates in the reviewed agencies thus represents a political/legal setting more similar to ARC's since Georgia's state planning mandates are rather moderate.

The agencies reviewed range widely in their size, powers, and range of implementation tools. Table 1 summarizes key facts about ARC and the peer agencies, including their typology, population, land area, and budget information. There are 3 types of entities represented in this report. The first, like ARC, are regional agencies that provide general planning services. These are agencies created by state legislation, with powers and duties defined principally by state law. Both ARC and the Met Council are created by state legislation, while DVRPC was created by a bi-state compact adopted by Pennsylvania and New Jersey. The second model is a council of governments (COG). A COG is created by a voluntary agreement between local governments – such as an intergovernmental agreement or joint powers agreement. Because it is a creature of local agreement rather than statute, local governments can alter or disband the agency. Like a regional agency, state statutes may delegate authority to a COG beyond what is stated in the contract that creates the entity. The third model is a metropolitan planning organization (MPO). An MPO is distinguishable from a regional agency in that it exists principally for federal transportation planning and project selection purposes. An MPO can either be established by state law or by intergovernmental agreement, but it must be designated an MPO by the state's governor as provided by federal law.² While all of the agencies reviewed (except ABAG) are the region's designated MPO, only MTC serves exclusively as an MPO.

Table 1 shows the population and land area of the various agencies. Population ranges from high of 7.3 million in the San Francisco Bay area to 2.8 million in the Denver and Twin Cities regions. Land area ranges from about 3,000 square miles in the Twin Cities and Philadelphia regions, and 12,800 miles in the Dallas-Ft. Worth regions. Most of the regions include 7-10 counties, with NCTCOG representing 16 counties. The number of incorporated governments range from 43 in the Denver region to over 300 in the Philadelphia region (although only a handful of those jurisdictions are represented on the agency’s governing body). In addition to general purpose local governments, the Met Council includes 77 and NCTCOG includes 23 school districts. The Met Council also includes 20 and NCTCOG includes 29 service districts, although the Met Council has consolidated sewer service into a regional system, a notable feature of that region.

The financial scenarios also vary widely, typically reflecting the range of services provided by the agency. Met Council, which provides infrastructure in addition to planning services, has by far the largest operating budget at \$700 million. Agencies that provide only planning services, such as ABAG, DRCOG and DVRPC, have smaller operating budgets ranging from \$17 - \$29 million.

Table 1 Summary of Agency Information

<u>Agency</u>	Type	Population (million)	Counties	Incorporated Areas	Square Miles	Founded	Operating Budget (\$million)	Funding Sources
Atlanta Regional Commission (ARC)	Regional Agency	4.1	10	68	3,018	1971	\$64	Contracts, dues, state/federal
Denver Regional Council of Governments (DRCOG)	COG	2.8	9	43	5,082	1955	\$17	Dues, state/federal
Delaware Valley Regional Planning Commission (DVRPC)	Regional Council	5.5	9	300	3,383	1965	\$23	Local funds, dues, service income, state/federal
North Central Texas Council of Governments (NCTCOG)	COG	6.4	16	165	12,800	1966	\$225	Annual dues, fee for service, state/federal
Metropolitan Council	Regional Agency	2.8	7	200	2,975	1967	\$700	Property taxes, user fees, state/federal
Association of Bay Area Governments (ABAG)	COG	7.3	9	101	7,000	1961	\$29	Dues, state/federal, contracts, service programs
Metropolitan Transportation Commission (MTC)	MPO	7.3	9	101	7,000	1970	\$156	Sales tax, state/federal, local agency revenues

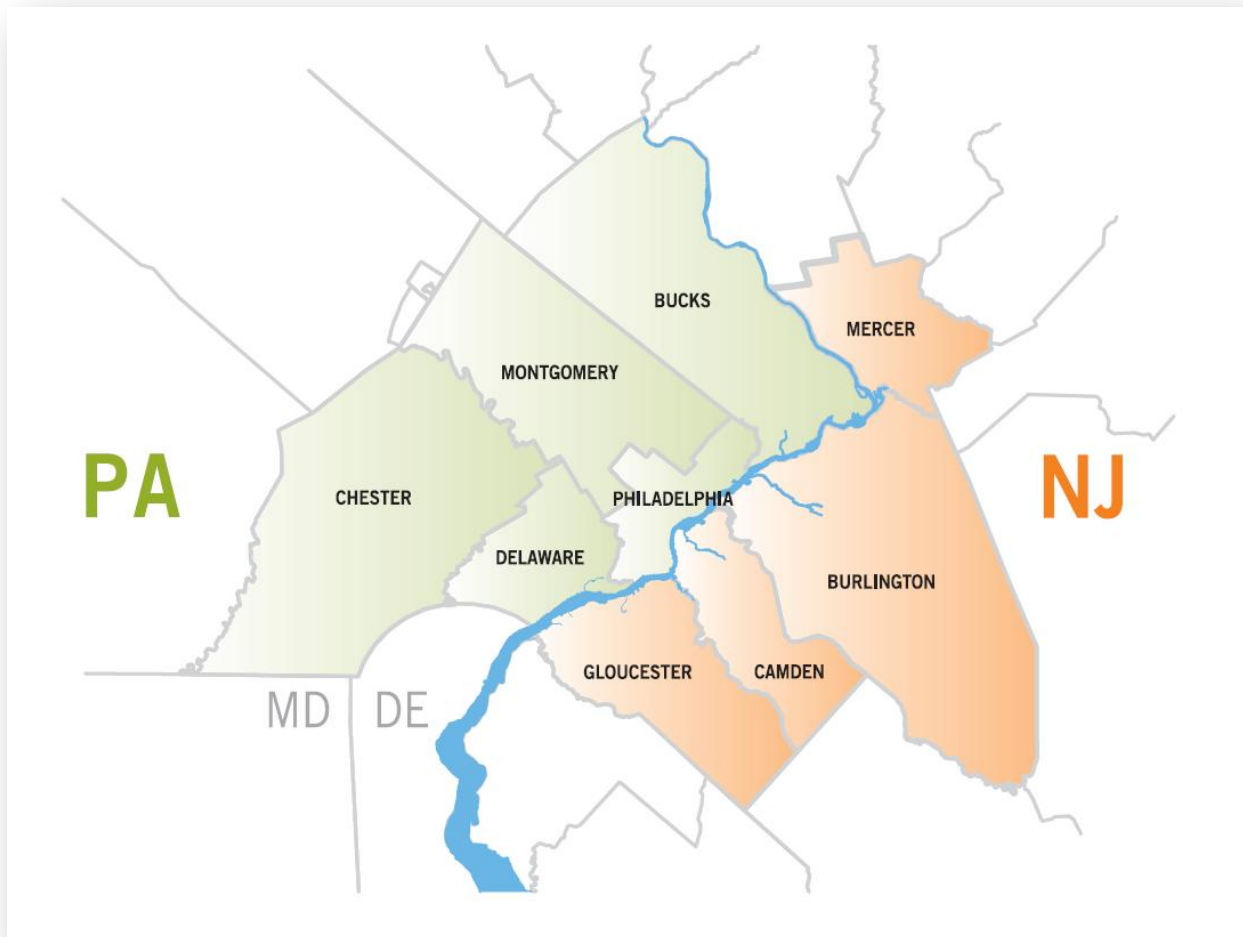
In this report, each chapter discusses the peer agency’s history, mission and legal status. We then address a common list of items, including the agency’s goals and policies, implementation activities, barriers to implementation, and results of those activities. The report concludes by summarizing the types of planning and implementation tools used by the peer agencies, including whether they are similar to or beyond ARC’s current approach, and their legal authority in Georgia. We note implementation-related ideas that may be useful and relevant to ARC.

DELAWARE VALLEY REGIONAL PLANNING COMMISSION (DVRPC)

Introduction

The roots of the DVRPC go back to the 1920s when its forerunner organization-- the Regional Planning Federation of the Tri-State District --established itself as a citizen based planning effort funded by the sale of subscriptions and private donations. Today's DVRPC was formed by an Interstate Compact known as the "Delaware Valley Urban Area Compact." The Compact was adopted by the Pennsylvania and New Jersey Legislatures in 1965-1966.³

The DVRPC area is a diverse 3,383 square mile region of eight counties: Bucks, Chester, Delaware, and Montgomery in Pennsylvania; and Burlington, Camden, Gloucester and Mercer in New Jersey. DVRPC is the federally designated MPO for the Greater Philadelphia Region.



Population in the DVRPC area was estimated at 5.5 million in 2005. The DVRPC region is much slower growing than the ARC region. Between 1970 and 2000, the region gained less than 260,000 people overall (an increase of only five percent), despite significant increases in many suburban municipalities. DVRPC states that "changes in regional demographics resemble a doughnut, with communities in the center of the region

losing jobs and people (the “doughnut hole”), and the suburban communities surrounding the region’s core gaining jobs and people (the “doughnut”). Thus although the population of the City of Philadelphia appears to have leveled off after years of decline, its share of regional population will continue to decline over the next 25 years.

Legal Authority

Both Pennsylvania and New Jersey have a long history of regionalism in zoning issues. In Pennsylvania, courts have invalidated large lot zoning restrictions when they fail to consider regional needs.⁴ A recent court decision upholding a multi-jurisdictional zoning ordinance recognized that the state courts have long recognized the benefits of regional land use controls, and that the technique is now authorized by the state enabling legislation.⁵ In New Jersey, the landmark *Southern Burlington County NAACP v. Mt. Laurel* decisions not only rejected exclusionary zoning, but also established a detailed judicial procedure that ultimately led to detailed state planning legislation that creates a state Council on Affordable Housing and requires a local housing element to comprehensive plans.⁶

Both New Jersey and Pennsylvania authorize regional planning agencies (RPAs). In Pennsylvania, RPAs provide technical assistance to counties and municipalities, mediate conflicts across county lines, and review county comprehensive plans for consistency with one another.⁷ In New Jersey, local governments may join to form a regional planning board, a regional board of adjustment, or a joint building official, joint zoning officer or other officials.⁸ A regional planning board may prepare a master plan for the region with similar elements as those delegated to a local planning board (e.g., land use element, housing element, circulation plan, utility service plan, community facilities element, recreation element, etc.).⁹

DVRPC grew out of an interstate compact - the “Delaware Valley Urban Area Compact.” The New Jersey and Pennsylvania enabling legislation establishing DVRPC provide that it is a political body with perpetual duration.¹⁰ As with ARC’ enabling legislation, the compact is construed liberally.¹¹ The DVRPC’s board is made up of a representative from each of the eight counties, each state’s transportation department, each state’s statewide planning agency (Pennsylvania State Planning Board and New Jersey Commissioner of Community Affairs), one gubernatorial appointment from the region on each side of the state line, two members of the state legislature from the region on each side of the state line, and one representative each from the cities of Philadelphia, Chester, Camden and Trenton.¹² The following federal agencies are allowed to appoint up to 3 non-voting members to the DVRPC: Bureau of Public Roads, Federal Highway Administration, United States Department of Transportation, and the Housing and Home Finance Agency of the United States Department of Housing and Urban Development.¹³ An executive committee includes the four state agency members, two gubernatorial appointees, the four legislative appointees, one representative on each side of the state line chosen by the legislative members, and the Philadelphia and Camden representatives.¹⁴ The Executive Committee manages the DVRPC’s fiscal affairs and prepares its work program.¹⁵

The DVRPC has general power to contract and to adopt rules and regulations.¹⁶ The Commission’s specific statutory duties include:¹⁷

- Provide for the needs of the states’ highway and/or transportation departments in order to qualify for federal highway construction and mass transportation funds
- Meet other state transportation planning needs
- Provide for regional planning

- Meet the needs of each state planning agency as required to obtain funds from the Federal Government available for their purposes and other operations
- Cooperate with all other state and local government agencies which have planning needs in the area
- Initiate and develop surveys and plans of a regional nature
- Assist through coordination and planning programs involving regional matters of the planning bodies of the participants
- Make a master plan and survey and studies for the physical development of the area and submit the plan to the participating governmental bodies
- Encourage and promote cooperation among all levels of government to achieve the greatest possible benefit both economic and cultural for the inhabitants of the Delaware Valley Urban Area.

The commission serves as an advisory agency, with actual authority for carrying out planning proposals resting in the governing bodies of the states and counties.¹⁸ DVRPC is prohibited by statute from assuming any existing powers or functions of a planning commission.¹⁹

Plan Implementation Summary

Goals and Policies

The overall goals of the DVRPC are summarized in Connections, the Regional Plan for a Sustainable Future that was adopted in 2009. This vision document has a review of long-term and recent development trends and considers future land use scenarios along with extensive public input as the basis for creating a regional vision to guide future development in the nine-county region. The Plan is organized around four key planning principles: Create Livable Communities; Manage Growth and Protect Resources; Build an Energy-Efficient Economy; and Create a Modern Multi-Modal Transportation System. The Plan includes a 26-year needs assessment for maintaining existing transportation infrastructure with limited new capacity expansion. The Connections Plan is the basis for the 2011 Transportation Improvement Plan (TIP).

DVRPC also has a mapped 2035 long range land use plan (see Figure 3). The land use plan is different from what local jurisdictions have mapped. It defines

1. conservation focus areas (agricultural land, high level open space, etc.);
2. a greenspace network, which is an interconnected network of parks, stream valleys, meadows, etc. to create an “interconnected network” and “web” of greenspace;
3. all existing development and future growth areas (which are defined as currently having water and sewer or are planned to have water and sewer in the next 25 years); and
4. approximately 100 centers (which range from center city Philadelphia to village hamlets) that exhibit core livability aspects. Most are existing places although there are a few that are planned.

The 2035 long range land use map tries to be consistent with the county plans, but is not a composite of the existing plans. Instead it is a highly generalized depiction of the four categories listed above. In fact, several of the counties have no adopted land use plan.

New capacity transportation projects (highway and transit) are centered in the third and fourth areas. These are the areas the region would like to see growth and where it is choosing to make its transportation investments.

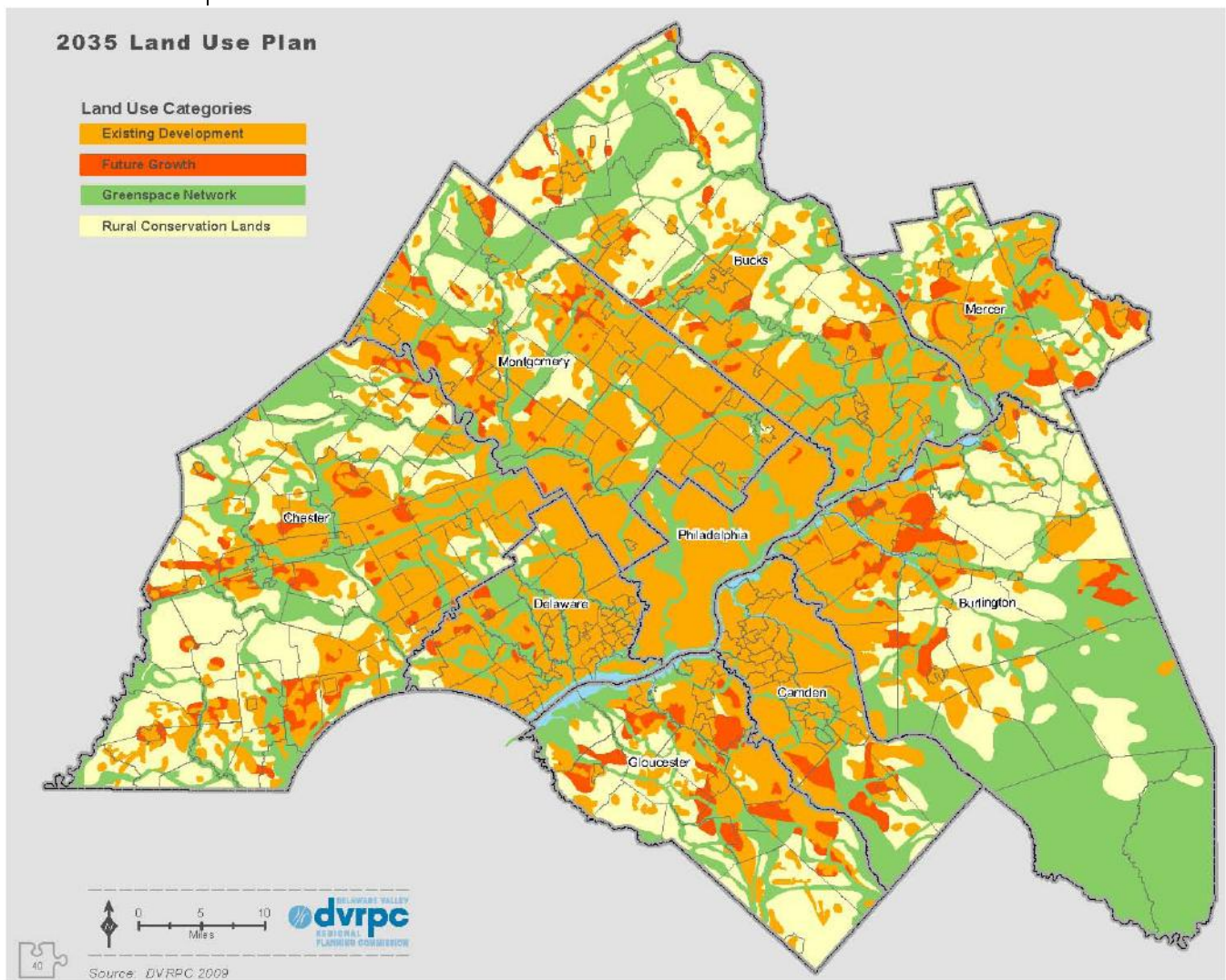


Figure 1 DVRPC Land Use Plan

A unique recent initiative is the Greater Philadelphia Food System Study, which began during the past fiscal year. The study evaluated the global and regional food systems that feed Greater Philadelphia, along with food supply issues such as agricultural production, natural resources, the origins and destinations of food imports and exports. The goal is to strengthen the regional food system by increasing collaboration among organizations, across public and private sectors and developing more market-place opportunities. DVRPC plans to release a Food System Plan this Fall.



Figure 2 Community Garden, South Street, Philadelphia (Source: White & Smith, LLC)

Implementation Activities

One of the ways DVRPC is engaging with the communities is through different technical tools. It has created a toolkit for municipalities to help them implement various pieces of the regional plan – including technical reports and model codes that address:²⁰

- Food System Planning
- Planning and Zoning for Green Buildings
- Road Diets
- Municipal Tree Management
- Safe Routes to School
- Form-Based Codes for Big-Box Retail
- Aging in Place
- Traffic Calming
- Reclaiming Brownfields
- Inclusionary Zoning
- Transfer of Development Rights
- Historic Preservation
- Parking Management Strategies
- Impact Fees
- Residential Infill Development
- Multi-Municipal Planning
- Main Street Programs and Business Improvement Districts
- Transit-Oriented Development

Existing programs available are:

- **Transportation for Community Development grants.** These grants provides seed money (planning money) to study streetscaping, zoning revisions, etc.). Recipients need to have a transportation element. This program is geared toward older core cities and first tier suburbs.
- **Efficient Growth for Growing Suburbs** grants are similar to the above but targeted to emerging areas.
- **Classic towns** program, which provides funds to market “classic towns”. It requires a local contribution. Currently this program is “introducing” 15 to 25 small towns to people inside and



outside the region.

DVRPC places much emphasis on public education. The DVRPC manager of the Office of Long-Range Planning and Economic Coordination in an interview with PB surmised that getting the public to buy into and understand the vision from the beginning will be critical in getting the elected officials and jurisdictions to work towards the vision. DVRPC has looked at how ARC conducts public outreach among other examples of how regional organizations are building public support.

DVRPC sees two issues as the most likely to spur people to start thinking about working more regionally.

- **Suburban sprawl** – there is a “public backlash” against this development pattern, and people want to see investment in the first tier suburbs. They want to stop the suburban strip malls, but any mention of density gets many people worried. This indicates a need for education about what good design and density can look like and temper opposition to it. In some ways, the classic town program highlights what better design and planning could be like on a variety of scales.
- **Transportation funding** – A highlight of the long range plan was the calculation of a \$45 billion shortfall between needed expenditures to bring the transportation system into a state of good repair and expected revenues. This was a galvanizing issue. The plan discussed different funding mechanisms (bonds, tolling, user fees (both transportation and non-transportation related), public-private partnerships, etc.), equity issues, and revenue potential, and created a matrix to summarize the findings. This information was presented in the plan to spur discussion. This year’s TIP is short by \$1 billion. This is making jurisdictions realize that this is a serious issue affecting their projects.

Barriers to implementation

DVRPC differs from many regional organizations in its role as a bi-state organization that must contend with planning and development issues as they unfold in two different legal and political contexts.

The counties conduct reviews of municipalities’ plans. With one exception, the MPO does not review plans. The exception is that there are three southern New Jersey counties who have a water quality board that falls under the MPO which reviews some aspect of the plans. (It appears that that the board preceded the MPO’s creation and the MPO subsumed the board when the MPO was created.)

Furthermore, dealing primarily with the counties in its region leaves DVRPC little influence over local municipalities that in both Pennsylvania and New Jersey are the primary decision makers for such key issues as land use. One of DVRPC’s current and future activities is therefore to engage more with the municipalities. There is currently a non-binding compact that the counties have signed that outlines the principles the region is would like to achieve. A next step is to get the municipalities to also sign.

Final results

DVRPC has many of the strengths and many of the weaknesses of long established regional organizations that are centered on mature cities long past their dynamic growth years. As MPO for the region, it develops and oversees the regional transportation planning process. But in other respects DVRPC has a limited role in the implementation of its other goals, and furthermore is overly reliant on the cooperation of its member Counties who –because of the complex way local government is organized in both Pennsylvania and New Jersey--themselves have a limited role in the actual decisions that affect land use and related activities in the region.

DENVER REGIONAL COUNCIL OF GOVERNMENTS (DRCOG)

Introduction

The Denver Regional Council of Governments (DRCOG) is a nonprofit association of local governments, for the nine-county Denver region. There are 57 participating local government representatives on the Board of Directors. In addition, the governor appoints three non-voting representatives to the Board of Directors.

Current estimated population is 2,777,497 and an additional 1.5 million are expected by 2035.

Each participating local government has an elected official as its representative on the Board of Directors. The City and County of Denver, because it is both a city and a county and pays for both memberships, has two representatives.

DRCOG traces its roots to Feb. 15, 1955 with the founding of the Inter-County Regional Planning Association. Adams, Arapahoe and Jefferson counties, and the City and County of Denver were charter members. The organization changed its name to the Denver Regional Council of Governments in 1968.

The Denver Regional Council of Governments (DRCOG) is also the designated Transportation Planning Region (TPR) and Metropolitan Planning Organization (MPO) for the Denver region. In 1977, DRCOG was designated as the Metropolitan Planning Organization for the Denver region. This area included portions of Adams and Arapahoe counties as well as Boulder, Denver, Douglas, and Jefferson counties. DRCOG also serves as the Transportation Planning Region in developing plans for Clear Creek and Gilpin counties. In 2008, the Governor approved a boundary change that added parts of Southwest Weld County to the region.

Throughout its 55-plus years, DRCOG has worked to address regional issues through cooperative local government action. The organization is funded by membership dues and federal and state grants. DRCOG depends heavily on efforts to form consensus among its member jurisdictions. This heavy reliance on regional goodwill is discussed in further detail below.

Legal Authority

DRCOG is a regional planning agency created by a cooperative agreement between the local governments in the region.²¹ Colorado's regional planning commission (RPC) law was adopted in 1935, last amended in 1971, and has never been interpreted in a reported court decision. In addition to running its internal affairs, the law provides that the RPC is a political body, and allows the RPC to sue and be sued, enter into contracts, and exercise the powers of a county planning commission.²² The RPC adopts a master plan (the Colorado equivalent of a comprehensive plan).²³ This plan not considered an "official advisory plan" for local governments unless they adopt it, and local plans are advisory unless the local zoning, subdivision or land development regulations make them binding. The master plan may include the following elements:

- Existing, proposed, or projected transportation infrastructure (including MPO improvements). Mass transportation, if included in the plan, must be coordinated with adjacent jurisdictions to eliminate conflicts and inconsistencies. Both County and municipal master plans may include facilities included in the MPO's transportation plan.²⁴
- Public places or facilities (e.g., public schools, parks, etc.)
- Public utilities and related facilities, including utility corridors.

- Water supplies (this does not supersede state water allocations or beneficial use rights).
- Rights of way
- Alternative energy sources (e.g., wind, solar)
- Land development including “community centers, townsites, housing developments, whether public or private, the existing, proposed, or projected location of residential neighborhoods and sufficient land for future housing development for the existing and projected economic and other needs of all current and anticipated residents of the county or region, and urban conservation or redevelopment areas.” This may incorporate by reference an agreement with the RPC.
- Availability of affordable housing within the county or region, including regulatory impediments to the development of affordable housing.
- Natural areas such as “forests, agricultural areas, flood control areas, and open development areas for purposes of conservation, food and water supply, sanitary and drainage facilities, flood control, or the *protection of urban development.*” (emphasis added) The “protection” language suggests authority for a boundary that delineates the extent of urbanization.
- Sensitive lands such as steep slopes, geological hazards, endangered or threatened species, wetlands, floodplains, floodways, and flood risk zones, highly erodible land or unstable soils, and wildfire hazards.
- Drainage basins, including drainage fees.
- A land classification and utilization program.
- Population and housing projections.

The construction of roads, parks, public buildings and utilities must be referred to and approved by the RPC.²⁵ The RPC’s decision may be reversed by the board of county commissioners or the agency sponsoring the utility. This language mirrors the “Standard Planning Enabling Act” process found in states with older zoning enabling legislation, and is rarely used in most parts of the country.

The statute includes a referral process for projects in an area of “common planning jurisdiction” that are subject to a regional plan.²⁶ The following matters must be referred to the RPC if they clearly affect another local government, affect the region as a whole, or are the primary responsibility of the RPC: any proposed new or changed land use plan, zoning amendments, subdivision proposals, housing codes, sign codes, urban renewal projects, proposed public facilities, or other planning functions. The RPC has 30 days to respond unless extended by mutual agreement. If the RPC finds that the matter is inconsistent with the regional plan, the local government can reverse its determination by a 2/3 vote of its total membership. The RPC may also initiate a review of any matter involving 2 or more local jurisdictions. This process does not apply to any proposed business or industrial zoning change of less than 20 acres or to any proposed residential zoning change or subdivision of less than 40 acres.

As a council of governments (COG), DRCOG has planning and implementation authority and duties, such as sharing information and coordinating efforts with other agencies in the research, planning, and development of mass transit systems,²⁷ and preparing a storm drainage criteria manual (recognized by statute).²⁸ The statute requires a 20-year regional transportation plan for MPO regions that includes:

- Identification of transportation facilities and services, including expansion or improvement of existing facilities and services, required to meet the estimated demand for transportation in the region over the twenty-year period;

- Time schedules for completion of transportation projects which are included in the transportation plan;
- Additional funding amounts need and identification of anticipated funding sources;
- Expected environmental, social, and economic impacts of the recommendations contained in the transportation plan, including an objective evaluation of the full range of reasonable transportation alternatives, including traffic system management options, travel demand management strategies and other transportation modes, as well as improvements to the existing facilities and new facilities, in order to provide for the transportation and environmental needs of the area in a safe and efficient manner; and
- Assistance of other agencies in developing transportation control measures for utilization in accordance with state and federal statutes or regulations, and the state implementation plan, and
- Identification and evaluation of measures that show promise of supporting clean air objectives.

DRCOG has a long history of regional planning, and its plans have been recognized in at least one court opinion that upheld a land use decision. In *Nopro Co. v. Town of Cherry Hills Village*, 180 Colo. 217, 504 P.2d 344 (Colo. 1972), the court held that a large-lot zoning ordinance did not violate the constitutional rights of a developer who sought a rezoning to a classification allowing smaller lots. The court noted that: “The Denver metropolitan area land use plan, formulated by the Denver Regional Council of Governments, formerly the Inter-County Regional Planning Commission, ... shows Cherry Hills and Greenwood Village as a green belt area of the lowest density residential development.” The court found that it was legitimate to maintain the low density zoning classification, consistent with both the local and regional land use plans.

Plan Implementation Summary

Goals and Policies

The primary current regional plan is the 2035 Metro Vision, a highly generalized blueprint for further growth of the Denver region. Metro Vision is the foundation for all of the regional council's long-range planning activities, establishing the need and demand for regional facilities and services. A key feature of this vision is a voluntary urban growth boundary area of about 980 square miles (18% of the region and 31% larger than its 2005 urbanized area).²⁹

Metro Vision is a strategic vision and documents the board's plans and policies. Some issues with spatial components (UGBs and Urban Centers, for example) are mapped, but they do not identify future land use across the region. The goal of the document is to show “strategic intent”. As Figure 3 shows, it is not a comprehensive plan showing land use down to the parcel level.

Metro Vision identifies where transportation investments will be made, where growth is expected to occur and how the region will attain water and air quality standards over the next 20 years.

The vision plan is structured in four parts:

- **Chapter 1**- growth and development policies that influence the shape and characteristics of the urban area,
- **Chapter 2**- transportation policies that address the region's roadway, rapid transit, bicycle and pedestrian facilities and services,
- **Chapter 3**- environmental quality policies that address air & water quality, parks and open space
- **Chapter 4**- implementing Metro Vision describes the strategies and actions to achieve the plan's goals and policies.

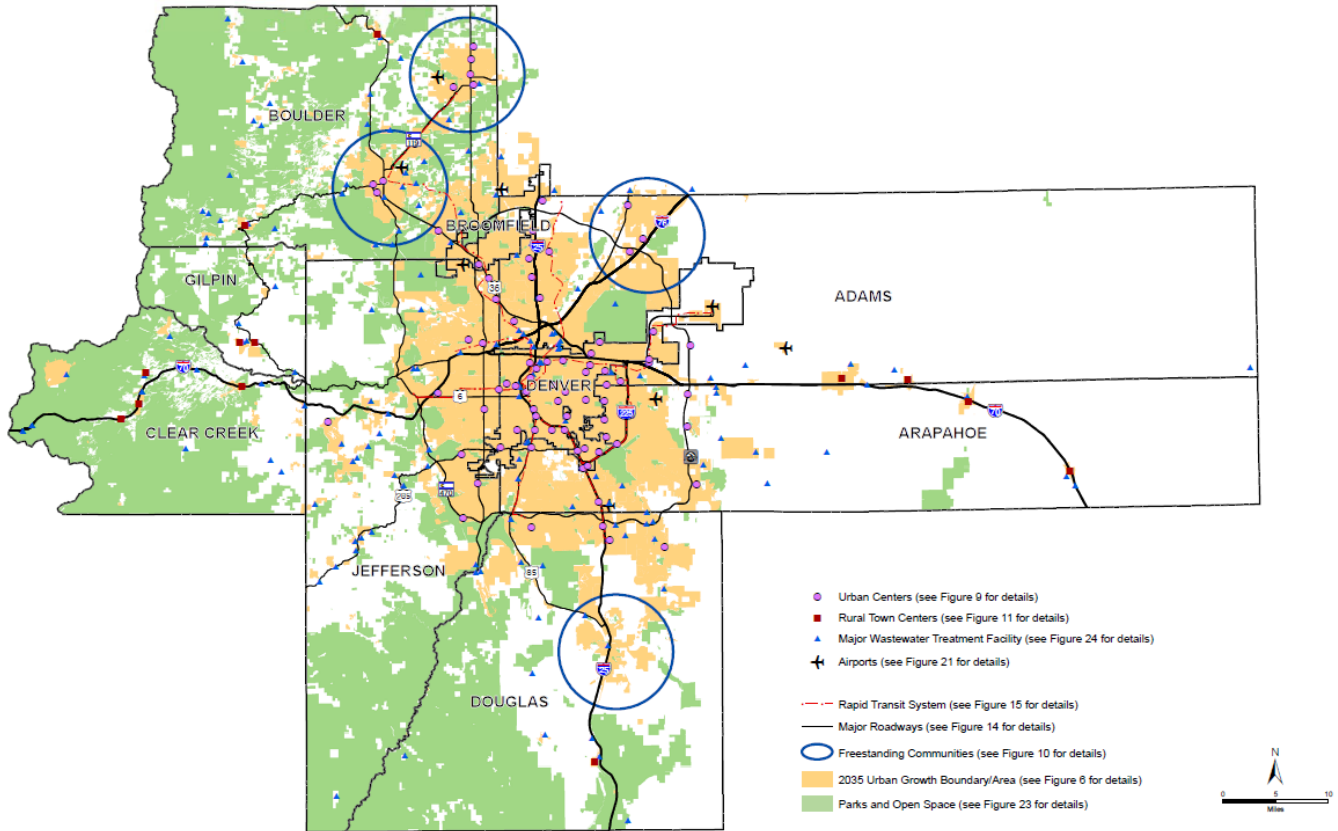


Figure 3 DRCOG Metro Vision 2035 Plan Summary

Key growth and development plan goals are:

- Limit the **extent of urban development** in 2035 to 921 square miles (2006), which has since been amended to 970 square miles. The Denver urban area is currently 717 square miles
- Encourage development in higher-density, mixed-use, transit- and pedestrian-oriented **urban centers**.
- Create **senior-friendly communities** through development patterns and community design features that meet the needs of elderly residents.
- Limit the amount of low-density, **large-lot (semi-urban) development** in 2035 to 3 percent of all households in the region, the same as it is today.
- Maintain Boulder, Brighton, Castle Rock and Longmont as distinct and self-sufficient **freestanding communities**, separate from the larger urban area.
- Recognize and support the role of **rural town centers** in providing services beyond the urban area.

DRCOG continually updates its regional plans by assessing these plans twice annually. DRCOG has initiated a major update of Metro Vision scheduled for adoption by the DRCOG Board in January, 2011. The main focus of the current update is the incorporation of sustainability into the plan. See: <http://www.drcog.org/index.cfm?page=MetroVision2035S> and Figure 4, below.

	1. Sustainability Concepts <i>Board identified Oct 21 Incorporate language into Metro Vision</i>	2. Related Goals (Measurable) <i>Board identified Nov 18, as amended by MVIC Feb 3 Incorporate language into Metro Vision and RTP</i>	3. Related Policy/Strategy Updates <i>Areas to be explored by proposed MVIC/MDWG highlighted in green</i>		
			A. Metro Vision	E. Regional Transportation Plan	C. TIP Preparation Policy
A	Provide a variety of transportation options such as transit, sidewalks, bicycle paths and roads	DRAFT: Increase the rate of construction of alternative transportation facilities	No	No	Yes
B	Promote use of alternative transportation modes	DRAFT: Reduce the percent of trips to work by single-occupant vehicle to 65% by 2035	Yes (Consider adding small unique alt. mode section within MV Transportation System Section)	Yes	Yes
C	Promote vibrant urban centers	DRAFT: Locate 50% of new housing and 75% of new employment within urban centers	Yes (Urban Centers Element)	Reflect MV changes as applicable	Yes
D	Protect air and water quality	CURRENTLY ADOPTED: Protect human health and environmental quality by achieving and maintaining ambient air quality standards; Restore and maintain the chemical and physical integrity of the region's waters to ensure clean water for residents and a balanced, healthy, ecological community	No	No	No
E	Provide accessible open space	CURRENTLY ADOPTED: A minimum of 880 total square miles of parks and open space should be protected by 2035	No	No	No
F	Limit the expansion of the urbanized area through increased region wide density, infill and redevelopment	CURRENTLY ADOPTED: Achieve a 10% increase in overall regional density between 2000 and 2035	No	No	No
G	Integrate land use and transportation planning		Yes (Expand Senior Friendly Development into broader section on urban form/design)	No	No
H	Promote regional collaboration		No	No	No
I	Develop a regional plan with goals that every community can make their own		No	No	No
J	Educate elected officials, local government staff, and citizens on sustainability issues		No	No	No
K	Seek integrated solutions that create multiple economic, environmental and social benefits		No	No	No
L	Promote efficient use of natural resources	DRAFT: Eliminate state's forecasted gap between supply and demand by reducing per capita municipal and industrial water use 13.5% by 2030 (equivalent 2035 metric TBD, based on input from the State)	Yes (New section under environment focused on natural resource conservation?)	No	No
M	Reduce regional per capita VMT	DRAFT: Reduce 10% by 2035	Yes (Transportation Element)	Yes	Yes
N	Reduce greenhouse gas emissions	DRAFT: Reduce per capita greenhouse gas emissions from the transportation sector 60% by 2035 - consistent with Colorado Climate Action Plan goal of reducing total emissions 20% below 2005 levels by 2020	Yes (Transportation Element)	Yes	Yes
O	Reduce fossil fuel consumption	No unique goal proposed; closely linked to and adequately addressed by greenhouse gas emissions goal and resultant policies /strategies	No	No	No
P	Focus on outcomes using performance measures		No	No	No
Q	Focus on long term costs and benefits		No	No	Yes

Figure 4 DRCOG Adopted Sustainability Work Plan

Implementation Activities

Implementation of DRCOG efforts is highly reliant on voluntary cooperation of its members. It does not exercise any powers to obtain consistency of local actions with the regional vision, nor is it moving in that direction..

This approach is best seen in the [Mile High Compact](#) -- a voluntary agreement among Denver metro area cities and counties to manage growth throughout the region by adhering to the principles outlined in [Metro Vision](#). This agreement, which DRCOG contends is unique in the nation, resulted from a joint effort of the [Metro Mayors Caucus](#) and DRCOG in 2000. As of June 2010, 45 communities representing more than 88 percent of the region's population have signed the agreement.

Key elements of the compact commit participants to work toward :

- *[Making] Local comprehensive/master plans ... consistent with the regional vision provided by Metro Vision 2020 and ... incorporate its core elements;*
- *Designating the extent of urban development within a specified area;*
- *Creating a balanced multi-modal transportation system;*
- *Establishing a hierarchy of mixed-use, pedestrian and transit-oriented urban centers;*
- *Preserving four free-standing communities of Boulder, Brighton, Castle Rock and Longmont;*

- Development of a regional open space system;
- Preserving the region's natural environment, especially air and water quality.

Local plan review is another area that demonstrates the voluntary nature of DRCCOG's approach to implementation. DRCOG is a referral agency for local comprehensive plan review—it is sent a plan and is allowed to offer comment. In an interview for this report, DRCOG staff stated this is just a referral and the local jurisdiction can choose to ignore the comments if it does not agree with them. Staff reports that the local governments typically ignore the comments. DRCOG no longer approaches plans through the referral process, because was not very effective. The approach is now one of “we all have an interest in seeing the aspects of Metro Vision implemented” so what do we need to do to make that happen?

One way DRCOG has been doing this is by building up its reputation as a data and information resource. Rather than telling jurisdictions to do something or how to do it, it has been soliciting questions the local governments want answered.

TOD planning was the first example of this and has become a model for future DRCOG efforts. Local governments said that they wanted to do their own TOD planning and did not want DRCOG involved. However, they requested assistance in defining TOD. DRCOG answered, which led to further inquiries. Ultimately the jurisdictions asked for financial assistance, and a funding program was set up.

DRCOG's staff contact believes that it could not have just started with a funding program. They needed to let the local governments to lead the effort and identify the tools and information they needed to accomplish their goals. The process has built up trust with the jurisdictions. They now view DRCOG as an agency they can turn to when they have a question. They are viewed as a resource, not someone “from up on high” telling them what to do. Rather the relationship is one of “here are the issues the board feels are important to the region. What information do you need from us to help you address the issues?”

With regard to public outreach, DRCOG has been conducting “MetroQuest” exercises across the region. These use an interactive computer tool to explore questions and visualize alternative future scenarios. The results indicate that on some issues the board's opinions may be lagging their constituents. A specific example cited in our interview was that MetroQuest participants, who represent a good cross section of the region, have been calling for more transit spending than the level the board felt was possible for public support.

Barriers to implementation

Three potential obstacles to successful implementation of the Metro Vision stand out. Two—semi rural development and insufficient transportation funding—relate to the efforts to contain urban development and how to effectively link the region's centers. These are recognized as major problems by DRCOG itself in its vision document. The third—how the Board chooses its battles—is rooted in the consensus driven approach that has been at the core of DRCOG efforts from its inception.

The following two paragraphs are near verbatim selections from the vision document:

Semi-urban development is residential development that occurs on parcels between one and 35 acres in size. Development on lots larger than 35 acres are considered rural [and are exempt from subdivision review.] Semi-urban areas are typically located on the fringe of the urban area and have only limited commercial activity. They depend on the urban portion of the region for employment, shopping and services. Semi-urban lots are not large enough to support ranching. Semi-urban development is a complicated subject that has not been discussed in the same detail as other Metro Vision elements. More refined policies and implementation strategies will be developed to better understand and manage the region's semi-urban

development.

The most critical challenge faced in providing a transportation system to meet future needs is insufficient funding. Estimated transportation funding needs far exceed the expected revenues. Consequently, it will take many years to implement many of the important components of the system, some beyond 2030. This challenge must be addressed if the region is to provide the efficient transportation system required by its citizens and businesses.

A tendency to avoid potentially divisive issues may also be a source of uneven success.

In our interview, DRCOG staff pointed out that the DRCOG board “has no state or federal mandates so the board is free to discuss what it wants”. An example cited is that although the region is an arid landscape and water is the dominant issue for growth, Metro Vision is silent on the issue because the board did not want to make it an issue.”

This sense of ownership and the ability for the board to include the issues it wants is an important one, and it was mentioned several times in the interview. Another example is how the new HUD sustainability grants will affect the sense of ownership. The grants require documents to include certain elements, some of which Metro Vision does not include now. Will the board feel the same ownership of the document if they are including what another authority requires them to include rather than what they want to include?

Final results

Metro Vision’s underlying theme is to ensure that local jurisdictions retain control over the specific decisions that ultimately determine when, where and what type of development will occur in their own communities. Self-determination is important. This approach has seemed to work well in a political climate that generally questions directive government or quasi-government approaches. Whether it can continue to work well as issues such as water supply or constraints on funding become more intractable issues may be the fundamental question regarding DRCOG’s continued reliance on voluntary local consensus to further its goals.

METROPOLITAN COUNCIL (MINNEAPOLIS)

Introduction

The Council is the MPO for the seven counties, approximately 3,000 square miles Twin Cities Metropolitan Area that in addition to the seven counties contains 182 Local Government Units (LGUs) that are the region's cities and townships. The 17-member Metropolitan Council has 16 members who each represent a geographic district (rather than the more conventional jurisdictional boundary) and one chair who serves at large. They are all appointed by and serve at the pleasure of the governor. The State Senate confirms Council member appointments.

The Minnesota Legislature established the Metropolitan Council in 1967 to coordinate planning and development within the Twin Cities metropolitan area and to address issues that could not be adequately addressed with existing governmental arrangements. The Council was initially created in substantial part to address local sanitary sewer treatment issues on a regional basis.

Additional legislative acts in 1974, 1976 and 1994 strengthened the Council's planning and policy roles, and merged the functions of three agencies (the Metropolitan Transit Commission, the Regional Transit Board and the Metropolitan Waste Control Commission) into one — the Metropolitan Council (commonly known as the "Met Council").

The Met Council works with local communities to provide these critical services:

- operates the region's largest bus system
- collects and treats wastewater
- engages communities and the public in planning for future growth
- provides forecasts of the region's population and household growth
- provides affordable housing opportunities for low- and moderate-income individuals and families
- provides planning, acquisitions and funding for a regional system of parks and trails

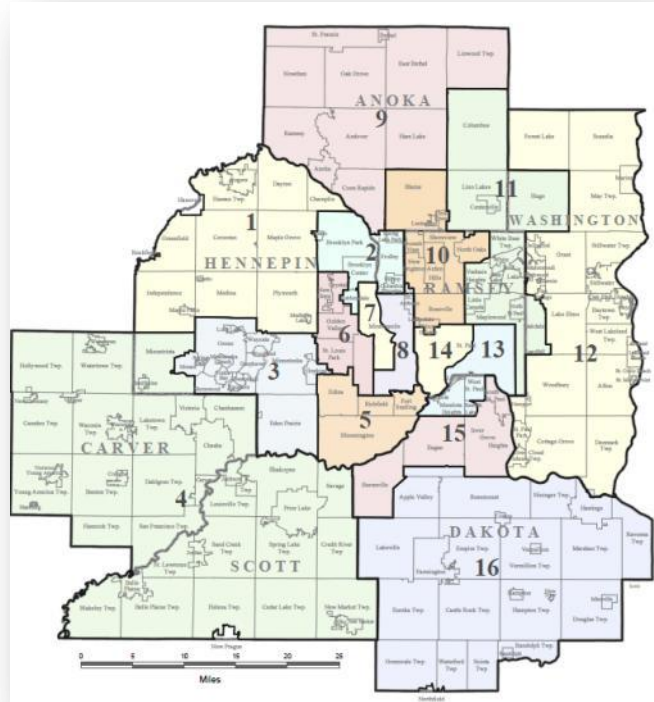


Figure 5 Met Council Districts

- provides a framework for decisions and implementation for regional systems including aviation, transportation, parks and open space, water quality and water management.

The Council has staff of 3,700 and an annual operating budget of about \$700 million, 90 percent of which is funded by state appropriations and user fees such as wastewater treatment charges and transit fares. Just 10 percent comes from local property taxes. The bulk of the Council's employees operate the region's transit and regional wastewater treatment systems. Of its budget, the Council spends about \$80 million on grants to local jurisdictions for regional park operations and community development projects, and on housing assistance for low-income families. (See Council budgets and annual reports.)

The Metropolitan Council estimates that the Twin Cities metro area's population grew to 2.88 million in 2009 – up 240,000 (or 9 percent) since 2000.

Not surprisingly, the 15 communities with the most growth are all developing-edge suburbs. Nevertheless, the region's largest city, Minneapolis, has led new housing production in recent years. Most of the additions are attached and multi-family developments. During 2000 to 2009, Minneapolis has gained 7,400 households. The population gain has been much smaller – an additional 3,900 people. The Metropolitan Council estimates that St. Paul has gained 3,300 households and 700 people since 2000.

Lacking significant new housing development, turnover, and generational diversity, some of the older first-ring suburbs are losing population. Notable population declines are estimated in Fridley, Crystal, Robbinsdale, Richfield, West St. Paul and North St. Paul.

Legal Authority

The Met Council was created by the legislature in 1967 to coordinate interdependent local governments in long-term development and to avoid sprawl within the Twin Cities metropolitan area.³⁰ As a legal entity, the Met Council is the most aggressive and powerful regional agency discussed in this report. It has been described as one of only two (along with Portland's Metro) "three-tier" regional reforms in the nation,³¹ and one of only five examples of an "authoritative" regional body whose powers are more than advisory.³² Most regional agencies that are either voluntary associations of local governments or regional agencies (such as ARC) whose members are selected by the member local governments. The Met Council is created directly by statute, but its members are appointed by the Governor.³³ While the Council was originally conceived as an advisory agency only, it was given control of regional transit and sewers in 1994 and possesses a number of mandatory planning and review responsibilities.³⁴

The Met Council's statutory powers and duties include:

- Prepare and adopt a **comprehensive development guide** for the metropolitan area. This includes policy statements, goals, standards, programs, and maps prescribing guides for the orderly and economical development, public and private, of the metropolitan area.³⁵ It also addresses "future developments which will have an impact on the entire area including but not limited to such matters as land use, parks and open space land needs, the necessity for and location of airports, highways, transit facilities, public hospitals, libraries, schools, and other public buildings." When the development guide is updated, the Council sends a "system statement" to each local government that contains information relating to the locality and surrounding territory that the council determines necessary for the unit to consider in reviewing the plan.³⁶

- The Council must adopt long-range comprehensive policy plans for airport, transportation, wastewater treatment, water,³⁷ water resources,³⁸ and park systems — the **system plans**.³⁹ These system plans must conform to the Council's Regional Blueprint. Minn.Stat. § 473.146. Each system plan must include forecasts of changes in population, households, employment, and land uses for the metropolitan area. Id. Together, the Regional Blueprint and the system plans coordinate and steer the Council's plans for the seven county metropolitan area over the next 40 years.
- **Review local comprehensive plans** that have an areawide effect, a multicomunity effect, or a substantial effect on metropolitan development,⁴⁰ and for their compatibility with each other and conformity with metropolitan system plans.⁴¹ The plans are not effective until the Council finds that they are consistent with the development guide (or if 60 days pass after they are submitted for review), and the Council may suspend a plan that has areawide significance that it finds is inconsistent or bring an action to enforce a compatibility/conformity determination. In a recent case, the courts found that the Council had authority to require plans to accommodate minimum densities needed to accommodate future growth, and to require central sewer service through connections to the regional system.⁴²
- Administer a **livable communities fund** and develop **guidelines for living wage jobs, affordable housing, and compact development**.⁴³ The Council awards grants through three separate grants programs to participating communities through the program, and has leveraged millions of dollars in additional public and private investment.⁴⁴
- Review **developments with metropolitan significance**.⁴⁵
- Provide advisory materials, models plans and codes, assistance, loans and grants to local government in planning and capital improvements programming.⁴⁶
- Participate as a part to **annexation** proceedings;⁴⁷
- Review local applications for state or federal funds, grants, loans or loan guarantees,⁴⁸
- Accept federal aid and cooperate in obtaining federal assistance for transportation projects.⁴⁹
- Provide a variety of transit facilities and services, and cooperation and assistance to transit providers.⁵⁰
- Determine whether controlled access highways are consistent with the development guide.⁵¹ A consistency determination is required for the project to go forward.
- Establish a revolving loan fund for arterial highways, along with a real property tax.⁵²
- Establish exclusive bus/transit lanes on controlled access highways.⁵³
- Provide wastewater facilities and services,⁵⁴ require mandatory connections,⁵⁵ and review and approve local wastewater policy plans.⁵⁶
- Review local park master plans⁵⁷ and establish a regional parks and open space system.⁵⁸
- Review airport commission capital projects, which must conform to the development guide.⁵⁹
- Develop a housing program, construct housing and establish a housing authority.⁶⁰
- Inventory public buildings.⁶¹
- Review and comment on the construction of school facilities.⁶²
- Prepare population estimates.⁶³
- Develop a center for data collection and storage.⁶⁴
- Conduct research on infrastructure and other issues that are not otherwise authorized by law, and institute demonstration projects associated with the research.⁶⁵ The Council is required to conduct

continuous research on a variety of subjects including air and water pollution, parks and open space, long range planning, solid waste, tax equity, assessment practices, stormwater facilities, local service consolidation, and advance land acquisition for development.⁶⁶

- Coordinate emergency services.⁶⁷

Plan Implementation Summary

Goals and Policies

The Met Council's adopted vision, statutorily referred to as the Metropolitan Development Guide, is a series of regional plans. The overarching vision is the Council's Regional Development Framework, which sets the regional and local municipal/township/county forecasts for population, households and employment; establishes subregional planning areas, and provides policy direction, guidelines and density standards for local governmental units (LGUs) to use in their local comprehensive planning.

The 2035 land use map and its relation to local plans is different than the typical regional land use plan that emerges as a generalization of locally adopted plans.

- the 2035 land use is the Council's creation not a composite of the local plans
- the locals need to respond to the framework when they update their plans

This is a very top down process for directing local jurisdictions to amend their comprehensive plans in accord with the Council's framework and direction. The council has to approve the local plan before the local jurisdiction can formally adopt it. This gives the Met Council powerful (and atypical) "veto" option over local efforts. (See "Implementation Activities" section, below.)

In addition to the Council's 2030 Regional Development Framework, the Council has adopted metropolitan (or regional) system plans for:

- transportation (highways, transit (bus, LRT, rail, bikeways and aviation),
- water management (sanitary sewer, surface water, water supply), and
- regional parks and trails

The Council's 2030 Regional Development Framework and the regional system plans include policy level maps. Local land use plans are reviewed for conformity with these policies.



Figure 6 Metro Transit Hiawatha Line, Government Plaza Station in downtown Minneapolis (Source: White & Smith, LLC)

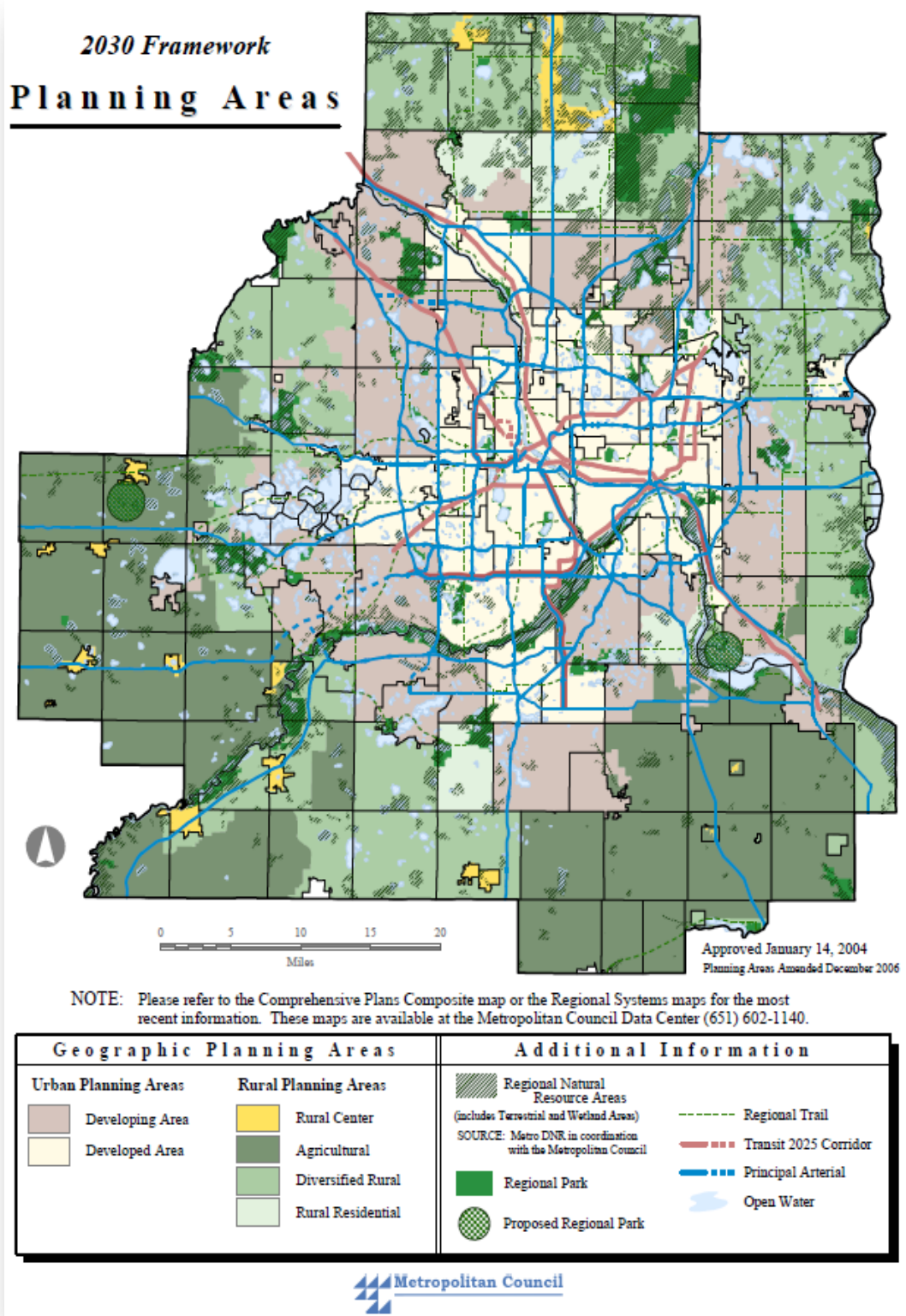


Figure 7 Met Council Regional Development Framework

**Implementation
Activities**

There are two primary ways that the Metropolitan Council sees that the regional plan is implemented:

- A requirement that local jurisdictions make their local land comprehensive plans consistent with the regional framework and its various supporting plans
- The Council's control over expansion of key infrastructure through its Metropolitan Urban Service Area.

Local jurisdictions are required by state law (the Metropolitan Land Planning Act (MLPA), Minnesota Statutes § 473.175 and 473.851-473.871) to prepare local comprehensive plans and to update them every 10 years following the Council's update of its regional forecasts, plans and the issuance of "**system statements**" to all LGUs. The regional plans "in sum" provide a "framework" for the LGUs to prepare their plans. The intent is that planning is "collaboration" between the Council and LGUs. Once local comprehensive plans are prepared, they must be sent to the Council for review, comment and approval before they can be put into effect. Zoning must follow local land use plans.

The system statements are important starting points for the mandatory updates of local plans. Every community in the seven-county metropolitan area within the Metropolitan Council's jurisdiction receives a "system statement" – a document that is required by state law and intended to help communities update their local comprehensive plans. The system statement is a customized document informing each community how it is affected by the Metropolitan Council's policy plans for four regional systems – transportation, aviation, water resources (including wastewater collection and treatment), and regional parks and open space. System statements include forecasts of population, households and employment. In some cases, those forecasts have changed since the time that the system statements were released.

Once local comprehensive plans are prepared they must be sent to the Council for review, comment and approval before they can be put into effect. (There are three stages of review--first by the Council staff, then by two Council committees and finally by the full Metropolitan Council.) Zoning must follow local land use plans. The MLPA prohibits LGUs from adopting the local plans and plan amendments until after the Council has reviewed them. The minimum content of local comprehensive plans is specified by the MLPA. If a LGU submits a plan that does not meet the required content guidelines, the Council can find it "incomplete" and hold up its review and approval until the local plan is found complete.

The Council's authority with respect to conformity to regional systems is broader. In addition to being able to review and comment, the Council can under certain circumstances require a LGU to modify its local comprehensive plan as the Council dictates. Transportation is one of the regional plans, over which the Council has the statutory authority to require local governments to change their plans if they are found not in conformity with the RTP. In addition, the Council has the authority to review "and approve" local sanitary sewer plan portions of the local comprehensive plans.

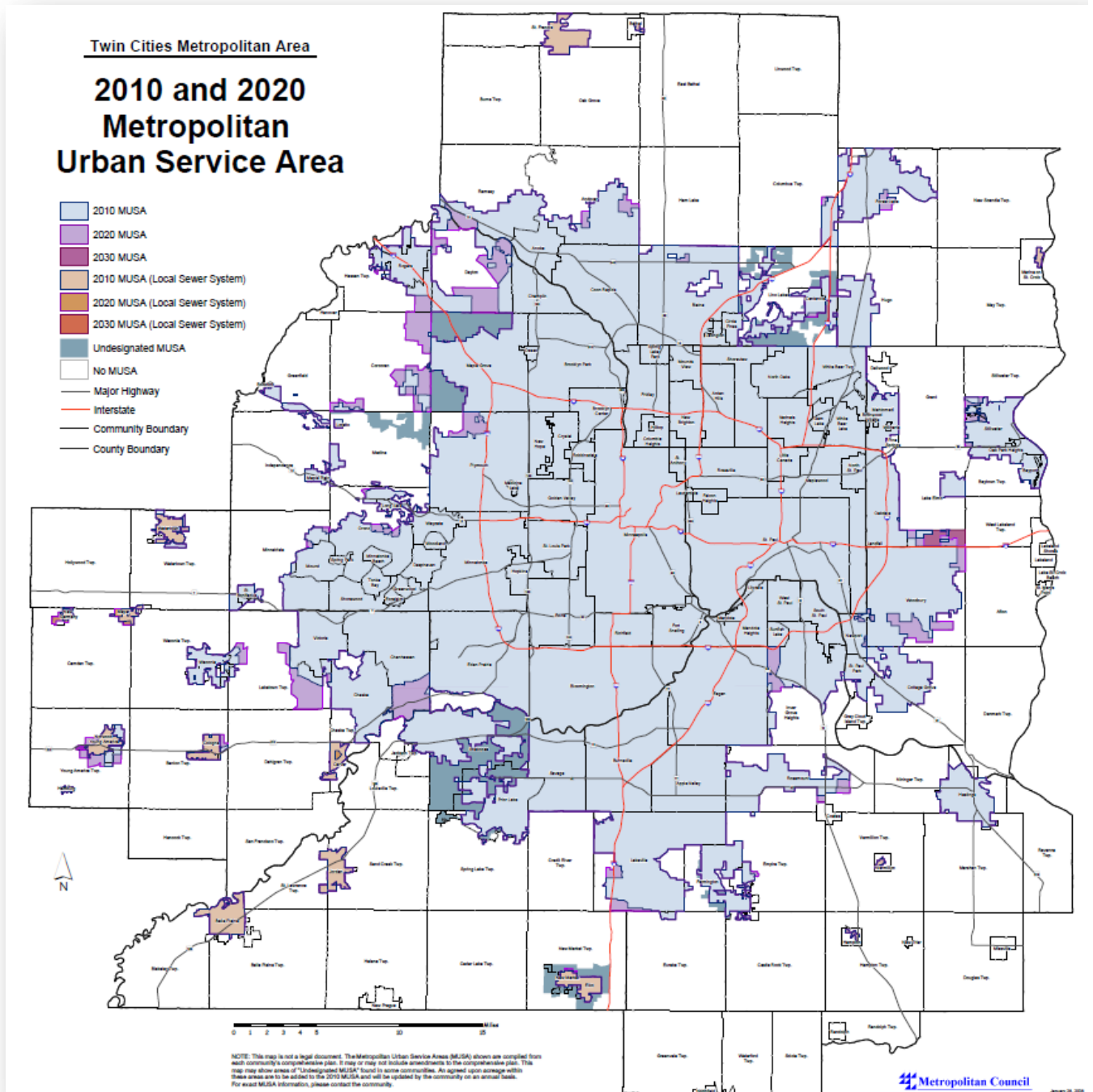


Figure 8 Met Council Municipal Urban Services Area (MUSA)

The Metropolitan Urban Service Area, or “MUSA,” is the area in the seven counties in which the Metropolitan Council ensures that regional services and facilities, such as sewers and major highways, are provided or planned. The Council oversees provision of these services to metro-area communities under the authority of the Metropolitan Land Planning Act in state law. For example, Metropolitan

Council Environmental Services (MCES) is one of three divisions of the Metropolitan Council and it:

- Collects and treats wastewater at its seven regional treatment plants.
- Develops plans to preserve and manage the region's water resources.
- Conducts region-wide surface and groundwater planning and non-point source pollution.
- Conducts industrial wastewater management, and air and water quality monitoring and reporting.
- Manages water resources in compliance with all regulatory requirements and in ways that help ensure environmental sustainability.
- Helps keep the region's rivers and lakes clean.

A planning concept developed in the 1970s, the MUSA was designed to achieve orderly, economic and contiguous growth by directing development, primarily, to areas where roads and sewers already exist. The Council's policy is to maintain a 20-year land supply within the "Developing Communities" within the MUSA.⁶⁸ The Council requires an overall minimum density in MUSA areas of at least 3 units per net developable acre, and has established guidelines for calculating overall densities when a city requests a MUSA expansion.⁶⁹ The Council has a flexible expansion policy which recognizes "that development opportunities do not always occur in a contiguous manner."⁷⁰ There are approximately 670,000 acres in the approved 2020 MUSA.

The MUSA is not a growth boundary. In contrast to those advocating using the MUSA boundary as a hard growth limit and those who wish to loosen its extent, the Council continues to support a balanced approach whose goal is to synchronize urban growth with the provision of infrastructure needed to accommodate growth. As developing communities grow and plan for growth they often request "MUSA expansions," so that regional infrastructure is available to support their anticipated development. Those requests are reviewed by the Council for consistency with regional plans and policies. In a recent case, the state court of appeals rejected a property owner's constitutional challenge to a City's decision to place its land outside of the MUSA in order to avoid urban sprawl.⁷¹

Because it is such an important aspect of the Metropolitan Council's work, it is worthwhile to explain how some of the authority of the Metropolitan Council over local plans is de facto rather than de jure.

Under state law, the Council "approves" only the comprehensive sewer plan (CSP) portion of a local comprehensive plan (CP). Besides the approval of local CSPs, the next "strongest" authority of the Council is to require LGUs to "modify" their plans if, upon the adoption of findings and a resolution, the Council concludes that the plan is more likely than not to have a substantial impact on or contain a substantial departure from metropolitan system plans."⁷²

LGUs cannot adopt and implement their plans until after the Council has reviewed them. The Council needs to find the plan complete before the review is formally begun and this is sometimes used as a way to persuade LGUs to fix things in their plans that otherwise the LGU is not required to modify.

Plan modifications can take a couple of forms. The Council can tell the LGU that a certain part of the plan is not acceptable and why and tell them to change it to make it acceptable, or the Council can be very specific and tell the LGU exactly what to do. The plan modification process is quasi-judicial, requiring the Council to make findings of fact and pass a formal resolution directing the CP modification. Also, the LGU has a right to appeal the plan modification through the courts, with the first step being a hearing by the State office of Administrative Hearings.

As similar blend of de facto and de jure authority applies to the various development guidelines and standards. Some are mandatory while others are advisory -but most are negotiable to some extent.

The strongest are related to minimum net densities in lands proposed to be serviced by municipal sanitary sewer lines that connect to the regional wastewater. The next level of required guidelines is those related to forecasted population, households and employment that each LGU must use as the basis for its CP update. Another required guideline is the amount of lands planned for sewer development within the next 20 years, and by 5-year increments within that. There are other mandatory things related to aviation, highways, transit and parks - the regional systems. Other things are advisory – such as, for example, affordable housing. Since housing is not a "regional system," the Council cannot require a plan modification if the LGU does not follow Council guidelines. Nevertheless, such action may impact the ability of the LGU to qualify for Council grants and loans, and/or grant monies over which the Council has some discretionary authority to recommend projects for funding.

The ability of the Council to carry out its functions and implement its policies is also supported by the Council's fiscal powers. The Council has a modest region-wide property tax, a user fee (applied to sanitary sewer flows), a hookup fee for new sanitary sewer hookups, user fees for transit, as well as regional bonding authorities. A bit less than 10% percent of the Council's \$737,647,134 in revenues in 2009 came from a seven-county property tax, while about 40% came from water and sewer and transit fees.

The Council also studied and recommended tax-base sharing among LGUs in the region, which was subsequently enacted by the state legislature. Since 1971, under the fiscal disparities program, taxing jurisdictions in the seven-county area contribute 40 percent of the growth in commercial-industrial (CI) property tax base into an area-wide shared pool. Shared tax base is then redistributed back to jurisdictions - reducing fiscal disparities. Redistribution is based on population and the value of all property relative to the metro average. The smaller the per capita property value compared to the metro average, the larger the distribution. The larger the per capita property value compared to the metro average, the smaller the distribution. The shared tax base totaled \$424 million for taxes payable in 2010. This represents 37 percent of total commercial-industrial tax base in the Twin Cities. After redistributing the shared area-wide pool of tax base, 123 communities covered by the Twin Cities fiscal disparities program receive more tax base than they contribute. A total of 57 communities contribute more tax base than they receive back from fiscal disparities.

Barriers to implementation

As an interview of Council staff confirmed, the Council does not need to "advocate" local implementation of its plans, but rather exercises the various authorities granted it by the state legislature. Although the Council still seeks certain resources to better carry out its plans (e.g., requests to state legislature for sustained dedicated transit funding), the Council seems quite comfortable with its abilities to effectively plan and implement.

Final results

As one of the responses to our interview questions summarized: "Few MPOs in the U.S. have the Council's authority or accomplishments. A few like Portland have similar authorities and accomplishments."

Transportation is one of the regional plans over which the Council has the statutory authority to require local governments to change their plans if they are found to be not in conformity with the RTP. Furthermore the role of the Metropolitan Council as a major service provider provides it with a number of carrots and sticks to use as needed in its interactions with the member jurisdictions.

The Council also benefits from special legislation-- the "metropolitan significance" act --that empowers the Council to temporarily hold up proposed developments (public or private) under specific circumstances if it finds that the proposal may have significant adverse impacts on regional systems or other local jurisdictions.

NORTH CENTRAL TEXAS COUNCIL OF GOVERNMENTS (DALLAS-FORT WORTH)

Introduction

NCTCOG serves a 12,370 square mile, 16-county region of North Central Texas that is centered on the cities of Dallas and Fort Worth. NCTCOG has more than 230 member governments including 16 counties, numerous cities, school districts, and special districts.

The latest population estimate for the NCTCOG region (April 2010) is 6,729,800. Population grew some 90,000 in 2009, less than half the pace of growth in 2005 and 2006. The region features a number of urban centers. Although Dallas and Fort Worth are the largest cities in the region, ten other cities have populations above 100,000.

Each member government appoints a COG voting representative from its governing body. These voting representatives make up the General Assembly, which annually elects the Executive Board. The Executive Board, composed of 13 locally elected officials, is the policy-making body for all activities undertaken by the Council of Governments, including program activities and decisions, regional plans, and fiscal and budgetary policies. NCTCOG's professional staff is headed by Mike Eastland, Executive Director.

In 1974, the Governor of Texas designated the North Central Texas Council of Governments as the Metropolitan Planning Organization for transportation planning with the proviso that the Regional Transportation Council be the decision-making group for regional transportation policy for the Dallas-Fort Worth urbanized area. The RTC is considered an independent committee of the MPO and has a board of 43 members.

Legal Authority

As a council of governments (COG), NCTCOG has a variety of statutory planning and service provision authority. A COG is formed by mutual agreement by any combination of counties or local governments.⁷³ The local governments may establish the COG by "ordinance, resolution, rule, order, or other means."⁷⁴ A COG may receive block grants to provide services and benefits.⁷⁵ The road construction standards of the NCTCOG are expressly recognized (or designated as the only applicable standards) for several service or utility districts.⁷⁶ COGs may address indirect impacts on land use issues such as emergency planning,⁷⁷ regional solid waste planning,⁷⁸ and air quality planning and programs.⁷⁹ A COG also performs functions unrelated to development or land use planning, such as child abuse, substance abuse, and law enforcement.⁸⁰

As MPO, the NCTCOG has the functions assigned by federal law, and several additional statutory planning functions. Financial assistance to public or private entities for transportation facilities must conform to the MPO's transportation plan.⁸¹ Plans for roads that are subject to extraterritorial subdivision regulations may not conflict with the MPO's transportation plan.⁸² Counties may require subdividers to include right-of-way for major thoroughfares that are consistent with the MPO's transportation plan.⁸³ The state Department of Transportation (DOT) may identify transportation corridors based on transportation plans prepared by the MPO, a county, or the DOT.⁸⁴ The MPO must approve the expenditure of bond proceeds for DOT rail projects.⁸⁵

The Texas Commission on Environmental Quality (TCEQ) established an Emissions Banking and Trading (EBT) ("cap and trade") program in 1993.⁸⁶ The EBT program is designed to allow flexibility in complying with the

Texas Clean Air Act to sources within areas designated in nonattainment for the federal ozone standard. The program has evolved to include sources within counties designated in attainment and to include mass cap-and-trade programs for specific industries and areas of the state. Through NCTCOG, the Dallas–Fort Worth Area Emission Reduction Credit Organization (AERCO) provides emissions-reduction trading in the Dallas–Fort Worth nonattainment area.⁸⁷

Plan Implementation Summary

Goals and Policies

The official website cites NCTCOG's purpose “to strengthen both the individual and collective power of local governments and to help them recognize regional opportunities, eliminate unnecessary duplication, and make joint decisions.” NCTCOG has a number of initiatives dealing with such issues as sustainability, community services, and emergency preparedness but there is no regional comprehensive plan.

Implementation Activities

In an interview on August 6, 2010 NCTCOG staff stated that Texas law does not allow regional agencies to review comprehensive plans. Much of NCTCOG’s work therefore focuses on educational and outreach efforts to promote land use and related best practices. The limited planning funding available to NCTCOG is generally for transportation planning.

One significant recent initiative was a multi-year North Texas 2050 visioning process that examined several alternatives to business as usual growth and resulted in a preferred alternative of diverse decentralized centers. This vision seems primarily educational rather than strategic. NCTCOG considers this vision as merely one example of how to work toward new approaches to development and growth in the region rather than any official blueprint for the future. The vision is highly conceptual and is not derived from officially adopted local land use plans as are many regional land use plans.

Barriers to implementation

Mr. Eastland states that NCTCOG is at the “beginning stages” or promoting regional coordination. Much of these efforts are educational and there are no mechanisms to compel consistency with any regional framework. Some influence over transportation funds provides NCTCOG with a “tiny bit of influence” to control local decisions, but NCTCOG staff stated that this approach is not used much. Local political culture and lack of authority from the state legislature means NCTCOG “cannot make anyone do anything.” NCTCOG would like to approach the legislature to get more authorization and resources to pursue regional vision goals.

Final results

NCTCOG intends to continue to promote best practices and encourage local governments to coordinate land use decisions more effectively. Much attention will be paid to revitalization of older sections of region within the cities and the first tier suburbs. One approach is to work with local developers to mobilize them to support local development code changes that would make it easier to implement mixed use, bring local specifications for infrastructure (e.g., road profiles) more in line with each other. NCTCOG will also work to show how more mixed use and development code changes could help alleviate regional problems of air quality (e.g. by reducing overall VMT), water supply and water quality.

SAN FRANCISCO: ASSOCIATION OF BAY AREA GOVERNMENTS (ABAG) & METROPOLITAN TRANSPORTATION COMMISSION (MTC)

Introduction

The Association of Bay Area Governments (ABAG) is the regional planning agency for the nine counties (Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano, and Sonoma) and 101 cities and towns of the San Francisco Bay region. All nine counties and all 101 cities and towns within the Bay Area are voluntary members of ABAG. It is funded through Federal, State, and Metropolitan Transportation Commission funds and contributions of local governments. ABAG is an advisory organization and has limited statutory authority. It is not the regional MPO. It is governed by the Executive Board. The 38-member Executive Board assembles locally elected officials based on regional population to make operating decisions, appoint committee members, authorize expenditures, and recommend policy. An elected official from each member city, town, and county serves as a delegate to ABAG's General Assembly. The General Assembly determines policy, adopts the annual budget and work program, and reviews policy actions of ABAG's Executive Board. Each delegate has one vote, and a majority of city and county votes are required for action.

The Metropolitan Transportation Commission (MTC) is the transportation planning, coordinating, and financing agency for the nine-county San Francisco Bay Area. MTC functions as both the regional transportation planning agency — a state designation — and, for federal purposes, as the region's metropolitan planning organization (MPO). MTC has a 19-member policy board. Fourteen commissioners are appointed directly by local elected officials (each of the five most populous counties has two representatives, with the board of supervisors selecting one representative, and the mayors of the cities within that county appointing another; the four remaining counties appoint one commissioner to represent both the cities and the board of supervisors). Two members represent regional agencies — ABAG and the Bay Conservation and Development Commission. Three nonvoting members represent federal and state transportation agencies and the federal housing department.

More than seven million people live within the region's 7,000 square miles.

Legal Authority

As in Pennsylvania and New Jersey, local governments in California have had to consider regional land use issues for many years. In 1976, the California Supreme Court held, in a challenge to an adequate public facilities standard adopted by initiative, that local land development regulations must have a reasonable relationship to the welfare of the region it affects.⁸⁸ State law now requires a housing element in local plans that address the locality's fair share of regional housing needs.⁸⁹

Councils of governments (COGs) in California are created by joint powers agreements.⁹⁰ COGs have a variety of planning and related authority under California law, including:

- **Develop regional housing allocation models.** The State of California establishes a mandatory Regional Housing Needs Allocation (RHNA) process to determine the number of housing units, including affordable units, each community must plan to accommodate.⁹¹ A state agency (the California Department of Housing and Community Development (HCD)) determines the total housing need for a

region, and regional agencies (such as ABAG) distribute this need to local governments. ABAG has developed an allocation methodology to assign units, by income category, to each city and county in the region. ABAG worked with local governments to develop the model. Local governments must accommodate the housing units in the Housing Elements of their General Plan (the California equivalent of a comprehensive plan) for a 7-year period.

- Develop a **plan for transportation control measures** for approval by the air quality management district, in order to meeting federal air quality standards.⁹²
- **Mediation** of litigation over the denial of a development project.⁹³
- **Designate areas that are appropriate for infill development.** As part of the state's Transit Oriented Development Implementation Program, the Department of Housing and Community Development may grant bonus points to projects or developments that are in an area designated by the appropriate council of governments for infill development as part of a regional plan.⁹⁴ The program awards grants to local governments and loans for project development to encourage higher density uses within close proximity to transit stations that will increase public transit ridership.

ABAG is specifically recognized or delegated authority and responsibilities in the California statutes, including:

- Develop and adopt a plan and implementation program, including a financing plan, for a continuous bikeway system / recreational corridor around the San Francisco and San Pablo Bay.⁹⁵
- The statute establishes a process for state agencies to transmit ABAG's San Francisco Bay Regional Environmental Management Plan to the federal Environmental Protection Agency.⁹⁶

ABAG has cooperative relationships with other agencies and commissions in the region. These include:

- The San Francisco Bay Conservation and Development Commission (SFBCDC), which has board representation from multiple agencies including ABAG.⁹⁷ SFBCDC has prepared a plan to conserve the water of the San Francisco Bay and the development of its shoreline (the "San Francisco Bay Plan").⁹⁸ The agency is directed to cooperate with ABAG and to make maximum use of its data and information in order to avoid duplication of efforts.⁹⁹ The SFBCDC is charged with establishing a process to develop a regional water trail plan, and collaborates with ABAG and other public and private entities in developing the trail.¹⁰⁰
- The San Francisco Bay Restoration Authority, which is created to generate and allocate resources for the protection and enhancement of tidal wetlands and other wildlife habitat in and surrounding the San Francisco Bay.¹⁰¹ Its members are appointed by ABAG.¹⁰²
- The San Francisco Bay Area Water Emergency Transportation Authority is to cooperate with ABAG and MTC in developing a n emergency water transportation system management plan for water transportation services in the bay area region.¹⁰³

The MTC is created directly by state law – the Metropolitan Transportation Commission Act.¹⁰⁴ MTC is the designated transportation planning agency for the San Francisco Bay region.¹⁰⁵ MTC includes 19 members appointed by the region's counties, ABAG, and SFBCDC, as well as nonvoting members appointed by state and federal agencies. MTC is required to "negotiate equitable agreements" with ABAG and

transit/transportation agencies in the region for the contribution of funds or services for its general support and matching of federal funds.¹⁰⁶

MTC must prepare a regional transportation plan that considers the elements required for transportation improvement plans required by federal law, and the transportation plans of cities, counties, districts, private organizations, and state and federal agencies.¹⁰⁷ The plan must include:

- A policy element (along with optional indicators such as modal split).
- A sustainable communities strategy subject to greenhouse gas (GHG) emission reduction targets, and alternative development patterns. This does not regulate land use, except as provided in the technical methodology, and does not override local plans or land use regulations.
- An action element that describes the programs and actions necessary to implement the plan and assigns implementation responsibilities. The action element may describe all transportation projects proposed for development during the 20-year or greater life of the plan. The action element must consider congestion management programming activities carried out within the region.
- A financial element that summarizes the cost of plan implementation constrained by a realistic projection of available revenues.
- Other factors of local significance as an element of the regional transportation plan, including, but not limited to, issues of mobility for specific sectors of the community, including, but not limited to, senior citizens.

MTC must consider regional plans developed by ABAG and other agencies (such as SFBCDC) in developing the regional transportation plan.¹⁰⁸

The sustainable communities strategy described above is part of landmark regional planning legislation adopted by California in 2008.¹⁰⁹ It is a collaborative effort of both regional agencies.¹¹⁰ Each agency's responsibilities are summarized below:

Table 2 California Sustainable Communities Strategy legislation regional responsibilities

	MTC	ABAG
Identify the general location of uses, residential densities, and building intensities within the region		✓
Identify areas within the region sufficient to house all the population of the region, including all economic segments of the population, over the course of the planning period of the regional transportation plan taking into account net migration into the region, population growth, household formation and employment growth.		✓
Identify areas within the region sufficient to house an eight-year projection of the regional housing need for the region		✓
Identify a transportation network to service the transportation needs of the region	✓	
Gather and consider the best practically available scientific information regarding resource areas and farmland in the region.		✓
Consider the state housing goals identified by statute.		✓
Set forth a forecasted development pattern for the region, which, when integrated with the transportation network, and other transportation measures and policies, will reduce the greenhouse gas emissions from automobiles and light trucks to achieve, if there is a feasible way to do so, the greenhouse gas emission reduction targets approved by the state board.	✓	✓
Allow the regional transportation plan to comply with Section 176 of the federal Clean Air Act (42 U.S.C. Sec. 7506).	✓	

The statutes establish a “joint policy committee” for ABAG, MTC, the other regional agencies such as SFBCDC and the Bay Area Air Quality Management District (AQMD), and the region’s 9 counties.¹¹¹ ABAG and MTC formed the "ABAG-MTC Task Force" in 2003 to review methods to improve comprehensive regional planning, including possible organizational and structural changes to ABAG and MTC. The ABAG-MTC Task Force set aside the issue of a merger between the ABAG and MTC and agreed to develop a better structure for coordinated regional planning. The joint policy committee is to develop staff support for that committee and work on short- and long-term goals and facilitate progress on regional transportation matters. The joint policy committee is to coordinate the development and drafting of major planning documents prepared by ABAG, MTC, the Bay Area Air Quality Management District, and the San Francisco Bay Conservation and Development Commission, including reviewing and commenting on major interim work products and the final draft comments prior to action by ABAG, MTC, AQMD and SFBCDC. These documents include:

- the regional transportation plan prepared by MTC
- The ABAG Housing Element planning process for regional housing needs
- The Bay Area Air Quality Management District's Ozone Attainment Plan and Clean Air Plan
- The San Francisco Bay Plan and related documents

Plan Implementation Summary

Goals and Policies

A key policy initiative for ABAG is FOCUS, an incentive-based regional development and conservation strategy that promotes a more compact land use pattern for the Bay Area. The primary purpose of FOCUS is to increase “housing near transit”. It is led by ABAG and MTC, with support from the Bay Area Air Quality Management District and the Bay Conservation and Development Commission and in partnership with congestion management agencies, transit providers, and local governments throughout the Bay Area.

FOCUS encourages focused growth through a voluntary, incentive based development and conservation strategy. FOCUS provides an opportunity for local governments and the regional agencies to work together to create complete, livable communities. These communities will, in turn, help achieve a more efficient, equitable, and environmentally sustainable region.

Central to FOCUS are Priority Development Areas (PDAs) that are locally identified, infill development areas near transit; and Priority Conservation Areas (PCAs), which are regionally significant open spaces for which there exists a broad consensus for long-term protection. These areas are shown on the map below and represent the region’s land use vision.

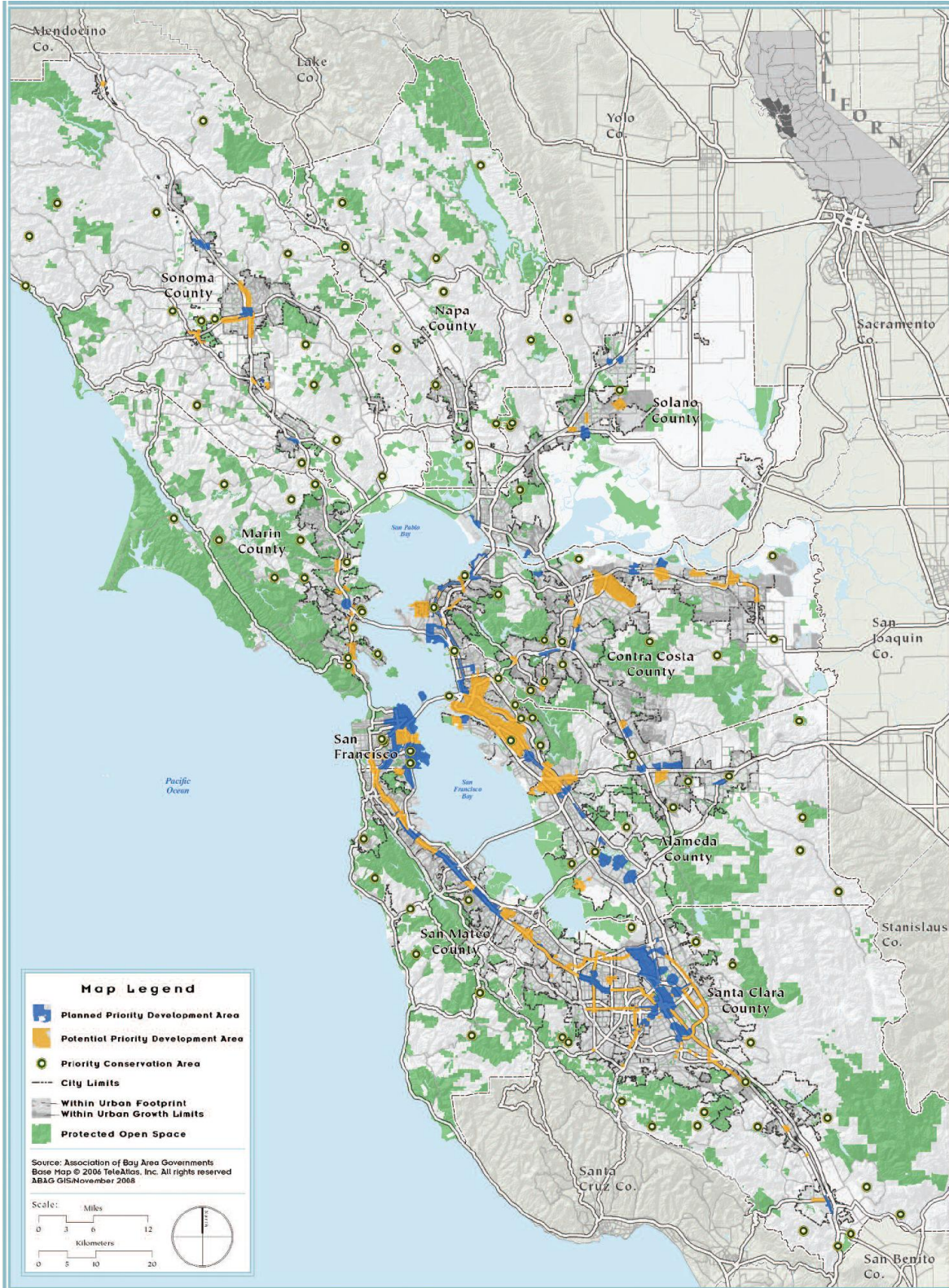


Figure 9 ABAG Priority Development Area map

Implementation Activities

To implement FOCUS, local jurisdictions apply to ABAG to have areas designated as either potential or planned PDAs. To qualify the local jurisdiction must demonstrate that the area (with a recommended size of 100 acres or ¼ mile radius around a transit stop) is within an existing community, near existing or planned fixed transit (or served by comparable bus service), and is planned or is planning for more housing.

Existing Community means that the area is within an existing urbanized area, lies within an urban growth boundary or limit line if one is established, and has existing or planned infrastructure to support development that will provide or connect to a range of services and amenities that meet the daily needs of residents making non motorized modes of transportation an option.

Near Transit means (1) the area around an existing rail station or ferry terminal (typically a half-mile around the station), (2) the area served by a bus or bus rapid transit corridor with minimum headways of 20 minutes during peak weekday.

Housing means the area has plans for a significant increase in housing units, including affordable units, which can also be a part of a mixed use development that provides other daily services, maximizes alternative modes of travel, and makes appropriate land use connections.

The distinction between potential and planned PDA is based on whether the local jurisdiction's comprehensive plan and other supporting documentation is mostly policies or actual plans for the area.

Being designated a PDA opens up various funding opportunities: station area planning grants, a technical planning assistance program, and a transportation for livable communities program.

- The station area planning grants are for PDAs to do comprehensive plans for the area. The program has between \$3-5 million available each year and offers grants between \$100 and \$700 thousand. There is a local match of 25 percent.
- The technical planning assistance program offers small grants of up to \$50,000 to “clear roadblocks” in the planning process. That is, if there are technical issues that are preventing the plan from moving forward such as parking requirements, land banks, urban design, etc. a jurisdiction can apply for consultant assistance to provide expert advice. ABAG offers these grants twice a year. They would like to do quarterly, but are not able to handle the workload involved. This program has just started and gone through one cycle of applications. There is \$500,000 available per year.
- The transportation for livable communities program is targeted toward capital improvements of transit infrastructure. This program has been around for several years and was started before the FOCUS effort. Annually, it offers up to six projects between \$1 – 2 million in infrastructure improvements. Originally these funds were available for sidewalk and street improvements, lighting, paving, etc. at stations. The program was recently changed so that the projects can go beyond “the street” and now include water and sewer and other improvements at the site. The reason for the change is that they were finding infrastructure capacity – especially water and sewer was a limiting issue in developing at transit nodes.

The station area planning grants and the technical assistance program are jointly funded by MTC and ABAG. The transportation for livable communities program is funded by MTC.

California's SB 375, which requires regions to develop sustainable communities strategies and make a connection between transportation and land use and GHG, will have a strong influence on MTC's upcoming transportation plan update. FOCUS and ABAG's regional housing needs allocation will be

Barriers to implementation

important inputs into the transportation plan.

The program is voluntary and incentive based, however building urban centers and nodes is a common goal among many of the jurisdictions. Housing is an issue in the region and how/where affordable housing will be located/distributed is a concern that has not yet become a barrier, but could in the future.

A barrier to implementation raised about the previous regional vision, which was “a failure”, was limited discussions with local jurisdictions about what they wanted. The FOCUS effort spent a lot of upfront time talking with local jurisdictions about how they wanted to frame the FOCUS program. This, and continuing engagement, involvement, and conversations with the jurisdictions, is viewed as one of the reasons for the program’s current success.

Final results

FOCUS is a fairly new vision (it has only been in place four years), but in that time, nearly 60 jurisdictions have submitted successful applications for more than 100 PDAs. ABAG has approved 106 PDAs and 98 PCAs.¹¹² The areas include most of the places in the Bay Area served by fixed transit, major bus corridors, or planned transit under MTC’s Resolution 3434. Together, these areas comprise about 115,000 acres of urban and suburban land, less than 5 percent of the Bay Area’s total land area. However, even though this is a small proportion of the region’s land area, the proposed PDAs could accommodate over half of the Bay Area’s projected housing growth to the year 2035, mostly at relatively moderate densities.

APPLICATIONS

Actions that are beyond ARC's current approach

Our review of regional plan implementation programs yielded a modest number of tools not currently used by the ARC. We also identify some additional ideas that come from our understanding of the ARC context.

1. **Directed Growth Tools.** Other regions have used regulatory and non-regulatory tools to influence regional growth patterns. An example of the regulatory approach is an urban growth boundary, while non-regulatory tools include urban service and preferred investment areas.

Growth Boundaries are one of the most widely discussed mechanisms for controlling regional urban form. As is discussed in the Task 2 report, a voluntary boundary seems to be within ARC's authority to designate, and fits within local implementation authority in Georgia. This would require an extensive discussion of where and how boundaries will be drawn, regional growth projections, and the regulatory tools used to "hold" the boundaries. ARC would play a pivotal role, in collaboration with local governments, in establishing regional policies and criteria for urban form. However, regulatory implementation would reside with the region's cities and counties.

The Met Council is an example of a regional **Urban Service Area**. While the region is feeling pressure at its edges, the Twin Cities's MUSA is regarded as successful in controlling regional urban form. The Met Council has had an advantage in that it controls regional sewer services. However, a collaborative effort to control service extensions is within the purview of a regional planning effort, and can be easier to defend legally than regulatory approaches.

Several of the regional entities we studied, such as DRCOG, ABAG and the Met Council, use advance planning and mapping to identify **preferred public infrastructure investment areas**. In some states (for example, Preferred Development Areas in Maryland's smart growth legislation) this provides a key element of the growth management system.

Georgia's local governments have strong zoning powers and it is nearly impossible for the State or any regional body to impose any restrictions on the use of that power, other than procedural matters. However, infrastructure drives development, and the State has a great deal of influence over infrastructure funding. Urban high density development requires roads, sewer and water. Many of the concepts discussed to guide growth, such as growth boundaries and urban service areas, are given real teeth if they are backed up by limitations on infrastructure development. Other than SPLOST funded projects, many if not most road, water and sewer projects rely on some state funds or state agency loans.

This approach could build on ARC's role as an MPO and Regional

Commission/MAPDC. One example is the Livable Centers initiative, with appropriate mapping that designates the centers in advance of applications for the funding of an LCI study. ARC could establish a map or criteria in its development guide for the preferred location of high capacity infrastructure investments and relate this to TIP recommendations. Coordination with the TIP or other infrastructure investments would give the designations meaning. The long range transportation plan could specifically designate centers or corridors for high capacity transportation and transit facilities. Local governments could map these locations as part of their comprehensive plans.

The region and local governments could tie **Water and Utility Allocation** policies to growth objectives. Water may soon become a limiting factor for growth. The location and capacity of water (and sewer) supplies has an impact on the timing and density of new development. ARC and local governments could work with the Metropolitan North Georgia Water Planning District and water providers to designate, for example, “centers and developed and developing areas” in the regional water supply and wastewater plans. These could link to areas that are scheduled for more intensive, mixed use development that conforms to regional land use policies and to areas of preferred transportation investment.

2. **Housing Allocation Plans.** Regional housing allocation models were pioneered by the Miami Valley Regional Planning Commission (Dayton) in 1970 as part of the United States Department of Housing and Urban Development’s 701 Program.¹¹³ The Twin Cities Metropolitan Council was cited as having some success with early housing allocation models, and prepared a Housing Opportunity Plan (HOP) through which it became one of the earliest recipients of bonus Section 8 housing funds.¹¹⁴ The HOP required a system for allocating housing assistance outside of areas of undue low income household concentrations.

In the Atlanta region, the cost of housing has not posed the critical burden that it has in the more expensive regions studied in this report, such as San Francisco. Therefore, this issue may not be as critical as the impacts of dispersed growth patterns. However, allocation programs, inclusionary zoning, and other tools are useful ways to provide a mix of housing and households in new communities.

3. **New Planning Issues.** ARC’s programs focus principally on urban form and infrastructure issues. Some of the other agencies are addressing cutting edge issues such as climate change and food system planning. ARC’s enabling legislation is sufficiently broad to encompass non-traditional planning issues, if there is the desire and political will to address them.
4. **Marketing.** As with DVRPC’s “Classic Towns” program, ARC could develop a program to creatively market its centers. The region is blessed with interesting historic centers and natural beauty. An integrated marketing theme could improve regional cooperation and a sense of regional identity.

Actions that are within ARC's legal framework or legal authority

5. **Comprehensive Development Guides.** Both the Twin Cities Met Council and the ARC are authorized to publish regional “development guides.” However, the Minnesota legislation explicitly authorizes the Met Council to become directly involved in the plan adoption process, and to make consistency determinations. While ARC may recommend modification of plans to maintain consistency with the development guides, the statutory language and regional planning culture are stronger in the Twin Cities region. Therefore, the level of regional involvement in local planning decisions in the Twin Cities region appears to be stronger than it is in the Atlanta region.

6. **Mediation.** Georgia law assigns to the Georgia Department of Community Affairs (DCA) the authority to develop rules to mediate interjurisdictional conflicts between plans and for developments of regional impact. California has broader authority for regional agencies to mediate a broad range of development disputes, including rezonings. Their state law also establishes a Local Area Formation Commission (LAFCO) process for orderly annexations. The Georgia DCA’s rules apply the mediation / alternative dispute resolution (ADR) process to both plans and plan implementation, and assign the Regional Commissions (i.e., ARC in the Atlanta region) the authority to process applications for ADR. Mediation can provide a useful way to avoid litigation costs, but is often viewed with suspicion by parties to a land use dispute. ARC could establish incentives to mediate claims, particularly where litigation threatens the development of projects that are consistent with regional goals and objectives.

7. **Intergovernmental Agreements.** Some of the peer agencies use intergovernmental agreements to accomplish regional land use objectives. An example is Denver’s Mile High Compact, which brings together the region’s local governments to support the region’s long range plan. Georgia’s Constitution, Article IX, Section III, Paragraph I provides that counties and municipalities may contract with one another to provide services for any period up to fifty years. Georgia does not have a regional planning commission law (as in Colorado) that requires regional review and approval of road and utility projects. However, like DRCOG, ARC can implement regional policies by engaging local governments, providing advice, coordinating public outreach and education, and working toward consensus for a common comprehensive plan. Many of the initiatives it started in the 2025 Land Use Strategy – such as the Land Use Coordinating Committee and Community Choices – do just that.

Several of the agencies studied in this report (DRCOG, NCTCOG) are voluntary councils of government (COGs) that are created by intergovernmental agreements. Regional Commissions in Georgia are creatures of the General Assembly, and not under the control of the local governments. In Georgia, a regional agency could use the intergovernmental agreement power, along with the local governments’ powers to contract to provide services, to provide for review processes and services to the local governments. For example, the

NCTCOG provides services outside land use planning. A regional program that is oriented to service provision rather than planning mandates could be perceived as more of a resource that benefits local governments rather than a top-down mandate. In addition, since the function would be voluntary and created by the local governments, rather than imposed by statute, it would be less threatening to local autonomy.

8. **Common Zoning Ordinances.** Local governments in Pennsylvania and New Jersey have implemented regional land use controls and multi-jurisdictional zoning ordinances. Local governments in Georgia can use this technique also. This requires the participating jurisdictions to adopt the same ordinance. For example, Albany and Dougherty County, while not a unified government, have adopted the same zoning ordinance and have a common planning commission. There is no limit to the number of governments that could adopt an identical or similar ordinance. This could involve regional or countywide planning commissions, or a series of joint planning commissions. A disadvantage of Planning Commission functions at this scale is the increase in their workload. However, there are also economies of scale that would benefit local governments, such efficiencies in staffing, and providing the tools to perform development reviews (for example, common permitting software).
9. **Land Use Maps.** The MPOs reviewed have very different land use maps and authority associated with them. Metropolitan Council and NCTCOG represent the two ends of the spectrum.

In the Minneapolis/St. Paul region, local jurisdictions are required by state law to modify their comprehensive plans so that they are in concert with the regional land use and MUSA plan maps developed by Metropolitan Council. The Metropolitan Council's plans are created by looking at the capacity and expansion plans for the urban services the Council provides. At the other end of the spectrum, NCTCOG's map has no correspondence with local plans. The preferred physical development pattern is an aspiration that was generated through public visioning workshops.

Between the Metropolitan Council and NCTCOG extremes lie ABAG/MTC, DRCOG, and DVRPC. Of the three, DRCOG has the strongest connection to local plans. The DRCOG Board allocates growth to each community and the community, working with DRCOG, determines the specific geographic location for the growth boundary. The ABAG/MTC map also has a strong connection to local plans, but it is driven from the bottom up rather than from the top down as at DRDOG. The ABAG/MTC map depicts the Planned and Potential Priority Development Areas local jurisdictions have applied to ABAG to have designated. In order to be approved by ABAG (and shown on the map), the local comprehensive plan needs to meet specific criteria. DVRPC's map is a highly generalized map that focuses on existing and future growth areas, greenspace networks, and rural conservation lands. It tries to be consistent with local plans

and does not require local plans to be modified to meet it.

Table 3 Land Use Maps

	Size (sq. mi)	Map legend/ key features	Correspondence with local plans	Basis for map	Methodology to produce map	Authority of map
ABAG / MTC	7,000	<ul style="list-style-type: none"> Planned and Potential Priority Development Areas (PDAs) Priority Conservation Areas (PCAs) Protected Open Space 	Moderate	Shows PCAs and Planned and Potential PDAs	Jurisdictions apply for PDA and PCA status; if criteria are met, ABAG approves and is shown on map	Shows specific PDA locations for TOD related investments and land use action which allows locals to receive funding from ABAG and support
DRCOG	5,082	<ul style="list-style-type: none"> 2035 urban growth boundary/area Urban centers Rural town centers Major wastewater treatment facilities Airports Rapid transit system Major roadways Parks and open space 	Strong	Generalized and accurate representation of local plans	DRCOG Board allocates growth areas to each community based on historical development trends and future projections. Working with DRCOG, each community determines the specific geographic location of this growth allocation	General guidance and aspiration
DVRPC	3,380	<ul style="list-style-type: none"> Existing growth area Future growth area Greenspace network Rural conservation lands 	Moderate	Highly generalized depiction of existing growth area, future growth area, greenspace network, and rural conservation lands	The map tries to be consistent with local plans, but is not a composite.	New capacity transportation projects (highway and transit) are centered on existing and future growth areas. These are the areas the region would like to see growth and where it is choosing to make its transportation investments.
Metropolitan Council: Planning Areas Map	3,000	<ul style="list-style-type: none"> Developing Area Developed Area Rural Center Agricultural Diversified Rural Rural Residential Current and future transit corridors Current and future principal arterials 	Local jurisdictions need to comply with Metropolitan Council's framework when updating their comprehensive plans	Under state law, the Metropolitan Council is responsible for creating a comprehensive development guide for the seven-county area.	System plans for transportation, aviation, wastewater treatment, and regional parks form the basis of the regional map	Local jurisdictions required to comply

	Size (sq. mi)	Map legend/ key features	Correspondence with local plans	Basis for map	Methodology to produce map	Authority of map
Metropolitan Council: Metropolitan Urban Service Area (MUSA)	3,000	<ul style="list-style-type: none"> • 2010 MUSA • 2020 MUSA • 2030 MUSA • 2010 MUSA (local sewer system) • 2020 MUSA(local sewer system) • 2030 MUSA(local sewer system) • Undesignated MUSA • No MUSA 	Local jurisdictions need to comply with Metropolitan Council's framework when updated their comprehensive plans	The Council oversees provision of urban services under the authority of the Metropolitan Land Planning Act in state law.	Based on urban services capacity and expansion plans	Synchronizes growth with the provision of infrastructure needed to accommodate it
NCTCOG	12,370	<ul style="list-style-type: none"> • Metropolitan mixed use centers • Regional mixed use centers • Natural areas • Separate communities • Inner tier • Outer tier • Rural 	None	Policy and vision driven; different than local plans	Public visioning workshops	Aspirational; describes a preferred physical development pattern
ARC: Atlanta Unified Growth Policy Map	2,987 (10-County planning region) 4,500 (MPO planning area)	<ul style="list-style-type: none"> • Mega corridors • Urban neighborhoods • Suburban neighborhoods • Rural areas • Central City • Regional center • Town center • Station communities • Urban redevelopment corridors • Freight areas • LCI Areas • Strategic new alignments 	Composite of Local Plans and Regional Policy	ARC creates development guides under state law for the prescribing an orderly and economic development, public and private, of the area.	Based on local plans and outreach with Regional Stakeholder.	Aligns growth areas and regional policy with Transportation Investments

CONCLUSION

The approaches taken by the peer agencies reviewed in this report do not depart significantly from ARC's regional policy direction. Most are striving to encourage more efficient land uses, fiscally responsible development, and compact, transit friendly land use patterns. ARC's status as a regional agency with direct enabling legislation provides an important legal basis for developing sound, effective approaches to regional plan implementation.

One key distinction between ARC and its peer agencies is the strength of local land use control in Georgia. The Georgia Constitution places zoning power in the hands of local governments (except for procedure). In other states, land use authority is either derived from state legislation, or is subject to preemption by the state legislature. The strength of local authority creates competing visions of land use and development that results in incompatible development and growth patterns. While land use regulations are largely a local function in all states, Georgia direction constitutional authorization is unique. This substantially limits State's the ability to mandate "top down" change (short of an amendment to the Constitution). However, ARC can use a number of tools that are similar those in its peer regions, based on a collaborative process with local governments.

Several of the regions have taken more aggressive steps than ARC to control the location of urban development, and in particular to expand the regional footprint in an orderly manner. This requires careful collaboration with local governments, even in regions such as the Twin Cities where regional agencies have powerful legal authority. ARC certainly has the authority to take a central role in formulating policies and working with local governments to assist them in implementing comprehensive plans.

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In preparing this report, we were able to interview key staff persons at four of the six agencies (in addition to an agency not on our study list – Boston’s Metropolitan Area Planning Council), and collected and collected over 1,037 documents including reports, plans and studies relating to the regional agencies, statutes, court opinions, and related material. We have not attempted to list all of those materials here. We also reviewed reports and studies on the state of art in regional planning. A list of national reports/studies and our interview list is set out below.

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ENDNOTES

¹ Based on the 2000 Census, the metropolitan area population and ranking for each region was: San Francisco--Oakland--San Jose, CA CMSA (5th – population 7,039,362); Philadelphia--Wilmington--Atlantic City, PA--NJ--DE--MD CMSA (6th – population 6,188,463); Dallas--Fort Worth, TX CMSA (9th – population 5,221,801); Minneapolis--St. Paul, MN--WI MSA (15th – population 2,968,806); and Denver--Boulder--Greeley, CO CMSA (19th – population 2,581,506). The Atlanta, GA MSA ranked 11th with a population of 4,112,198). See United States Census 2000 PHC-T-3. Ranking Tables for Metropolitan Areas: 1990 and 2000, Table 3. As of July 1, 2009, all of the metropolitan areas remained in the top 20 except for Denver, which ranked 21st:

Metropolitan Area	Population	Rank
Dallas-Fort Worth-Arlington, TX	6,447,615	4
Philadelphia-Camden-Wilmington, PA-NJ-DE-MD	5,968,252	5
Atlanta-Sandy Springs-Marietta, GA	5,475,213	9
San Francisco-Oakland-Fremont, CA	4,317,853	13
Minneapolis-St. Paul-Bloomington, MN-WI	3,269,814	16
Denver-Aurora-Broomfield, CO	2,552,195	21

² 23 U.S.C. § 134(b)(1), -(e).

³ DVRPC, “About Us,” at <http://www.dvrpc.org/About>; 73 Penn. Stat. § 701; N.J.S.A. 32:27-2 et seq. The Pennsylvania legislation was reenacted and amended in 1967, and the New Jersey legislation was adopted in a series of conforming acts passed between 1966 and 1974.

⁴ *National Land & Investment Co. v. Kohn*, 419 Pa. 504, 215 A.2d 597 (1965).

⁵ *In re Petition of Dolington Land Group*, 576 Pa. 519, 839 A.2d 1021 (Pa., 2003)(citing Article VIII-A of the Pennsylvania Municipalities Planning Code (MPC), the Act of July 31, 1968, P.L. 805, as amended, 53 P.S. §§ 10801-A through 10821-A, added by Act No 68 of June 22, 2000).

⁶ *Southern Burlington County N.A.A.C.P. v. Mount Laurel Tp.*, 67 N.J. 151, 336 A.2d 713 (N.J.), cert. denied, 423 U.S. 808, 96 S.Ct. 18, 46 L.Ed.2d 28 (1975); *Southern Burlington County N.A.A.C.P. v. Mount Laurel Tp.*, 92 N.J. 158, 456 A.2d 390 (N.J. 1983); see New Jersey Fair Housing Act (N.J.S.A. 52:27D-301 et seq..

⁷ Pennsylvania Municipalities Planning Code, § 107.

⁸ N.J.S.A. § 40:55D-77.

⁹ N.J.S.A. § 40:55D-84.

¹⁰ N.J.S.A. § 32:27-8, -7; 73 Penn. Stat. § 701 (Art. I, section 7; Art. II, section 1) .

¹¹ N.J.S.A. § 32:27-4; 73 Penn. Stat. § 701 (Art. I, section 4).

¹² N.J.S.A. § 32:27-9; 73 Penn. Stat. § 701 (art. II, section 2).

¹³ N.J.S.A. § 32:27-24; 73 Penn. Stat. § 701 (art. V, section 1).

¹⁴ N.J.S.A. § 32:27-16; 73 Penn. Stat. § 701 (art. II, section 9).

¹⁵ N.J.S.A. § 32:27-20; 73 Penn. Stat. § 701 (art. III, section 4).

¹⁶ N.J.S.A. § 32:27-17; 73 Penn. Stat. § 701 (art. III, section 1).

¹⁷ N.J.S.A. § 32:27-18; 73 Penn. Stat. § 701 (art. III, section 2).

¹⁸ N.J.S.A. § 32:27-18; 73 Penn. Stat. § 701 (art. III, section 2).

¹⁹ N.J.S.A. § 32:27-18; 73 Penn. Stat. § 701 (art. III, section 2).

²⁰ See Municipal Implementation Tools, at <http://www.dvrpc.org/SmartGrowth/>.

²¹ Colo. Rev. Stat. § 30-28-105; Denver Regional Council of Governments, *Metro Vision 2035 Plan* (adopted December 19, 2007)(Abstract).

²² Colo. Rev. Stat. § 30-28-105.

²³ Colo. Rev. Stat. § 30-28-106.

²⁴ Colo. Rev. Stat. § 30-28-106; 31-23-206.

²⁵ Colo. Rev. Stat. § 30-28-110(1).

²⁶ Colo. Rev. Stat. § 30-28-110(2).

²⁷ Colo. Rev. Stat. § 43-2-145.

²⁸ Colo. Rev. Stat. § 32-11-221.

²⁹ The percent of the region was estimated by the author because the total land area of the region is not readily available from DRCOG's website. DRCOG recently added southwestern Weld County to its MPO planning area. DRCOG, *Incorporation of Southwest Weld into Metro Vision 2035* (Final Report - Adopted August 19, 2009). The report provides the total urban development in southwest Weld County (85.6 square miles) but not its total land area. We added the land area of the expanded Census designated Urbanized Area (498.83 square miles) to the total land area of each county based on Census data to arrive at a total land area of 5,580.83 square miles. See U.S. Census Bureau, *Alphabetically-sorted corrected National list of UAs*, at

<http://www.census.gov/geo/www/ua/uainfo.html#lists>; Source: *Census Quick Facts* at

<http://quickfacts.census.gov/qfd/states/08/08005.html>; City & County of Broomfield data from

<http://www.broomfield.org/planning/demographics/index.shtml>. The 2030 Metro Vision urban growth boundary was 750 square miles. DRCOG, *Metro Vision 2030 Plan* (Adopted January 19, 2005).

³⁰ *City of Lake Elmo v. Metropolitan Council*, 685 N.W.2d 1,4 (Minn., 2004).

³¹ Henton, Melville & Paar, "Governing Complexity: the Emergence of Regional Compacts," in D. Soule, *Remaking American Communities: A Reference Guide to Urban Sprawl*. Westport, Conn.: Greenwood Press, 2006, at 370-71; Walker, "The Evolution of Regional Governance," in Kemp, Roger L, *Regional Government Innovations : A Handbook For Citizens And Public Officials* (Jefferson, N.C. : McFarland & Co., 2007), at 29-30. The "three-tier" approach is not explicitly defined in these publications, but is listed as the most aggressive of 18 possible approaches.

³² McDowell, "The State of Regional Government," in Kemp, supra note **Error! Bookmark not defined.**, at 55.

³³ Minn. Stat. § 473.123.

³⁴ A Bold Experiment: Met Council at 40, at http://www.tpt.org/mnchannel.new/partner_video/met_council.html.

³⁵ Minn. Stat. § 473.145.

³⁶ Minn. Stat. § 473.856.

³⁷ Minn. Stat. § 473.171 (master water supply plan).

³⁸ The Council must develop a water resources plan that includes management objectives and target pollution loads for watersheds in the metropolitan area (Minn. Stat. § 473.157), and enter into agreements and spend funds to implement "total watershed management" to identify and quantify at a watershed level the (1) sources of pollution (both point and nonpoint), (2) causes of conditions that may or may not be a result of pollution, and (3) means of reducing pollution or alleviating adverse conditions (Minn. Stat. § 473.505).

³⁹ *City of Lake Elmo v. Metropolitan Council*, supra (citing Minn Stat. §§ 473.146, 473.851, 473.852, subd. 8); see also Minn. Stat. § 473.147 (prepare and adopt a Regional Recreation Open Space System Policy Plan, including a 5-year capital improvement program); . The statute requiring a long-range comprehensive transportation and wastewater plan (§ 473.146) includes a transportation development guide requirement, and designates the Met Council as the region's MPO. The Council conducts a performance evaluation of the metropolitan area's transportation system before each major revision to the transportation policy plan. Minn. Stat. § 473.1466.

⁴⁰ Minn. Stat. § 473.165.

⁴¹ Minn. Stat. § 473.175.

⁴² *City of Lake Elmo v. Metropolitan Council*, supra. The statute prohibits the Council from requiring a local government to build a new sewer system, but this does not prohibit it from requiring it to connect to the regional system.

⁴³ Minn. Stat. § 473.25 et seq.

⁴⁴ Livable Communities Grant Program, at <http://www.metrocouncil.org/services/livcomm.htm>.

⁴⁵ Minn. Stat. § 473.173.

⁴⁶ Minn. Stat. § 473.191 ((through contracts or "other arrangements"), -.897.

⁴⁷ Minn. Stat. § 473.129, subd. 5.

⁴⁸ Minn. Stat. § 473.171.

⁴⁹ Minn. Stat. § 473.223.

⁵⁰ Minn. Stat. § 473.371 to -.449.

⁵¹ Minn. Stat. § 473.166.

⁵² Minn. Stat. § 473.167.

⁵³ Minn. Stat. § 473.168.

⁵⁴ Minn. Stat. § 473.501 to -.549.

⁵⁵ Minn. Stat. § 473.515.

- ⁵⁶ Minn. Stat. § 473.513.
- ⁵⁷ Minn. Stat. § 473.181, subd. 2, -.313.
- ⁵⁸ Minn. Stat. § 473.301 et seq.
- ⁵⁹ Minn. Stat. § 473.181, subd. 5.
- ⁶⁰ Minn. Stat. § 473.197.
- ⁶¹ Minn. Stat. § 473.23.
- ⁶² Minn. Stat. § 473.23.
- ⁶³ Minn. Stat. § 473.24.
- ⁶⁴ Minn. Stat. § 473.241.
- ⁶⁵ Minn. Stat. § 473.242.
- ⁶⁶ Minn. Stat. § 473.244.
- ⁶⁷ Minn. Stat. § 473.243.
- ⁶⁸ Metropolitan Council, *Regional Development Framework* (amended December 14, 2006), at 8; Council, *Metropolitan Urban Service Area Facts* (August 2006).
- ⁶⁹ *Revised Metropolitan Urban Service Area (MUSA) Implementation Guidelines* (November 2007).
- ⁷⁰ *Regional Development Framework*, *supra*.
- ⁷¹ *Concept Props., LLP v. City of Minnetrista*, 694 N.W.2d 804, 815 (Minn. App. 2005) (affirming city's denial of rezoning based in part on city's desire to avoid urban sprawl), *review denied* (Minn. July 19, 2005).
- ⁷² Minn. Stat. § 473.175.
- ⁷³ Texas Government Code § 391.003.
- ⁷⁴ Texas Government Code § 391.003.
- ⁷⁵ Texas Government Code § 2105.001.
- ⁷⁶ Texas Special District Local Laws Code §§ 8107.102, 8108.102, 8125.102, 8126.102, 8138.102.
- ⁷⁷ This includes, for example, personnel surge capacity during disasters (Texas Government Code § 418.1882).
- ⁷⁸ Texas Health & Safety Code § 363.0615.
- ⁷⁹ See emission reduction credit organizations (Texas Health & Safety Code chapter 384), clean school bus/clean fleet programs (Texas Health & Safety Code §§ 390.003, -.004).
- ⁸⁰ See child abuse prevention and protection plan (Family Code § 264.010), and appointment of substance abuse treatment professionals (Texas Government Code § 76.003), formula calculations for apportionment of revenues for Crime Control and Prevention Districts (Texas Local Government Code § 363.154). Local governments must notify the COG of any intent to submit applications for federal funds and for inclusion in the regional criminal justice planning process (Texas Local Government Code § 363.152). The COG may participate in some programs through contracts with counties or municipal governments, include low income vehicle repair assistance (Texas Health & Safety Code § 382.209), air quality improvement (Texas Health & Safety Code § 382.220).
- ⁸¹ Texas Transportation Code § 222.074.
- ⁸² Texas Local Government Code § 242.001.
- ⁸³ Texas Local Government Code § 232.102.
- ⁸⁴ Texas Transportation Code § 201.619.
- ⁸⁵ Texas Transportation Code § 201.973.
- ⁸⁶ TCEQ Emissions Banking and Trading web page at <http://www.tceq.state.tx.us/nav/eq/banking.html>; Texas Health & Safety Code chapter 384.
- ⁸⁷ See TCEQ web page at http://www.tceq.state.tx.us/implementation/air/banking/air_banking_links.html. The banking and trading of emission credits has declined in the DFW area due to the 2001 nonattainment designation, and that the AERCO Board is not currently meeting or providing trading assistance pending the development of a new DFW area SIP or a more active emission trading market. See NCTCOG Committees at <http://www.nctcog.org/edo/Committees.pdf>.
- ⁸⁸ *Associated Home Builders etc., Inc. v. City of Livermore*, 18 Cal.3d 582, 557 P.2d 473, 135 Cal.Rptr. 41 (1976).
- ⁸⁹ Cal. Government Code §§ 65580-65589.8.
- ⁹⁰ Cal. Government Code § 6500 et. seq.; *Gonzales v. Gorsuch*, 688 F.2d 1263 (9th Cir. 1982).
- ⁹¹ ABAG, "Introduction to ABAG Housing Program," at <http://www.abag.ca.gov/housing-top.html>.
- ⁹² Cal. Health and Safety Code § 40717.
- ⁹³ Cal. Government Code § 66031.
- ⁹⁴ Cal. Health and Safety Code § 53563.
- ⁹⁵ Cal. Pub. Res. Code § 5850.
- ⁹⁶ Cal. Government Code § 53098-53098.2.
- ⁹⁷ Cal. Government Code § 66620.
- ⁹⁸ Cal. Government Code §§ 66603.
- ⁹⁹ Cal. Government Code § 66631.

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- ¹⁰⁰ Cal. Government Code § 66694.
- ¹⁰¹ Cal. Government Code § 66700.5.
- ¹⁰² Cal. Government Code § 66703.
- ¹⁰³ Cal. Government Code § 66540.32.
- ¹⁰⁴ Cal. Government Code § 66500-66536.2.
- ¹⁰⁵ Cal. Government Code § 29532.1.
- ¹⁰⁶ Cal. Government Code § 66521.
- ¹⁰⁷ Cal. Government Code § 65080.
- ¹⁰⁸ Cal. Government Code § 66509.
- ¹⁰⁹ California Association of Councils of Governments, *Guide To Regional Planning As Revised By SB 375* (Jan. 2009); Rivasplata, "A New Era for Regional Planning in California: A Look at Senate Bill 375," *The Impact Report* (Nov. 2008).
- ¹¹⁰ Cal. Government Code § 65080. The strategy is subject to Part 450 of Title 23 of, and Part 93 of Title 40 of, the Code of Federal Regulations, including the requirement to utilize the most recent planning assumptions considering local general plans and other factors.
- ¹¹¹ Cal. Government Code § 66536.
- ¹¹² ABAG, *Budget and Work Program Fiscal Year 2009-2010*.
- ¹¹³ American Bar Association, and Richard P. Fishman, *Housing for All Under Law: New Directions in Housing, Land Use, and Planning Law : a Report of the American Bar Association, Advisory Commission on Housing and Urban Growth* (Cambridge, Mass: Ballinger Pub. Co, 1978), at 468-71.
- ¹¹⁴ Fishman, *supra* note 113.