

Local Application Process: Complete and Fully Transparent Applications are a Must

As oil and gas development expands into suburban communities, it is important that citizens and local leaders have the opportunity to fully review ALL the facts associated with any proposed project before decisions are made. In some cases, communities are facing these industrial proposals for the first time – and for some, it is unclear where to begin and what questions to ask.

In an effort to assist local communities as they contemplate these proposed projects, the following information provides guidance on how community leaders could establish protocols designed to ensure more transparency and accountability from each applicant. The purpose of this guidance is to give citizens and local leaders the information they need to make informed decisions about oil and gas projects that likely will have lasting effects on their communities.

Consider adopting a two-step application review process that includes more specific clarifications and requirements for submittal of applications to a Township/Borough

Local government officials have sworn an oath to uphold important rules, regulations and constitutional laws - many of which have provisions that require the protection of public health, safety and welfare. According to Section 105 of the **Pennsylvania Municipal Planning Code (MPC)**, “It is the intent, purpose and scope of this act to protect and promote safety, health, welfare and morals ... [and] accomplish coordinated development” by locally elected officials. To that end, local governmental representatives must outline rules for all applicants seeking approvals for operations within the community’s jurisdiction. Those rules take the form of comprehensive plans, zoning maps and ordinances and other rules specific to land use. Local decision makers review submitted materials, hold required proceedings, receive public comments and are expected to render decisions that are consistent with all applicable laws and rules.

In an effort to ensure full disclosure of the entirety of each proposed oil and gas operation, so that local decision makers can make lawful – and the best - decisions for their communities, Townships/Boroughs should consider adopting the following requirements:

Step one – a completeness review

Before any application is “accepted” and the requirements of Conditional Use proceedings begin, the Township/Borough should consider adding a requirement for a “completeness review.” This would be similar to the PA Department of Environmental Protection (PA DEP) requirement. Before proceeding to the technical (substantive) review stage, applications should be reviewed by Township/Borough officials to verify that all requirements of local zoning, land use and the MPC are fully addressed in the application materials.

Each community should develop a customized checklist based on local ordinances, land use and bonding requirements and any other requirements outlined as part of the MPC. Items to consider in a “Completeness Checklist” include:

- All requirements detailed in applicable local ordinances
- Proof of required bonding – including bonding for specific projects not just company-wide policies (that may be insufficient because those are typically shared among other company projects)

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Information local communities should consider requiring – as part of any application process – to include the following:

- Name of company – corporate structure – including all names of all subsidiaries
- Address of company – corporate and local addresses
- Company contact(s) – including all local contacts addresses, phone numbers and emails
- Signed lease agreements with landowners’ signatures and contact information
- Proof of applicable insurance bonds – important to seek bonding that is specific to each project, not just company-wide bonds
- Exact description of the location of the proposed facility and all associated operations – including all latitude/longitude coordinates. Must provide full disclosure of all proposed operations including
 - Drilling – how many well pads; how many well heads; how long to prepare, drilling and fracture each well
 - Expected truck traffic – how many trucks per day/month/year and over what period of time
 - Proposed truck route
 - Written proof that applicant will abide by all road maintenance bonding and agreements
 - Proof of insurance – is this a company-wide insurance policy, or is it a site-specific certificate. Keep in mind, a company-wide insurance policy may not provide enough financial assurance in the event of major damage/emergency.
 - Because oil and gas operations are never individual, stand-alone operations, it is essential that local officials obtain full disclosure from each applicant on the entirety of the proposed operation – all pieces of the infrastructure. To that end, all applications should be required to provide full details on all planned operations/infrastructure including the following:
 - **Well pads** – full details on each – location, number(s), sizes
 - **All above and below ground impoundments or storage areas/tanks** – maps of exact locations should be required, as well as full narratives included all proposed sizes, designs, operations and length of operation
 - **Pipelines** – full details on each – location, number(s), sizes, expected final through put capacity and when anticipated to be added
 - **Gathering lines** – full details on each – location, number(s), sizes, expected final through put capacity and when anticipated to be added
 - **Compressor Stations** – full details on each – location, number(s), type of engines, numbers of flares, expected final through put capacity
 - **Pig Launchers and Receivers** – full details on each – location, number(s), expected final through put capacity and when anticipated to be added
 - **Processing plants** – cryogenic/fractionation plants – full details on each – location, expected final through put capacity and when anticipated to be added
- Copies of required notification letters to landowners:
 - Written proof that all landowners have been notified of the proposed project
- **Full documentation of all application and supporting information submitted** to the Pennsylvania Department of Environmental Protection (PA DEP), the applicable County Conservation Districts, the United States Environmental Protection Agency (US EPA) and in

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applicable areas of the Commonwealth – the Allegheny County Health Department (ACHD) or Philadelphia Air Management Services (PAMS).

- Full documentation of all permits and supporting information associated with such permits as granted by the PA DEP, all applicable county authorities and/or US EPA
- Any other documentation required as part of local ordinances and/or the MPC
- All Planning, Preparedness and Contingency Plan PPC details – more specific details included below

Step two – technical review and conditional use procedures

Once all required submittals have been received, the Township/Borough should send a letter to the applicant notifying them that their application has been officially “accepted” and that the technical review stage has commenced, consistent with the Conditional Use proceedings as outlined by the MPC.

Using this process, the Township/Borough can ensure that all required submittals have been received so that all applicable Boards/Commissions/Councils can consider a complete application package and render their decision on all the facts and not just incomplete or partial submittals. **All applicants should be subject to this two-step review process.**

Full disclosure of on-going communications with state, county and federal regulatory authorities

Because all oil and gas operations require multiple authorizations, it is essential that local Township/Borough officials be kept apprised of all communications with other reviewing/regulatory agencies. For example, an applicant once requested a geographic change in location of a portion of its oil and gas operation *after* local governmental approval was obtained. This change, sought by the applicant via communications with the PA DEP may have resulted in the need for a revised application to the local Township/Borough. However, it is unclear if such notification and subsequent approval was sought at the local level – even though the change in geographic location of the operation was relevant for the local decision-makers. Substantive changes to location of operations is fundamental to review and approval by all agencies/boards/commissions/councils and, therefore, each has not only a right, but a responsibility to be kept informed of any changes.

To that end, Township/Borough officials should consider amending their protocols/ordinances to include a requirement that all emails, letters and meeting notes applicable to all discussions an applicant is having with PA DEP and any other regulatory agency regarding applications and/or approvals be submitted to the Township/Borough, at the same time those communications are submitted to the PA DEP and/or County officials. Additionally, all responses from the PA DEP, County officials and/or any other reviewing agencies should be shared with the Township, in real time. Elected boards must be kept in the loop with all developments, delays, extensions and modifications, including property boundaries and names of facilities.

Pennsylvania is experiencing an incredible influx of permit requests for highly industrial facilities – often in areas of communities where industrial activities have never occurred. The request for permit applications for consideration is happening in seemingly, rapid succession and often involves multiple layers of new, expanded and modified operations. It is difficult for most to comprehend and at times, an overwhelming task to keep it all straight. In an effort to avoid rushed decision making and with an eye towards ensuring a thorough review of all pertinent facts, local government officials must update their protocols so that all permit requests are properly submitted and evaluated. Putting protocols in place to ensure the review process is sound is an important starting point for all community leaders.

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