



Overview of State and Local Codes and Ordinances: Needs For The Future

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Audience Composition: Raise Hands Separately for those from...

- Municipalities (cities, villages, townships)
- Counties
- State agencies
- Federal agencies
- Environment organizations
- Private businesses
- Other nonprofit organizations
- Others



One or Two Words (No Sentences) on
Why this Topic is of Interest to You





Michigan's "System" is Complex, Convoluted, and Confusing

- ▶ "System" refers to the environmental protection system
- ▶ Large number of players
 - ▶ Federal government
 - ▶ State, counties, municipalities, landowners, stakeholders
 - ▶ Private sector: product and services businesses & consultants
 - ▶ Courts
- ▶ System evolved as parts and never had an effort to be viewed and then constructed as a whole
 - ▶ At least the laws have been codified in one place

Context in Michigan

- Many local units of government
- Units of local government (1856 local units)
 - 83 counties
 - 1240 townships
 - 275 cities, 258 villages
 - (552 school districts, 57 intermed. school districts, 14 planning & development regions and over 300 special districts and authorities) Michigan Manual, 2009-2010
- Most local governments exercise planning & zoning authority – but not in the same way
- State government has about 20 departments and now *only* 10 regional service areas





Local Master Plans; MCL 125.3801 et. seq. *[Room for G.I.]*

- **125.3807 Master plan; adoption, amendment, and implementation by local government; purpose.**
- Sec. 7.
- (1) A local unit of government may adopt, amend, and implement a master plan as provided in this act.
- (2) The general purpose of a master plan is to guide and accomplish, in the planning jurisdiction and its environs, development that satisfies all of the following criteria:
 - (a) Is coordinated, adjusted, harmonious, efficient, and economical.
 - (b) Considers the character of the planning jurisdiction and its suitability for particular uses, judged in terms of such factors as trends in land and population development.
 - (c) Will, in accordance with present and future needs, best promote public health, safety, morals, order, convenience, prosperity, and general welfare.



Local Master Plans;

MCL 125.3801 et. seq. *[Room for G.I.] (con't)*

- (d) Includes, among other things, promotion of or adequate provision for 1 or more of the following:
 - (i) A system of transportation to lessen congestion on streets and provide for safe and efficient movement of people and goods by motor vehicles, bicycles, pedestrians, and other legal users.
 - (ii) Safety from fire and other dangers.
 - (iii) Light and air.
 - (iv) Healthful and convenient distribution of population.
 - (v) Good civic design and arrangement and wise and efficient expenditure of public funds.
 - (vi) Public utilities such as sewage disposal and water supply and other public improvements.
 - (vii) Recreation.
 - (viii) The use of resources in accordance with their character and adaptability.



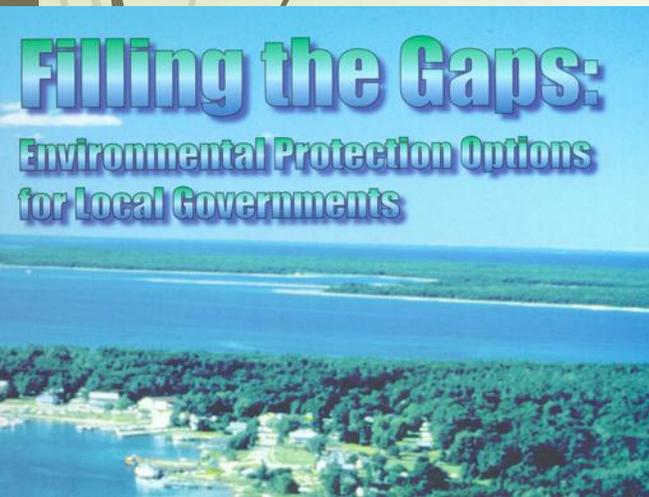
Local Zoning Ordinances;

MCL 125.3101 et. seq. [More Room for G.I.]

- ▶ Language similar to MPEA – plenty of authority to protect/provide for green infrastructure
- ▶ Definitions of terms like “**greenway**” and “**undeveloped state**”
- ▶ Authority to use zoning to “ensure that use of the land is situated in appropriate locations and relationships, to limit the inappropriate overcrowding of land and congestion of population, transportation systems, and other public facilities, **to facilitate adequate and efficient provision for transportation systems, sewage disposal, water, energy, education, recreation, and other public service and facility requirements**, and to promote public health, safety, and welfare.” [125.3201(1)]
- ▶ “A local unit of government may provide under the zoning ordinance for the regulation of land development and **the establishment of districts which apply only to land areas and activities involved in a special program to achieve specific land management objectives and avert or solve specific land use problems**, including the regulation of land development and the establishment of districts in areas subject to damage from flooding or beach erosion.” [125.3201(3)]

There are Many Gaps in the “System”

- Biggest gap: “system” is all parts and pieces, not an intentionally designed system where it is integrated and coordinated from top to bottom.
- Most parts adopted to address a “problem” without thorough understanding of or consideration of all the related parts, players, or overlapping regulations
- Creates situations where it is not always clear what entity is responsible for regulation, or how to address overlapping or conflicting regulations, or the ability to adequately staff and enforce
- Created ***Filling the Gaps*** publication to show what local governments can do to supplement state regulation





There are Many Barriers in the “System”

- Lack of education and understanding of the parts or the relationships between/among them
- Lack of awareness of regulatory systems
- Lack of adequate staff capacity to educate or regulate
- Inadequate education on these issues in K-12
- Inadequate \$ for pilot programs or implementing best practices
- People who want shortcuts and special consideration



Green Infrastructure is a Concept Without a “Home” – It Needs One

- Who is responsible for “Green Infrastructure”?
 - Who knows what it is and means?
 - Who cares? Why is that important?
 - People in regulatory programs stick to their statutory authorization which uses other terms
 - For the word to be broadly used by the public in an interdisciplinary way and across the ecosystem, it has to be used by high ranking public officials – A LOT!
 - There has to be a clear, simple and all encompassing definition that is widely used by professionals and stakeholders
 - Benefits of the term and of using the term must be clear.
 - What are these benefits? Why are they important?
- 



Blue Infrastructure has “More” of a “Home”

- Why?
- Because we drink it and play in it.
- I think we have to link the two terms **often**
 - Shows their interlocking nature
 - Shows their relationship to the rest of the ecosystem better
 - Use of the word “infrastructure” implies it needs to be “invested in” and “maintained” – these are not bad
 - Also implies that they are ubiquitous in urban places – which they aren’t but should be
 - Easier to show their relationship to Placemaking
 - We are considering creating a new module in PM curriculum on Blue and Green Infrastructure



Neither Green nor Blue Infrastructure is Viewed as *Infrastructure*

- ▶ We look at the pipes that carry wastewater as infrastructure, but not the wetlands that filter it
- ▶ We often don't view either as investment worthy—except when there is a major problem; we take them and their benefits for granted
- ▶ They are viewed as just as part of the natural environment or as a commodity to be bought and sold
- ▶ We have to start looking at them as infrastructure to be invested in and worthy of investing in – not once, but continuously



Not Viewed as Vital to Sustainable Communities

- ▶ We wouldn't think of ignoring roads, or water or sewer lines when designing a new sustainable community
- ▶ We might not forget parks and bike trails
- ▶ But we are very likely to forget protection of wetlands, or buffer strips or filter strips, or crop rotation, or rain gardens or a host of other green infrastructure – why is that????
- ▶ We would start to think about them as soon as we begin to consider energy costs, because that forces us to consider simpler ways of doing things and the natural environment is full of simpler, natural ways of doing things at low energy costs (but often using a lot of land)



Not Appreciated for its Role in Placemaking

- Green Infrastructure is important in communities that are growing in population, jobs and incomes
- LPI 3,000 county population study
- Most significant are parks, greenways, bike and pedestrian trails, especially when associated with water
- Green infrastructure also important when a part of urban beautification – (that means no *ugly* rain gardens in public places)
- Green infrastructure has opportunity to “*piggyback*” on many other infrastructure projects: transportation, sewer, storm sewer, water lines, public access to the waterfront, new schools, new hospitals, parks, trails, etc.
- That said, except for parks and trails, green infrastructure are not likely to be the focus of Placemaking efforts, but could be a part of many of them [standard, tactical, creative and strategic]



What Could be Done Across the Board

- Education on systems and sustainability
- Cross-silo training and permitting
- Rethink permitting for all new construction, treat like planned unit developments (PUDs) – all parts as interrelated with flexibility in where they are located (sand dune example)
- Sustainable communities plans and planning
 - Require gray infrastructure plans to be tied to green and blue infrastructure elements
 - Consider energy consumption and implications as fundamental from the beginning



Local Government Challenges: Urban Areas

- ▶ We have been focusing on pipes and runoff
- ▶ Why not focus on keeping urban density high, while inserting more green
 - ▶ Parks in every neighborhood, connected to other green spaces
 - ▶ Bikepaths lined with vegetation and long waterways
 - ▶ Uncover buried streams and buffer with greenways
- ▶ There are major opportunities to do so in Legacy Cities
- ▶ Got to address the lack of staff capacity and funding issues



Local Government Challenges: Rural Areas

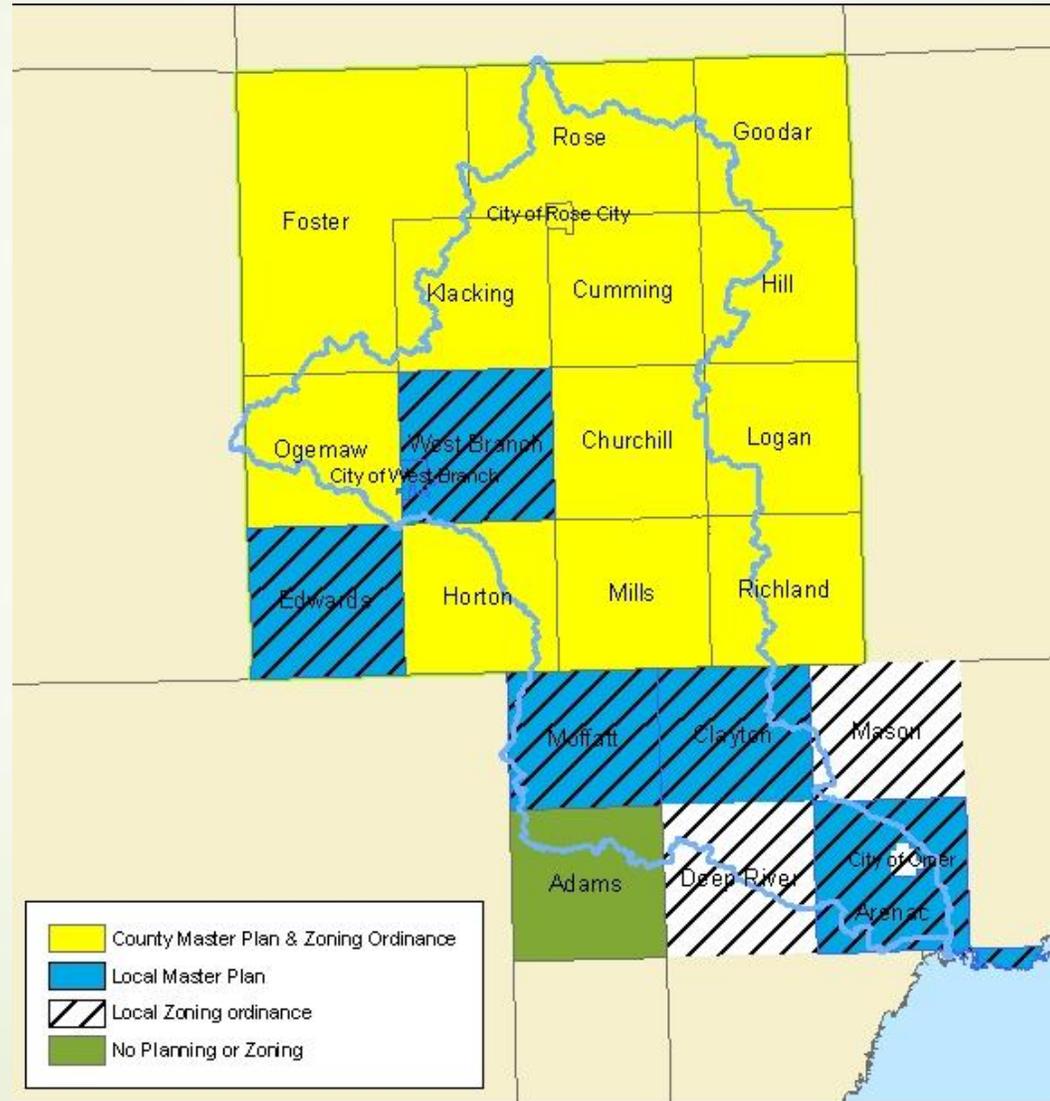
- Actually harder in rural areas because the need/benefits are not as easy to sell
- There is already lots of green space
- But there is also lots of storm water runoff in agricultural areas
- People are afraid of doing anything to undermine the agricultural or forest economy
- Case example follows.



GLRI Project in 2011-2012

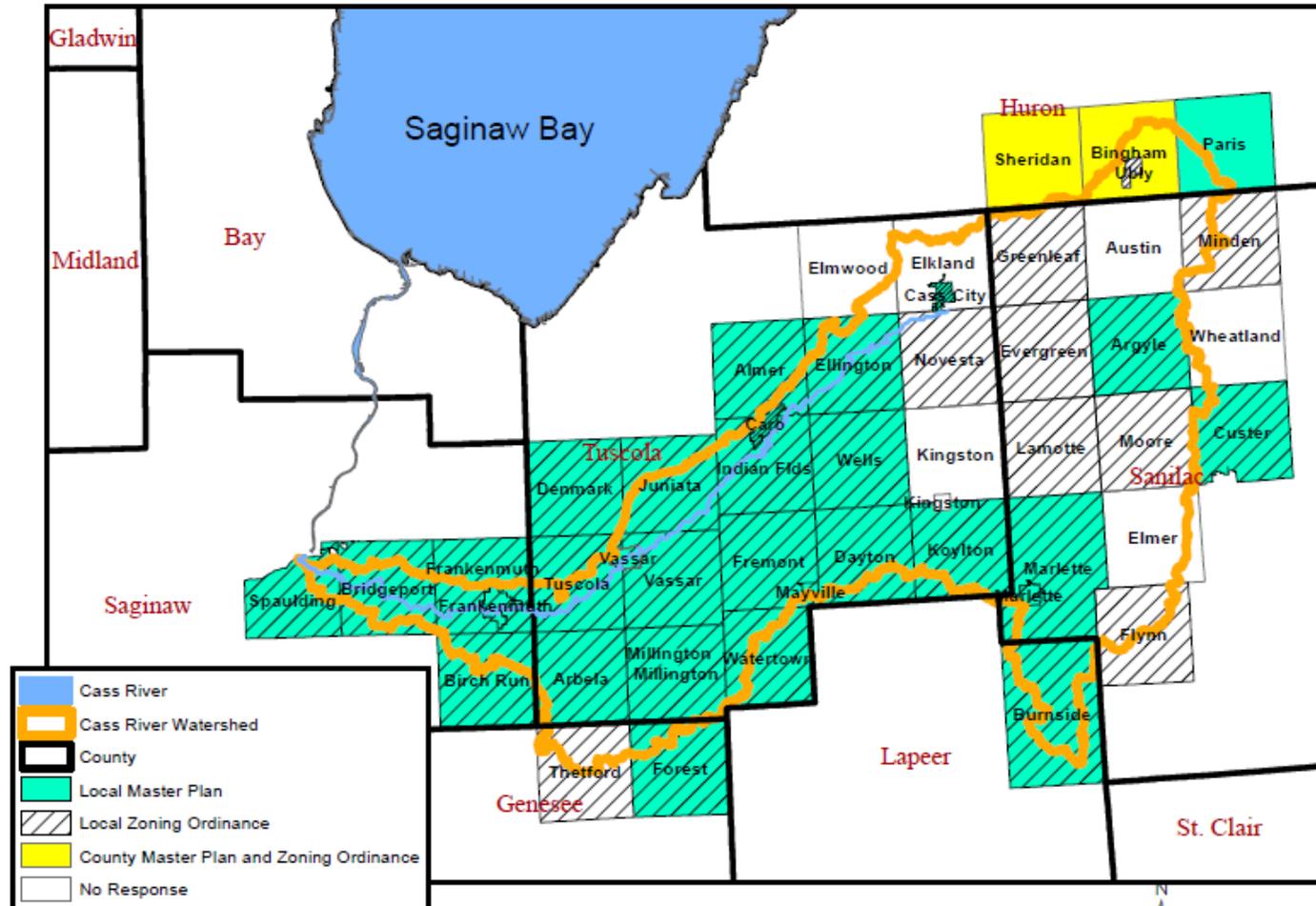
- Examined 99 rural jurisdictions in Saginaw Basin in Rifle, Cass, Pigeon and Pinnebog sub-watersheds.
- Project goal to educate planning commissions and get amendments to local master plans and zoning ordinances to fill gaps in the institutional structure to better protect water quality
- Found it was very hard to motivate: no staff (capacity), no threat (development), working multiple jobs, wear many local hats, expect the county and state to do it, fully understand that anything they do will have marginal benefits (would not be true in suburban jurisdictions)

Rifle River Communities

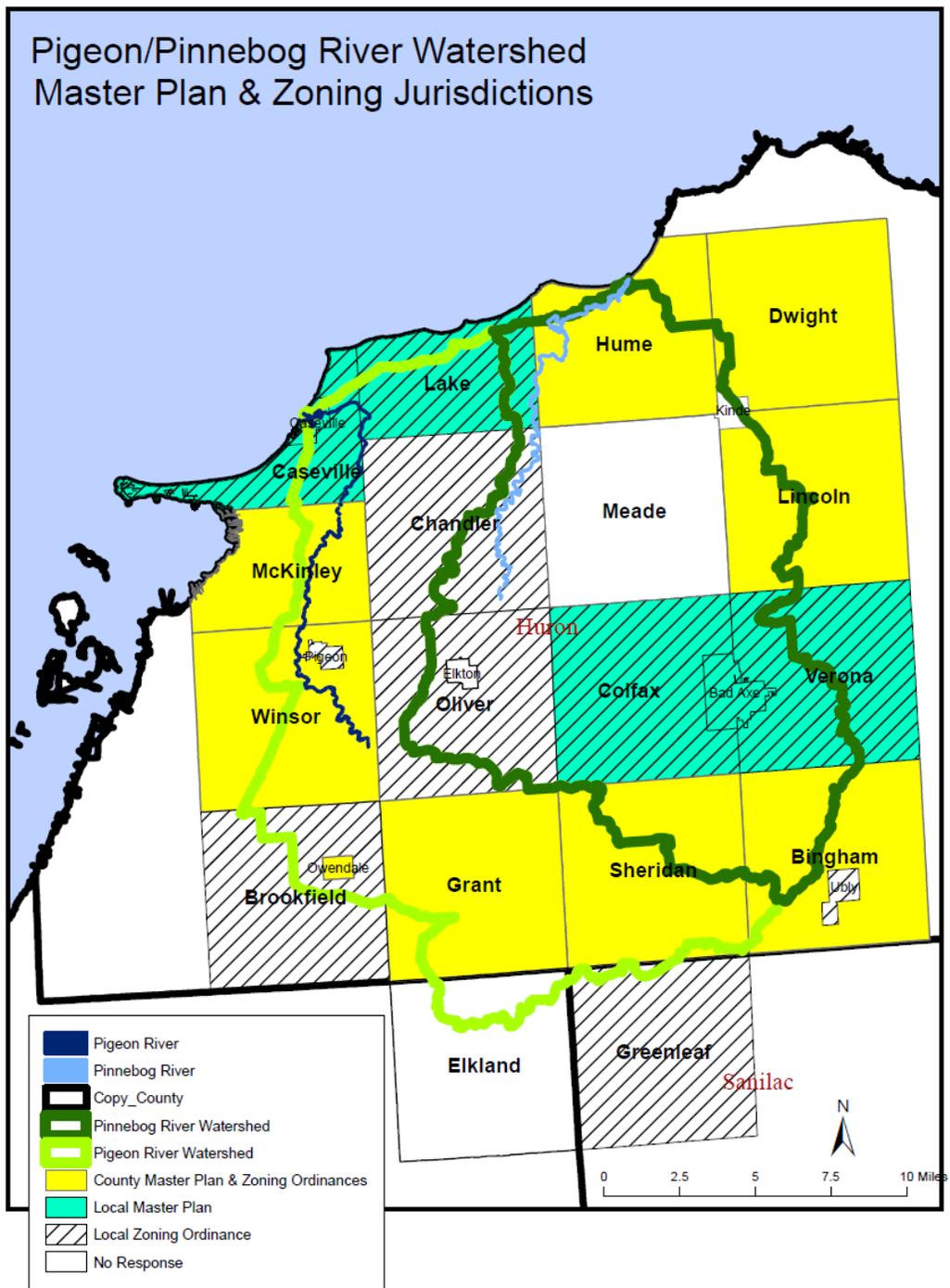


Cass River Communities

Cass River Watershed Master Plan & Zoning Jurisdictions



Pigeon & Pinnebog River Communities



What Did We Do?



- Gathered master plans and ordinances
- Held two sets of workshops on protecting water quality with local planning & zoning
- Prepared individual assessments of all master plans and zoning ordinances
- Prepared sample ordinance language in good, better and best categories
- Meeting one-on-one with each jurisdiction to review
- Available to assist them with the ordinance adoption process
- But local authority doesn't extend to easily addressing the biggest threats: agricultural runoff and leaking septic tanks, and confined animal feeding

Why is the System in Rural MI Broken?

- For much of rural Michigan we have been trying to make a broken system work for decades, and real change will not occur unless we change the basic system
- Most plans and ordinances are very old
- Most planning commissions are untrained
- Almost none have any staff
- May be no political will for state level change, but neither is there much benefit of continuing the current effort, except in suburban communities (most urban and large suburban communities are already forced to change by federal laws)





Changes to Consider

1. Road commissions and MDOT enforce their right-of-way, do not allow plowing inside them
2. Either require storm water management plans with measurable criteria for all plowed fields, or conservation plans with mandatory buffer strips and on-site filtering of rainwater before discharge to drains or other waterbodies
3. Enact a statewide sanitary code with mandatory inspection every 5 (?) years, and inspection at time of sale; and severe limits on alternative septic systems unless the county has staff and resources to regularly inspect them



Changes to Consider

4. Amend the MI Planning Enabling Act to establish some required elements related to environmental protection and coordination of local, county, state and federal permitting
5. Amend the MI Zoning Enabling Act to expressly add environmental protection and water quality protection to the purposes for which zoning may be used

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6. Amend the Drain Code to modernize it, require certain educational standards for drain commissioners, require county soil erosion and sedimentation permits be issued from the drain commissioners office in counties where there is one, require coordination on development reviews, and impose time limits on permit reviews
 7. Amend most environmental regulations to require administration at the county or state level for all jurisdictions below 10,000 (???) persons



Changes to Consider

9. Amend MI Zoning Enabling Act to only authorize adoption of zoning in jurisdictions above 10,000 (???) persons, or combinations of jurisdictions that meet that (or some other) threshold; can be done under Joint Planning Act
10. Amend MI Zoning Enabling Act to require training of planning commissioners
11. Amend MI Zoning Enabling Act to require training for zoning administrators
12. Amend MI Zoning Enabling Act to require developers (consider) use (of) LID techniques

The Long and Slow Road – may be only game

RURAL

- Considerable education of local officials one county at a time over at least a year
- Development of common master plan and ordinance language together
- Considerable technical assistance to get adopted
- Need a “hook” to get them engaged





The Long and Slow Road – may be only game

URBAN – SUBURBAN

- Same as above, but much more effort with technical assistance, although effort is targeted at staff
- Need to spend a lot of time with county agencies, helping to coordinate them and then link their activities with local planning and zoning
- Need to spend some time with state agency staff to get support and commitment to coordinate with counties and locals in the region
- Connect to existing local efforts
- Need a “hook” to get them engaged



Summary Observations & Conclusions

- Biggest opportunities are at the top (state legislation), not at the bottom (local government level)
- Expecting things to get much better at the bottom is not realistic: most local governments (especially rural ones) do not have the staff capacity, commitment or support to seriously tackle environmental problems (or other land use issues)
- Only statutory changes will seriously impact this; otherwise, it will be slow going pushing a huge boulder up a hill one community at a time; and with turnover of local officials, and capacity issues, gains may be short-lived



We are at an important crossroads....

- ▶ When it comes to resource protection and management of green (and blue) infrastructure:
 - ▶ EITHER the federal and/or state government have to do more (especially in rural areas) to protect water quality by use of effective management of green infrastructure (especially concerning regulation of soil erosion and sedimentation and other nonpoint sources of pollution);
 - ▶ OR counties need enhanced regulatory authority in this arena;
 - ▶ OR regional nonprofits need more money for purchase of conservation easements or similar property based purchases;
 - ▶ OR we need a combination of the above;
 - ▶ OR for a lot of legitimate reasons we have to accept that only checkerboard efforts are possible if we leave it to local governments.



Saginaw Bay Watershed Conference

June 12 at SVSU

- ▶ Continue learning about the Blue Infrastructure side of this equation
 - ▶ Visit www.landpolicy.msu.edu for details

 - ▶ **For more on Placemaking or the Placemaking Curriculum** visit www.miplace.org
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