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ENVIRONMENTAL LAW

New York Plan Could Inspire Sustainable Phila. Programs

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Special to the Legal

These are exciting times in Philadelphia. Mayor Michael Nutter carries a mandate from the voters of Philadelphia to change the way our city is governed. The mayor has seized this opportunity by embracing a vision of Philadelphia as a sustainable city in which good government partners with its citizens to improve the quality of life for present and future generations. As significant steps toward this goal, the mayor has reinvigorated the role of the City Planning Commission in shaping redevelopment activities and has appointed Mark Alan Hughes as Philadelphia's first director of sustainability.

Lawyers eager to advise clients on how the city's focus on sustainability may affect their businesses and activities are entering unfamiliar territory. Understanding that the old business as usual paradigm is no longer functioning is a far cry from understanding the details of the programs that will be pursued.

However, in remarks at the Academy of Natural Sciences, both Nutter and Hughes provided insight into how their visions for Philadelphia may translate into concrete programs. In their remarks, Nutter and Hughes referred to New York City's sustainability plan, PlaNYC, as a guide for Philadelphia. This significant endorsement of PlaNYC compels us to look carefully at PlaNYC to understand what may be in store for Philadelphia.

Before embarking on an analysis of PlaNYC, a few cautionary notes are in order. As any Philadelphian knows, Philadelphia is not New York. We operate on a different scale and have our own history, character, challenges and relationships with the government. For example, Philadelphia is faced with numerous abandoned and underused facilities that have resulted from a declining population, in contrast to the growth New York City has experienced. Philadelphia benefits from William Penn's planning vision that contemplated four urban squares and from the Fairmont Park system, which provides critical open space and parks in central areas and neighborhoods. Our Quaker heritage is less competitive and more self-effacing than the culture in New York City. Nevertheless, even though Philadelphia's culture and economy will require us to adapt New York City's ideas to our own vision and local needs, PlaNYC provides a useful preview of what we may expect from the Nutter administration.

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PlaNYC sets forth initiatives in the areas of land, water, transportation, energy, air quality and climate change. The initiatives in each of these areas in part overlap, as might be expected in light of their overarching common goal of sustainability. The plan seeks to promote economic growth while improving the environment, diversity and quality of life of neighborhoods. Although the plan is too comprehensive to permit a description of each of its initiatives, certain central proposals can be identified.

In the area of land, PlaNYC recognizes the importance of directing the location and type of future housing development. PlaNYC seeks to foster development in locations with transit access to minimize reliance on automobiles. It designates neglected waterfront areas for residential development. PlaNYC recognizes the importance of rezoning to direct housing construction to locations where it is most desirable. It also advocates using zoning incentives to influence developers to include affordable housing as part of their projects. In Philadelphia, Nutter has already recognized the importance of transit-oriented development, has likewise commenced a study of municipal zoning code reform and has noted the value of waterfront access to our communities.

To enhance the livability of neighborhoods, PlaNYC emphasizes the creation, maintenance and improvements of open space. It advocates well-maintained parks and recreational facilities, improvements to existing recreational facilities, such as school yards, that can be opened to community use and tree plantings to create green streets. In Philadelphia, improvement of the Fairmont Park System and its integration with city and school recreational facilities, and additional tree planting are among Nutter's priorities.

The final initiative in the land category in PlaNYC relates to the cleanup of contaminated sites. PlaNYC recommends the adoption of NYC-specific remediation guidelines and the creation of a revolving cleanup fund. Pennsylvania's Brownfields Law, Act 2, already contains liability protec-

tion provisions and other features advocated in PlaNYC. Nevertheless, contaminated sites continue to present an economic and environmental burden to our city, and in many instances cleanups are more difficult to fund in Philadelphia where the competition for land is less intense than in New York City.

The second major thrust of PlaNYC is to foster a sustainable water infrastructure. PlaNYC aims to open 90 percent of New York City waterways for recreation by reducing water pollution and preserving natural areas that may remove pollutants from water. Among the best management practices advocated are the planting of trees and creation of open space that can slow stormwater movement and promote infiltration and the integration of separate storm sewers that divert storm water to surrounding waterways into new development projects to avoid contributing to combined sewer overflows. In Philadelphia, programs for planting trees and reducing the volume and velocity of stormwater runoff have already begun.

PlaNYC also recognizes that to be reliable, water infrastructure must be well-maintained and include redundancies. Unlike New York City, Philadelphia withdraws drinking water locally from the Delaware and Schuylkill rivers, not via aqueducts that transport water from remote reservoirs. Nevertheless, the same reservoirs that supply New York City's Delaware System affect flows in the Delaware River. Maintenance of water withdrawal facilities, the drinking water infrastructure and the wastewater infrastructure are as important for the health of residents of Philadelphia as they are for residents of New York City.

The third principal focus of PlaNYC is enhancing public transportation options. In New York City, population growth will strain the capacity of the existing public transportation system to serve the growing population. In addition, some of the system is in poor repair. PlaNYC seeks to increase the capacity of the subway and bus systems, maintain the systems and expand these systems to reach underserved areas with existing population density or that are slated for housing development. Good transportation facilities can reduce commuting time - an important quality of life factor. In addition, where public transportation is available near homes, car use is reduced along with its accompanying pollution and congestion.

Promoting efficient, well-maintained transportation is as important in Philadelphia as in New York City. In both cities, securing adequate funding presents a major challenge. One of the potential sources of funding contemplated in PlaNYC, imposing a congestion charge on automobiles traveling into Manhattan's business district, has not been acted upon by the New York Legislature, thereby leaving a significant funding gap in the plan. Although like in New York City, transportation funding in Philadelphia has been a recurring problem, SEPTA's financial situation is better than in years past. Transportation infrastructure improvements, maintenance and expansion are likely to be important components of the city's vision for future development.

A reliable supply of electric power is critical to the proper functioning of any city. PlaNYC's energy initiatives include upgrading power plants, retiring old power plants that have large pollution footprints, promoting clean distributed generation, creating new sources of renewable energy and increasing the efficiency of energy use and peak load management. In New York City, prime uses for energy include heating and cooling high-rise buildings. Efficiency upgrades to existing buildings, including government and privately owned structures, as well as strict standards for future construction, play important roles in reducing demand. Property tax abatements and financing of solar panel installations are also proposed. Use of smart meters and real time pricing complement the other ideas advanced in the plan.

In Philadelphia, recent buildings such as the Comcast Center have been constructed with energy efficiency in mind and have obtained LEED certification. Changes to city codes will likely ensure that future buildings are energy efficient. Finding ways to promote efficiency upgrades in existing buildings and securing reliable, affordable and energy efficient long-term power supplies present a major challenge in Philadelphia as in New York City. PlaNYC recognizes the need to improve air quality. Options to enhance air quality include shifting commuters from cars to mass transit, using cleaner fuels, requiring use of hybrid vehicles for taxis and similar vehicles, retrofitting diesel trucks and buses, retiring old power plants and increasing tree plantings. New York City has also commenced an air quality study, which will involve taking samples at numerous locations over a two-year period to determine existing air quality and identify sources of air emissions. New York City intends to partner with the Port Authority to reduce airport emissions through gate electric plug-ins, towing planes to gates and other means. Many of these steps can also be implemented in Philadelphia and some have already commenced.

The final category of initiatives in PlaNYC, climate change, seeks to reduce greenhouse gas emissions by more than 30 percent. This goal integrates New York City in a global effort and reflects New York City's location on the Atlantic Coast. The rise in sea level will have a direct effect on New York City. Many of the other initiatives identified in PlaNYC, including clean power, efficient buildings, sustainable transportation and avoided sprawl will serve to reduce greenhouse gas emissions. Even though unlike New York City, Philadelphia is not a coastal city, it is not immune from ocean influence. For example, as sea level rises, our drinking water intakes on the Delaware River may be at increased risk of salt intrusion in the tidally influenced river. Reductions in greenhouse gas emissions are likely to be seen as a moral as well as physical imperative. A Philadelphia plan will likely encourage Philadelphians to do our part to reduce greenhouse gases.

During the presentations of Nutter and Hughes at the Academy of Natural Sciences, there was a palpable sense of excitement in the audience as the plans for a sustainable future were unveiled. The plans are ambitious, and the challenges substantial, yet the need is great. Although Philadelphia will no doubt brew its locally grown vision of a sustainable city, it will not be starting from scratch. PlaNYC offers substantial insight into how a vision of a sustainable Philadelphia may be implemented. •