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Victoria, British Columbia, enjoys a temperate climate and attracts residents seeking a work-life balance.

Well-Being Meets Planning

PLANNING TOOLS

HAPPINESS AND WELL-BEING INDICATORS MAY BE unfamiliar concepts to planners, but they are gaining in importance. Daily decisions by planners and planning commissions influence the built environment, which in turn can influence a community's happiness and well-being.

With numerous U.S. government agencies measuring these indicators, planners could directly incorporate them into their work to help enhance their communities' plans and studies.

But what are welfare, happiness, and the good life? This is not an easy question to answer, but contemporary happiness scholars (yes, there is such a thing) are striving to develop an understanding of the factors that contribute to well-being. One such indicator is objective well-being, which assesses well-being by observing factors that, as the name suggests, are objectively—or measurably—good, such as good physical and mental health, clean air and water, and safe communities.

Another indicator is subjective well-being, or a person's cognitive and affective evaluation of his or her life. Notably, scholars are not keen on measuring the superficial, fleeting happiness that comes and goes; rather, they focus on the deep-seated view about the state of people's lives. Their findings point to several factors that affect SWB most directly:

- ▶ Shorter commutes, on the basis that people's least favorite moment during a standard workday is their commute
- ▶ A good work-life balance
- ▶ Access to healthy, biotic environments and green spaces
- ▶ High employment (or low unemployment)
- ▶ The ability to participate in democratic processes, and actually doing so

Subjective well-being indicators complement objective well-being indicators to paint a more holistic picture of well-being.

What are indicators, though, and why are they important? In *Community Indicators* (PAS Report No. 517), Rhonda Phillips, dean of the Honors College at Purdue University, defines indicators as "bits of information that, when combined, generate a picture of what's happening in a system." They act as a gauge to assess an attribute using a limited

number of data points, similar to how the Dow Jones Industrial Average measures the health of the stock market by tracking a select number of stocks.

Indicators, when tracked over time, can provide information about past trends, current states, and possible future directions to guide policy makers. Planners look to indicators because they democratize information, embody community values, gauge community conditions, lead to better decision making, and establish causality between policy and outcomes. Common indicator measures for planning include quality of life, sustainability and sustainable development, performance evaluation, healthy communities, and health impact assessments, among others.

Learning from Bhutan

In the realm of happiness and well-being indicators, the most notable happiness measure is the Gross National Happiness index used by the Kingdom of Bhutan. It was spurred by former King Jigme Singye Wangchuck in 1972, when he declared that gross national happiness was more important than gross domestic product.

The index and accompanying data-collection survey was designed to reorient national development toward fostering the

happiness and well-being of the nation. Bhutan has continually updated the survey since its inception, drawing experts from around the world in improving the survey. One expert, Michael Pennock, an epidemiologist in Victoria, British Columbia, spearheaded an initiative in 2008 involving eight governmental and nongovernmental entities, including local and regional government agencies, the University of Victoria, the local community foundation, and others in the region, to develop its own set of happiness indicators.

What resulted was the Happiness Index Partnership. Using extra budgetary funds pooled from many of the partners, HIP developed and delivered a mail-based survey similar to that of Bhutan's to assess the happiness and well-being of the region. HIP measured factors from subjective well-being to social and community vitality to environmental vitality. They published a summary report indicating that Greater Victoria had a level of subjective well-being similar to that of Canada overall (the country also has its own measurement—the Canadian Index of Wellbeing). HIP shared the findings at a community event hosted by World Café, a social engagement platform, and generated discussions on what the findings meant in the daily lives of community members.

Since then, HIP has updated its survey, and some of its measures have become social indicator measures in the region's sustainability plan. Seattle emulated Greater Victoria and received assistance from HIP members in developing its own happiness index through the Seattle Area Happiness Initiative. Sydney, Australia, is measuring its progress in this area, too, with its Community Wellbeing Indicators.

Other indicators reflect upon a community's well-being, as well. The state of Maryland has its Genuine Progress Indicator, which aims to measure how development activities impact long-term prosperity.

One other method worth considering is based upon happiness scholar Ruut Veenhoven's "The Four Qualities of Life," which are as follows:

1. Livability of the environment
2. Life-ability of the person (physical and mental health, knowledge, skills, etc.)
3. Objective utility of life (being a virtuous person)
4. Subjective appreciation of life (overall life satisfaction)

Within these realms, planners can influence the environmental, social, economic, and cultural dimensions of community livability and vibrancy; have the ability to promote healthy living and access to

knowledge and skills to succeed in the world; foster civic engagement in planning processes; and otherwise promote people's life satisfaction through the built environment.

Based on Victoria's experience, success factors worthy of consideration when incorporating happiness or well-being indicators in your community include

- ▶ the selection of a breadth of partners with a shared vision, and a committed champion to advocate on behalf of the indicators;
- ▶ agreement in approach of what to measure and how, both from partners and the community; and
- ▶ sufficient funding to support the initiative.

As planners, commissioners, and citizens, we can help create community ownership of happiness and well-being indicators, and promote well-being in the process. This should ensure that our work will promote well-being in our communities, both now and in the future.

—Mark Teschauer

Teschauer is the Green Strategies Fellow at NeighborWorks America in Washington, D.C. He received dual master's of science degrees in Community & Regional Planning and Sustainable Design from the University of Texas at Austin. His thesis focused on the intersection of well-being and sustainability in planning.



PHOTO BY CAROLYN TORMA

Easy access to a diverse natural environment, coupled with an interest in low-impact living, is a hallmark of Victoria.

Shaping Change with Design Guidelines

BEST PRACTICES

GUIDELINES ARE ONE OF PLANNING'S MOST EFFECTIVE tools. Well-conceived guidelines that are clear, use accessible language and illustrations, and are readily available to all stakeholders translate planning visions and policies into the physical environments in which we live, work, and play.

The precursors of contemporary guidelines embodied qualities that continue to shape how these tools are conceived. Let's consider three important examples: Congress enacted the Height of Buildings Act of 1899 to enshrine the Capitol as Washington, D.C.'s tallest building. In 1916 New York adopted landmark zoning that shaped the city's "wedding cake" skyscrapers to preserve light and air. And in 1925 Louisiana voters created the Vieux Carre Commission to preserve New Orleans's French Quarter. All three share five common aspects of successful guidelines. Each of these historic documents

- ▶ carried the legitimacy of action by elected officials or those who reported to them;
- ▶ managed the impacts of transformational (and unfamiliar) change brought about by rapid urbanization and evolving building technology;
- ▶ reflected public purpose, not stylistic taste;
- ▶ created civic, and frankly in most cases, economic value; and
- ▶ became viewed as living documents, subject to revision in response to changing circumstances.

Today's guidelines include a sixth quality: successful guidelines result from community-based public planning processes that fold in strong urban design components.

Guidelines represent a social compact in which participants in a planning process agree on how to implement the plan. The planning process's inclusiveness gives guidelines their legitimacy. Perhaps more important, creating

guidelines as part of such a process resolves opposition that stems from fear of change. Well-supported guidelines avoid the perception of mere NIMBYism.

Several examples illustrate how this is accomplished. Guidelines established in 2013 that delineated the scale and character of new mixed use, mixed income development in Kendall and Central Squares in Cambridge, Massachusetts, grew out of planning that gave neighborhood members a voice in determining densities and heights. Many residents had feared new development would undermine neighborhood quality.

In suburban Atlanta, the planning for the Clifton Corridor Urban Design Guidelines, prepared for the Clifton Corridor Partnership by Goody Clancy in 2010, included a forum in which Emory Univer-



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To reinforce sense of place, enlist local artists and tech-startup community in design of street furniture, sculpture, digital displays, and murals. As an integral element of sense of place, guidelines should welcome novel media and formats.

Preserve important legacy structures, like the SCATV building.

Create a strong, coherent building presence that frames the square:

- 5 to 7 stories
- consistent design, materials



Along side streets, maintain mix of new and old, varied heights, and mix of uses.

Introduce a lively destination space:

- Four-season public "room"
- Broad range of activities appealing to many ages, backgrounds
- Festival, performance space

Create complete streets:

- Wide, landscaped sidewalks
- Bike lanes
- Traffic calming

Engage pedestrians:

- Mix of retail, arts, food at street level
- Mix of local and national businesses
- Transparent street fronts
- Fully lined sidewalk edge

Guidelines suggested by a master development team integrate significant development in ways that preserve the lively diversity of a traditional neighborhood square, Somerville, Massachusetts.

sity and residents of adjacent communities overcame years of tension. Together they framed a smart-growth vision for replacing arterial strip development with a denser, walkable corridor with mixed uses that met the aspirations of the university and community members alike.

In New Orleans, lower-income residents of neighborhoods along Claiborne Avenue insisted on a voice in directing wide-ranging redevelopment. Their fears of gentrification-driven displacement shaped guidelines that dealt with unconventional topics such as preserving deeply rooted neighborhood culture, as well as agreement on the location, scale, and character of development. The preservation outlined in the Livable Claiborne Communities Study, drafted by Kittelson Associates in 2013, was a precondition for participating in a city-led study for possible removal of an elevated expressway.

There are three dimensions in which to consider guidelines. The first is a continuum that ranges from “performance” guidelines that express values that should shape development to “prescriptive” guidelines that convey specific requirements (such as form-based zoning codes that specify dimensional parameters for buildings and public spaces).

Like any tool, guidelines work best when designed for a specific job. Frequently local politics and an emphasis on development have strongly influenced whether a community prefers a performance or prescriptive approach. Communities that value strong government regulation and enjoy robust real estate markets, such as Boston and New York City, produce highly specific guidelines and back them with the force of zoning—in some cases explicitly rejecting development feasibility as the major concern (e.g., the Boston Redevelopment Authority’s Greenway District Planning Study Use and Development Guidelines, 2010).

Such prescriptive guidelines offer clear direction and reassure stakeholders that the letter of a plan will be implemented. Yet they also limit the potential to negotiate additional benefits that may advance the

spirit of the guidelines but require different massing or uses.

Performance guidelines might be better suited to communities that rely on private-sector leadership or that fear losing investors. While these documents provide useful direction, however, they often fail to produce outcomes that achieve the letter or the spirit of the underlying planning.

These distinctions are blurring. The new mayors of Boston and New York City have asked planners to provide new, more flexible guidelines that build in height and density incentives in return for public benefits like affordable housing and vibrant public waterfronts (Boston’s current Harbor Planning Advisory Committee process is one example). Traditionally conservative Wichita, Kansas, has seen remarkable success in revitalizing its downtown by using guidelines that concentrate development along key corridors and require developers to provide street-level retail that helps activate the street. Investors have reacted positively; they rely on the guidelines of the Downtown Wichita Plan to ensure that their individual investments work together to create a critical mass of activity and visible change.

The second dimension is size and location. Guidelines range from specific buildings to citywide or regional comprehensive plans. New Orleans’s Historic District Landmarks Commission, charged with the stewardship of the city’s heritage of historic buildings and places, commissioned the Preservation Design Partnership and Catherine E. Barrier in 2009 to prepare guidelines that open with a discussion of preservation’s role in an evolving city. The guidelines combine highly prescriptive requirements with performance standards. Prescriptive requirements aim to preserve historic buildings and include how-to guidance for everyday repairs. Broader performance standards determine the shape, massing, scale, and design of new buildings and public spaces in historic environments in ways that contribute to New Orleans’s rich legacy.

As mentioned in *The Commissioner’s* June 2014 article, suburban Dublin, Ohio,

faced a larger-scale task—transforming roughly 1,000 acres of outmoded strip malls and office parks. The Bridge Street Corridor Plan, developed by Goody Clancy in 2010, articulated principles to create a “higher-density, mixed-use, walkable downtown” from the first stages of development. Dublin subsequently added a form-based code (prepared by Leslie Olberhozer of Farr Associates) that provides detailed templates that are already shaping new streets, squares, and buildings.

At a far larger scale, Birmingham, Alabama; Shreveport, Louisiana; and Tyler, Texas recently completed comprehensive plans (drafted by planners at Goody Clancy and Stantec) that employ guidelines at citywide and regional levels to shape broad smart growth policies. These guidelines provide performance standards for new development, infrastructure investment, and zoning. One aim, for example, is to promote growth that reflects a sense of place, walkable mixed use centers, and connected networks of streets and public places.

The third dimension is the human element. While administration of guidelines can rely on checklists that require no judgment, guidelines are living documents that succeed best when coupled with active design review. At one end of the spectrum this process relies on agency staff. At the other, it can involve panels that convene leaders in planning, design, sustainability, development, and similar fields to review policies, plans, and designs that will have a significant impact on a community’s quality and character.

Guidelines represent a powerful tool for managing change in ways that embody a community’s interests and aspirations. The art of guideline development lies in ensuring that those who administer guidelines have the commitment, skill, information, and resources to undertake reviews that capture not just the letter of the guidelines, but also the spirit behind them.

—David Dixon

Dixon leads urban design at Stantec. He is the coauthor of Urban Design for an Urban Century: Shaping More Livable, Equitable, and Resilient Cities (Wiley, 2014).

Recusal Ethics and Your Right to Free Speech

LAW

AS MEMBERS OF A REPRESENTATIVE DEMOCRACY WE require our elected and appointed officials to act objectively and solely in the public interest. States and local governments often accomplish this through ethics regulations requiring public officials to recuse themselves when a conflict of interest arises. In local governments, these regulations apply to anyone engaging in legislative or quasi-legislative voting—from city council members to planning commissioners.

But identifying when a conflict prohibits participation can be difficult. What happens when a voting public official has a conflict that is not defined by a statute or rule? Does he or she have a right to cast a vote as a form of speech protected by the First Amendment? Can a commissioner engage in legislative debate even if he or she does not cast a vote? What types of relationships should be considered conflicts?

The myriad recusal ethics regulations governing these scenarios are often vague, causing confusion and apprehension in the highly interconnected world of local government. When regulations are too vague or overbroad, courts can strike them down as unconstitutional restrictions against our right to free speech. But when is a regulation too restrictive? One 2011 U.S. Supreme Court case shed some light on this issue, but many jurisdictions may find problems in applying the Court's standard.

In *Nevada Commission on Ethics v. Carrigan* (131 S.Ct. 2343 (2011)), the state ethics board received a complaint against a city council member who voted on a land-use issue benefiting his campaign manager's business. The ethics question was subsequently heard by the Nevada Supreme Court, and was eventually appealed to the U.S. Supreme Court.

Although the council member asserted a First Amendment right to cast his vote, the Court held that the act of legislative voting is not protected speech, and therefore cannot be used by a legislator to avoid being subject to local or state recusal regulations. By removing legislative voting from the constitutional protections of the First Amendment, the Supreme Court acknowledged and validated most existing ethics laws, codes, and ordinances governing legislative decision making. However, the Court left some openings for future challenges to laws restricting participation in pre-vote legislative debate.

In order to classify legislative voting as nonspeech, the Court had to distinguish between the act of casting a legislative vote and engaging in "political speech." The Supreme Court's earlier decision in *Citizens United v. Federal Elections Commission* (130 S.Ct. 876 (2010)) brought "political speech" under the protection of the First Amendment, immunizing "political speech" from any form of regulation that might infringe on the speaker's right to declare it (such as a recusal regulation).

The Court in *Carrigan* clarified that legislative voting is not "political speech," instead analogizing a public official to a "trustee for his constituents." This effectively removed any personal rights to free speech a commissioner might assert while engaged in the act of voting. The Court reasoned that a legislator's vote is simply "the commitment of his apportioned share of the [legislative body's] power to the passage or defeat of a particular proposal" which is "not personal to the legislator, but belongs to the people." In this way, the Court held that even though voting is a "core legislative function," it does not symbolize the type of individual expression that the First Amendment is intended to protect. It should be noted that the Court did not directly address judicial vote casting, but did recognize that judicial and quasi-judicial actions should be given the same effect under the Constitution.

Although the Court clearly removed legislative voting from the First Amendment's umbrella of protection, the majority opinion did not address whether engaging in

legislative debate is considered speech under the First Amendment. In response, Justice Kennedy wrote a separate concurring opinion to reaffirm that the Court's opinion only applied to vote casting, and to question why the issue regarding legislative debate was not further addressed by the majority.

This lack of resolution leaves an opening for a future First Amendment challenge to restrictions on legislative debate, and leaves room for courts to disagree on the issue. Under *Carrigan*, it is reasonable

to infer that a court will find legislative debate on the floor as part of the voting process—and therefore subject to recusal regulations—but the limits of *Carrigan*'s applicability to other forms of discussion are unclear.

The problem caused by the Court's refusal to address legislative debate is further compounded by the wide

variety of regulations across jurisdictions. Some recusal laws address the issue but do not clearly delineate the situations in which they apply. For example, the particular Nevada statute at issue in *Carrigan* prohibited the council member from voting or "advocating" on a particular matter where the council member's "independence of judgment" would be compromised. At first blush, this would seem to prohibit legislative debate on the issue as well as voting, but the statute also explicitly allowed the council member's participation in "the consideration of" the matter at issue.

Unfortunately, these unclear provisions are more common than not in state ethics statutes. In upholding them, the Supreme Court brought the issue to light, but did little to provide guidance in how such restrictions should be interpreted by government actors or analyzed by a reviewing body.

The problem presented in *Carrigan* is one many local planning commissioners encounter during the legislative process—the commissioner is asked to vote on a

Identifying when a conflict prohibits participation can be difficult.

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matter affecting land owned by a relative or friend. This problem is worsened when an official is elected and has run on a platform of accomplishing certain goals. The official must often choose between keeping campaign promises at the risk of personal legal sanctions, or losing valuable political capital through possibly unnecessary self-recusal. Although the commissioner in *Carrigan* followed legal advice from the city attorney to disclose his relationship before participating, his decision to cast a vote ultimately proved costly.

So how should a commissioner or legislator decide when participation is barred by ethics regulations? Since nearly all ethics regulations are valid under *Carrigan*, the first step is to know your regulation, and well. Most regulations prohibit conflicts of interest by attempting to classify certain types of relationships—usually familial, professional, or close casual. Since identifying many specific relationships by name is difficult, most statutes contain some form of catchall. If a relationship might fit into this catchall category, or is substantially similar to an enumerated relationship, the safest strategy is to recuse yourself from the vote. As *Carrigan* illustrates, even a remote conflict of interest can have far-reaching consequences when an ethics regulation is not construed conservatively.

With the increasing interconnectedness of our communities and world, expect recusal ethics to remain an important topic. They have made recent headlines in topics ranging from the new College Football Playoff selection committee to the practices of the Supreme Court justices. In application, *Carrigan*, should spur local commissioners to familiarize themselves with applicable ethics codes, and caution public officials to interpret such regulations conservatively. After all, in local contexts the appearance of impropriety can lead to a fate far worse than legal trouble—permanent damage to your reputation.

—Joshua C. Wells

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HISTORY

CITIES OF TOMORROW. The 1939 New York World's Fair made envisioning the ideal future city educational and entertaining. The General Motors pavilion drew millions of visitors to its Futurama exhibit, a model city and motorway system. At the center of the fair was the striking Perisphere building. Inside, a conveyor stair moved visitors above Centerton, a circular-shaped model city. The American Institute of Planners (one of the predecessor organizations of the American Planning Association) celebrated the ideal planned city in its film *The City*, based on the ideas of Lewis Mumford, Catherine Bauer, and others. Contrasting the dirty, older industrial cities with the new planned towns of Greenbelt, Maryland, and Radburn, New Jersey, the film presented these perimeter communities as "the new city, ready to serve a better age."

—Carolyn Torma

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RESOURCE FINDER

ETHICS is at the root of nearly every aspect of planning. That goes for planning commissioners as well. Learn more about planning commissioner ethics with these publications and products.

ETHICS CODES

APA Ethical Principles in Planning

[www.planning.org/ethics/ethical principles](http://www.planning.org/ethics/ethical%20principles)

AICP Code of Ethics and Professional Conduct

www.planning.org/ethics

APA PUBLICATIONS

Conflicts of Interest for Planning Commissioners

PAS QuickNotes, December 2006

www.planning.org/pas/quicknotes/pdf/QN4.pdf

Rules of Procedure for Planning Commissions

Stephen Sizemore, AICP

The Commissioner, Spring 2003

www.planning.org/thecommissioner/2003/spr.htm

The Planning Commissioners Guide

C. Gregory Dale, FAICP; Benjamin A. Herman, FAICP; and Anne F. McBride, FAICP

APA Planners Press 2013

www.planning.org/store/product/?ProductCode=BOOK_AO0613

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21st Century Planning Commission 2013

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—Ryan Daudelin

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