



NEW YORK STATE WATER RESOURCES INSTITUTE

Department of Earth and Atmospheric Sciences

1123 Bradfield Hall, Cornell University
Ithaca, NY 14853-1901
<http://wri.eas.cornell.edu>

Tel: (607) 255-3034
Fax: (607) 255-2016
Email: nyswri@cornell.edu

The Smart Growth Public Infrastructure Policy Act and New York's Local Governments

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David Kay, Zoe McAlear, and Russell Glynn
Community and Regional Development Institute
Department of Development Sociology
Contact: dlk2@cornell.edu



Abstract

Unlike NYS State infrastructure agencies and authorities, local governments are not directly subject to the Smart Growth Public Infrastructure Policy Act. However, because many of them turn to state infrastructure agencies for support with local infrastructure projects, the law can indirectly be important for them. Moreover, while the State can set priorities for infrastructure it funds, the broader goal of enhancing smart growth depends to a significant extent on the eagerness of local governments to align their priorities and authorities in the same direction. Based on responses to a scientifically randomized sample of New York's cities, towns and villages, this report summarizes the awareness and familiarity of municipal leaders with the law and its significance, especially with respect to water and sewer infrastructure. The report also assesses their perspectives on the law and its consistency and overlap with local land use policies and goals.

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Summary Points of Interest

- *With or without smart growth, local government investment in infrastructure is widely agreed to be inadequate. The cumulative problems of “deferred investment” in deteriorating infrastructure and the widespread need for greater infrastructure investment are well documented if less well heeded.*
- *Forty-one percent of the responding municipal leaders were aware of the existence of SGPIPA before taking the survey and about 1 in 5 of the respondents overall had the deeper knowledge that SGPIPA could influence state decisions to fund “your municipality’s infrastructure applications”. While this level of awareness is lower than desirable, it is significant for a law that does not directly apply to municipalities. Sixty one percent of respondents expressed interest in more “general” information about the law, and an additional eleven percent were interested in SGPIPA’s relation to specific topics including transportation, water and wastewater, and other topics.*
- *Since the passage of SGPIPA, 38% of municipal leaders reported seeking infrastructure funding from the State; among these applications for water and wastewater infrastructure held a prominent place: two-fifths (40%, or 15% of all respondents) had applied for water supply infrastructure and just over half (51%, or 19% of all respondents) for the treatment of wastewater or management of stormwater. Nearly three-quarters of applicants for funding said they didn’t know whether or not SGPIPA had influenced the success of their application.*
- *Among all respondents, including those who had not been familiar with SGPIPA before receiving the survey, more than half thought it likely they would during the next several years turn to the state for infrastructure financing assistance for water, and an equal number for sewer/wastewater projects. Awareness of SGPIPA was highest among those expecting to apply for funding. Among all respondents, a plurality (36%) felt SGPIPA would make not make a difference for the competitiveness of their funding applications, and more felt it would make success harder (21%) than easier (13%).*
- *Just under one third of the respondents reported that their municipalities had adopted some kind of local policy or law intended to address sprawl, but almost nine out of ten had adopted local measures that were in concordance with one or more of the State’s smart growth criteria. However, only two of the State-specified smart growth goals were supported by local policy in over half of the responding municipalities: 1) the protection of natural, agricultural, or historical resources and 2) ensuring that building and land use codes are fair and/or predictable.*

Key Words: SGPIPA, municipal opinion survey, smart growth policy, local government.

What is the issue?

When New York State enacted its first major piece of legislation explicitly designed to address sprawling development patterns through the remedy of “smart growth”, the new law was written to directly influence the behavior of state infrastructure agencies and authorities only. Since the law’s enactment, the affected State entities have been individually engaged with the task of integrating the law’s requirements into their routine protocols and operations.

Local governments are not directly subject to any provision of the law. However, because many of them turn to state infrastructure agencies for support with local infrastructure projects, the law can indirectly be important for them. As state agencies change both their procedures and funding priorities to be better aligned with the law, local municipalities must both absorb and provide new smart growth relevant information in order to apply for state infrastructure support. Moreover, designing proposals to be in harmony with State smart growth principles would, for many

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municipalities, make their applications more competitive.

Despite its potential significance for municipalities, their familiarity with this state law has not been systematically assessed. Especially because it does not apply to them directly, even rudimentary awareness of the law cannot be taken for granted. How many local governments are aware of the State's smart growth law, now several years old? What do they know about the law and its consequences? Do they perceive the law as being largely in alignment or conflict with their own local land use policies and goals? These and related questions are addressed in this report.

Background

The New York State Smart Growth Public Infrastructure Policy Act (SGPIPA) was passed with broad legislative support and signed into law in 2010. The legislation was motivated by the shared desire to address the array of economic, environmental, and social problems that are created or exacerbated by sprawling land use development patterns. The law is framed generally in terms of its "fiscal prudence". More pointedly, the legislation was designed to minimize the role that the state itself plays in "unnecessarily" subsidizing costly sprawl through its support of new or expanded infrastructure of all kinds. To that end, the heart of the law is a requirement that all state infrastructure agencies file Smart Growth Impact Statements regarding each of their decisions to fund or develop infrastructure. The Statements document how infrastructure projects comply with the State's smart growth principles; significantly, these principles are formally defined in State law for the first time. If compliance is determined to be impracticable, the agency must detail this determination in a "statement of justification." Thus, while the law does not weight the several and varied smart growth principles over all other considerations, it does require state agencies to take them into account and to publicly document the reasons

why compliance with them is impracticable, if this is the case.

Multiple factors influence the pattern of growth and development, and whether it ends up more closely resembling sprawl or smart growth. The location, scale and design of public infrastructure is one of those influential factors, one that is by definition provided by or otherwise controlled to some degree by the public, i.e. different levels of government. In New York State, however, cities, towns and villages have been delegated the leading and most powerful regulatory authority for controlling the patterns of land use development within their own boundaries. While the State can set priorities for infrastructure it funds, the broader goal of enhancing smart growth depends to a significant extent on the eagerness of local governments to align their priorities and authorities in the same direction.

With or without smart growth, local government investment in infrastructure is widely agreed to be inadequate. The cumulative problems of "deferred investment" in deteriorating infrastructure and the widespread need for greater infrastructure investment are well documented if less well heeded. The American Society for Civil Engineers' (ASCE) most recent report on the state of the nation's infrastructure assigns it an overall grade of D+. It dispenses a worse grade of D to the drinking water and wastewater components of that infrastructure that are of special interest in this report. The same ASCE source identifies investment needs in New York State over the next 20 years of \$27 billion for drinking water and \$29.7 billion for wastewater (ASCE 2013). The State's own 20 year estimates from just a few years earlier are significantly higher, at \$38.7 billion for water and \$36.2 billion for wastewater, not to mention a \$175.2 billion need for transportation investment (NYSDOT ND; NYSDEC 2008). In 2012, the State Comptroller estimated a large and growing \$89 billion gap in necessary infrastructure funding,

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drawing a conclusion that is perhaps self-evident: "local government's challenges of maintaining the water, sewer and transportation infrastructure systems that they are responsible for will bring new pressures on their already fragile finances." (NYSOSC 2012:3)

The Comptroller's 2012 report (NYSOSC 2012:13) explains further that New York's local governments raise nearly two-thirds of their overall revenues for capital through debt. For the remaining revenues they are more dependent on the combination of state and federal sources of aid than on local revenue sources. At the same time, with the exception of the one-shot boost in federal aid provided by the American Recovery and Reinvestment Act, which was enacted to minimize the effects of national financial collapse, trends in the real value of federal and state aid have been flat or declining.

These trends illustrate the "challenges" referenced above. They highlight both the importance of local government access to the scarce capital resources of the State as well as the potential importance of achieving any fiscal efficiencies that are part of the promise of smart growth.

Local Government Smart Growth Survey Responses

To better understand the relationship between SGPIPA and local governments, we emailed a link for an online survey to municipal leaders from a randomly selected sample of 171 of New York's cities, towns and villages (excluding New York City). The sample was stratified by size. Each of the 33 largest of these municipalities by population was selected. An approximately 9% sample of the smaller municipalities was selected.

Usable responses were received from 82 municipalities, or just under half of those contacted, between late November of 2013 and mid-February of 2014. The responses appear generally representative of the state as judged

by comparison between the sample and all municipalities of a few universally available key parameters. Characteristics compared in this way included population, municipal type and full value of the property tax base.

Mayors, Supervisors or their immediate deputies comprised 79% of the respondents. A variety of other municipal officials or employees (clerks, planners, administrators) delegated by the chief elected official responded for the other municipalities. The respondents were mostly experienced in government: 79% had held a local municipal office for five or more years and only 4% had done so for a year or less (See Appendix, Q. 2).

To account for the sample stratification, the following results are all weighted to ensure that the responses from neither large nor small municipalities were given disproportionate influence. The results, in other words, are broadly representative of the state's municipalities (cities, villages and towns combined) regardless of their size.

Overall Awareness of SGPIPA is Low

One of the baseline goals of the survey was to gauge awareness both of SGPIPA and its underlying smart growth principles among local government leaders. Overall, awareness was low in absolute terms, if promising given the content and timing of the law itself, at least among the leading elected officials and their representatives who responded. To be sure, someone in government other than the respondent could have been more aware of the law. Also, high levels of awareness would be surprising given the fact that that SGPIPA was signed into law relatively recently and is not among the myriad of State laws, regulations, programs, and mandates that apply directly to local government.

That said, only a minority of respondents claimed even general familiarity with SGPIPA, and many among this minority expressed a lack of clarity about some of the law's major

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implications. The response analysis shows that only about 2 out of 5 of the responding municipal leaders were aware of the existence of the law before taking the survey (See Appendix, Q. 3).

Even among the 41% minority of all respondents who were “aware” of SGPIPA, the extent of familiarity varied. Awareness is typically much easier to achieve and report than is familiarity, as the following data illustrate. None of the 41% of leaders aware of the law claimed to be “very familiar” with it, though 59% of this subgroup said they were “somewhat familiar” (Q. 5). Only a slightly smaller fraction, near half (52%), of the “aware” group, or about 1 in 5 of the respondents overall, had the deeper knowledge that SGPIPA could influence state decisions to fund “your municipality’s infrastructure applications” (Q. 4). A similar proportion (56%) said they were “somewhat or very familiar” (only 4% very familiar) with the particular definition of smart growth as articulated in SGPIPA (Q. 6). In sum, familiarity that went deeper than a general awareness of the law was expressed by respondents from roughly a fifth to a quarter of the municipalities in the state.

It is helpful to contrast these results about SGPIPA, a specific and relatively new law, with awareness of smart growth in general. A reasonable expectation might be that more leaders would feel familiar with the general concept than with the specific legislation. This expectation is supported by the survey results. For example, 13% of the respondents said they were “very familiar” with smart growth in general, but even among those aware of SGPIPA, none claimed to be “very familiar” with the law (Q. 13 and 5). Also, only a small fraction (4%) of those aware of the law (and less than 2% of all respondents) were “very familiar” with SGPIPA’s definition of smart growth (Q. 6). Similarly, the 27% of the respondents who said they were not at all familiar with the general concept of smart growth (though another 7% didn’t answer this question and might fairly be

added to the 27%) is a much smaller group than the 59% of respondents who were not aware of SGPIPA prior to being contacted (Q. 13 and 3).

One consequence of the lack of information and familiarity with SGPIPA is a widespread interest in getting more information. Just 12% of all respondents were aware of any information that might have been provided to them directly by a State agency or authority alerting them to SGPIPA or any of the law’s smart growth criteria. Sixty one percent of respondents expressed interest in more “general” information about the law, and an additional 11% were interested in SGPIPA’s relation to specific topics such as roadway improvements, stormwater management, broadband and public water for underserved areas, strategies for enhancing grant competitiveness consistent with the law, and its applicability to “small rural towns”. Only 19% said they already had adequate information. Whether additional information was of interest or not was unrelated to prior awareness of SGPIPA, nor was there a large difference by municipal type (Q. 25).

Local Government Infrastructure: More than Half Involved in Water or Wastewater Projects

As noted above, because compliance with SGPIPA is the responsibility of state agencies and authorities rather than local governments, the law is relevant to local governments only indirectly, and even then really only insofar as they seek assistance from the state for their infrastructure projects. For this reason, we queried survey recipients about both their recent involvement in various kinds of local infrastructure development, and also whether they anticipated applying to the state’s infrastructure programs in the near future (see next section).

The first question gauged the areas of local infrastructure involvement. The questionnaire asked whether the municipality had “approved, undertaken, financed or supported” nine named and one “other” categories of

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infrastructure projects within the previous five years. Respondents from nearly all the municipalities (93%) reported activity in one or more of the categories, and 86% listed activity in one to four categories. As expected, road and bridge projects were by far the most frequently mentioned (72%); over a third of respondents selected road and bridge infrastructure and no other kind. Also quite frequently reported were water supply (45% of all respondents) and sewage and wastewater (39%) infrastructure. Over half (53%) of all respondents reported either water or sewage/wastewater activity, and 30% mentioned both.

Other types of infrastructure selected by a good fraction of respondents included housing (21%), energy (17%) and telecommunications (14%). Less than a tenth of respondents mentioned education, health care, "other transportation" or "other" kinds of infrastructure (See Appendix, Q. 9). Presumably, these measures are reasonably accurate reflections of the prevalence of local infrastructure activity. However, because the question was essentially in a yes/no format for each category, the responses do not distinguish between multiple, large scale or costly infrastructure investments versus those that might be small or minor.

Local Government Infrastructure: Smart Growth Funding from New York State

The question just discussed focused on types of infrastructure projects in which local governments are involved, but not on funding sources. A second question turned to that issue more directly, though without as much detail on infrastructure type: "Since the State Smart Growth Act was passed in 2010, has your municipality applied for infrastructure funding or approval from any State agency or authority, Regional Economic Development Council (REDC), or Consolidated Fund Application (CFA) process, or the New York State Cleaner Greener funding program?" In contrast to the roughly 9 out of 10 respondents who reported supporting

at least some kind of local infrastructure project within the previous five years, in response to this question (covering the somewhat shorter time period since SGPIPA had been enacted) only 38% of them said they had sought funding from the State; in addition, 10% didn't know, 8% didn't answer, and the residual 44% said they had sought no such funding (See Appendix, Q. 18).

Within the minority group that had sought funding, applications for water and wastewater infrastructure held a prominent place: two-fifths (40%, or 15% of all respondents) of these municipalities had applied for water supply infrastructure and just over half (51%, or 19% of all respondents) for the treatment of wastewater or management of stormwater (Q. 19 and 20).

Consistency with SGPIPA

Some details were requested in the survey about the relationship between applications to the state for funding and smart growth elements of the applications. Again within the 38% minority group that had sought funding from the state, almost half (48%) answered affirmatively to the question, "To the best of your knowledge, did your municipality take into account any of the Act's Smart Growth criteria in formulating any of the applications"; 30% didn't know and only 22% responded no (See Appendix, Q. 21). The small group of applicants answering affirmatively to this question (18%; or 48% of the 38%)¹ was asked which of the long list of specific smart growth criteria defined in SGPIPA were cited as part of any of their municipality's infrastructure applications to the State.

Four of the criteria were mentioned by more than half of this group: prioritizing existing infrastructure and considering the needs of future generations each were mentioned by

¹ The small number of respondents to this question raises an extra note of caution as to the robustness of the numbers reported next.

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61%, protecting natural, agricultural or historic resources was chosen by 54%, and encouraging community based planning by 53%. Most of the rest of the criteria were cited by somewhere between 30% and 50% of them. The criteria least frequently mentioned by this group were channeling projects to areas designated for development (24%), ensuring that land use codes are fair and predictable (22%), promoting sustainability by reducing greenhouse gas emissions (8%) and improving public transportation (7%) (See Appendix, Q. 22).

Another perspective on the way SGPIPA has mapped onto local infrastructure applications can be gleaned from the responses to the question, "To the best of your knowledge, are your municipality's current infrastructure applications to State agencies largely consistent with the Act's Smart Growth criteria?" A very small number (6%) answered no to this question, but we did not ask any follow up questions about the kind of infrastructure involved or why this might be the case (eg. lack of knowledge about SGPIPA, other over-riding priorities?) A plurality of respondents (38%) were confident that their current applications were consistent with SGPIPA. However, as with more general findings about lack of awareness, an almost equal number (36%) didn't know one way or the other. In this case respondents from towns were disproportionately likely to answer that their responses were consistent, while those from villages were disproportionately likely to say they didn't know.

Just 14% of respondents said this question about application consistency didn't apply to their municipalities at all (and an additional 6% didn't answer) (Q. 16). There are various reasons the question might not have seemed applicable, for example respondents who felt the law didn't generally apply to their context or perhaps even more obviously that the municipality had no current infrastructure applications. This latter interpretation of the "doesn't apply" responses might be placed in

the context of the 7% who had earlier reported no infrastructure projects of any kind in their municipalities during the preceding five years, though both the time frame (past v. present) and framing of the questions (undertaking infrastructure projects at all vs. seeking state funding for them) are different.

Lastly, two other results reflect further an important lack of local clarity about the significance of SGPIPA for the competitiveness of local infrastructure applications to state agencies. When just the applicants for state infrastructure funding were asked, "To the best of your knowledge, has the Act's Smart Growth criteria had any influence on whether or not your applications were approved or funded?", 74% said they didn't know (8% said yes, 18% no) (Q. 23). When everyone, regardless of whether they had applied for funds or not, and regardless of what they had known about SGPIPA prior to responding to the survey, was asked near the end of the survey, "Based on what you know about the State Smart Growth Act now, do you think that implementation of the Act will affect your municipality's ability to fund infrastructure projects?" there was a higher level of confidence in answering this question. A significant proportion (26%) didn't respond to the question at all, while 4% said the Act just didn't apply to their situation. However a plurality of respondents (36%) felt SGPIPA would make not make a difference either way. In addition a larger fraction thought it would make it harder to fund projects (21%) than easier to fund (13%) (Q. 24). Somewhat counter-intuitively, though the robustness of this result is again questionable due to small numbers of respondents in each category, additional comparisons show a tendency for a disproportionately large fraction of town leaders to think SGPIPA made funding easier and for village/city leaders to think it made funding harder.

Local Government Infrastructure: Funding from Local and Regional Authorities

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As SGPIPA is being implemented, there remains some lack of clarity about the inclusiveness of the definition of state agencies and authorities that fall under the jurisdiction of the law. Though only a small number of individual major agencies are named in the law, by some counts many hundreds of other agencies and authorities in New York State might also be covered by a broad interpretation of SGPIPA language. Mostly to assess the potential importance of this definitional coverage for SGPIPA, but also to provide a broader view of water and sewer infrastructure funding, we repeated the prior question about applications for infrastructure funding or approval since the passage of SGPIPA. Instead of asking about state funding sources, we asked in this version if there had been applications to any local, county or regional water or sewer authorities. The answer was “yes” from 25% of respondents (See Appendix, Q. 17). We did not assess which local water and sewer authorities or agencies were involved, whether they had adopted protocols to comply with SGPIPA, or whether local governments were applying to state and to local agencies for all or parts of the same or different projects. However, we did find that of the municipalities who had applied to a regional/county/local water or sewer authority, about a third (36%) had also applied to the state for water infrastructure support while a notably larger fraction (81%) had also applied to the state for support of wastewater or stormwater management infrastructure.

Local Government Infrastructure: More than Half Expect to Turn to the State for Support of Water and Wastewater Projects Within Five years

The question discussed above about state support for actual infrastructure activity during the previous five years was followed up by a matching question about the likelihood that the municipality would seek state financing for infrastructure during the next five years. Over half (54%) thought it likely (somewhat or very) they would turn to the state for infrastructure

financing assistance for water projects. The same total of 54% anticipated applying for sewer/wastewater projects, though a smaller proportion responded with “very likely” compared to the response about water projects. Curiously, given the comparatively much larger proportion of respondents involved with transportation infrastructure as reported above, only a slightly larger group of respondents (60%) were expecting to apply to the state for road/bridge financing during this time period (See Appendix, Q. 10). This may well reflect both a sense of need and opportunity, and perhaps scale and local capacity issues too that result in greater self-reliance of municipalities for some of their road infrastructure work. Much lower proportions of the municipal leaders anticipated seeking state assistance for other categories of infrastructure: 21% for energy, 18% for telecommunications, 17% for housing, 10% for “other transportation”, and a few percent here and there for education, healthcare, and miscellaneous other infrastructure categories (Q. 11).

A positive sign for awareness of smart growth exists in the finding of a clear relationship between the probability of applying for state water or sewer funding in the future and awareness of SGPIPA. Of those very likely to apply for these categories of infrastructure support, more than half (54% water/60% sewer) knew of SGPIPA already. In contrast, among those not at all likely to apply for water or sewer infrastructure funding, familiarity with SGPIPA was very much less (18% water/24% sewer). A similar pattern is evident in the relation between those very likely to apply and the somewhat lower overall awareness that SGPIPA could influence application competitiveness. In other words, greater familiarity was concentrated among those for whom the law was likely to have the most importance.

Local Anti-Sprawl Policies

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As suggested in some of our introductory remarks, policies tend to work best when the different levels of government are working together rather than in tension. To begin to assess this with respect to SGPIPA, we asked respondents about the extent to which smart growth concepts had been incorporated into local municipal law. Just under one third of the respondents (32%) reported that their municipalities had adopted some kind of policy or law intended to address sprawl (See Appendix, Q. 12). Presumably reflecting the historical location of most growth pressures, respondents from towns were disproportionately likely to have adopted such policies, and those from villages and cities disproportionately less likely.

The specific content or aspects of the law or policy were not specified in this initial question. Instead, responses were triggered solely with the reference to "sprawl". To probe into this issue more thoroughly, we also asked respondents whether they had put any local policies into place that dealt with eighteen distinct policy elements of smart growth that are explicitly mentioned in SGPIPA's formal list of smart growth criteria. In other words, we asked about local adoption of each of these policy elements separately, assuming they would not automatically come to the respondent's mind with a generic prompt of the terms "sprawl" or "smart growth". Even though two-thirds of respondents had said they hadn't adopted any generic anti-sprawl measures as noted above, because of the broad range and number of the policy goals in SGPIPA, a number of which were common before being associated with the label smart growth, it was a little surprising to see that even 10% of respondents would choose, "our local policies do not address any of the above issues" (Q. 14).

Several smart growth criteria are directly related to prioritizing development in particular places: to encourage projects near municipal centers, to revitalize downtown spaces, and to channel projects to areas designated for

development. A third of respondents declared their municipalities had a local policy addressing each of these. This figure is approximately the same proportion, within a percentage point or two, of those who had said they had adopted anti-sprawl policies. Some other distinctive goals of smart growth were said to be supported by local policies in about a quarter of the responding municipalities: prioritizing the use of existing infrastructure (23%), encouraging mixed land use (27%), and increasing the diversity or affordability of housing (24%) (Q. 14).

The protection of natural, agricultural, or historical resources was one of only two smart growth goals supported by local policy in over half (55%) of the cities, villages and towns responding to the survey. The second smart growth goal adopted locally by over half of the responding communities (54%) was to ensure that building and land use codes are fair and/or predictable. The high percentages for these goals clearly exceed the third of respondents who said they had adopted anti-sprawl policies. Although true of all the goals to some extent, these two elements of smart growth are presumably considered important by many respondents for reasons that go beyond any direct or conscious relationship they may have to sprawl or smart growth. Another goal that seems likely to stretch well beyond its association with smart growth, the beautification of public spaces, was a policy in place in 34% of the municipalities (Q. 14).

Two other smart growth goals are similar to the fair/predictable goal in that they have strong procedural aspects and are more like hallmarks of good planning in general than characteristics peculiar to smart growth. Of these, local policy designed to promote coordination between state, local, and regional governments was noted by 41% of respondents and encouraging community-based planning, public participation, or collaborative decision making in 36% (Q. 14). Given the significance of these goals to planning overall, the fact that these

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numbers didn't register higher on the scale deserves closer attention.

Significantly, relatively few respondents said they had implemented any local policies to address the transportation aspects of smart growth, even though these are often considered among its key strategic goals, in part because of the tight relationship between land use patterns and the viability of various transportation options ranging from walking to public transit. For example, only 16% of respondents confirmed the existence of policies intended to reduce automobile dependency. An even smaller fraction (10%) mentioned policies to improve public transportation (Q. 14). It is of course possible though not certain that different language with related intent not mentioned explicitly in SGPIPA, for example "promoting walkability", would have elicited somewhat higher numbers.

Responses about several of SGPIPA's more specialized or less traditional policy goals also deserve mention. The redevelopment of brownfields, a local policy reported to be in place in 15% of the municipalities, is a relatively specialized policy, though it has received a great deal of attention from the state and federal governments and is very important in many locations with a prior history of development and contamination.

Next, New York amplified the standard national articulations of smart growth goals in SGPIPA with some explicit uses of the term "sustainability". The first such sustainability goal, in place in almost a quarter of the responding municipalities (23%), is "to promote sustainability by considering the needs of future generations." While standard planning almost by definition looks to the future, the longer term viewpoint of explicitly considering the needs of future generations is a much less common guidepost, if a central sustainability concept. The second goal, "to promote sustainability by reducing greenhouse gas emissions", was noted as a locally adopted

policy or law by just 13% of respondents (Q. 14). This might be compared with the fraction of New York's cities, towns and villages that have adopted the State's related "Climate Smart Communities" pledge, which is perhaps the most obvious policy that might come to mind in responding to this question. At 8%,² that proportion is less than but similar to the 13% in our survey who noted the adoption of any kind of local greenhouse gas emission policy that came to mind.

Notice that the frequency with which this group of all respondents selected SGPIPA goals is not a simple mirror image of the frequencies reported above with which the smaller group of recent applicants for state funding had ranked them. For example, ensuring fair/predictable land use codes was among the most common of locally adopted smart growth policies, and among the less frequently cited in state infrastructure applications. Similarly, ensuring the needs of future generations was among the less often mentioned of locally adopted policies, but among the most often cited in the applications (Q. 14 and 22).

After all the survey recipients had reviewed these SGPIPA goals/criteria and stated whether policies in support of these goals were already in place locally, the questionnaire continued by asking if the SGPIPA smart growth criteria were, collectively, "useful guidelines for developing infrastructure projects in your municipality?" Just over two fifths of the respondents (42%), or almost the same proportion who said they were aware of SGPIPA initially, responded "mostly yes", with only 14% saying "mostly no" and the substantial remainder with no expressed opinion. A few comments from those responding "mostly no" suggested that the goals were irrelevant to their concerns ("our town doesn't have these issues") or that even if the issues were relevant, they preferred local

² See DEC's list of 122 (not including counties) at <http://www.dec.ny.gov/energy/56876.html>, accessed August 5, 2014.

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responses over State-driven policy (e.g. "Localities are perfectly able to make these decisions on our own without State involvement.") (Q. 15). It is interesting to observe that essentially the same fraction of respondents said "mostly no" whether they had prior awareness of SGPIPA (14%) or not (16%). In contrast, 62% of those with prior awareness thought the guidelines mostly useful whereas only 35% with no prior awareness thought them mostly useful. This indicates that greater awareness and familiarity with SGPIPA is associated with a greater support of the law's smart growth goals as being useful, but the direction of cause and effect is not certain.

Conclusions

Our results suggest first and foremost that local government is interested in and has a need for more information about SGPIPA and its relevance for them. Especially given its recent provenance and lack of direct applicability to local government, levels of awareness of the law are promising. However, deeper knowledge of SGPIPA and its implications are still limited. A related issue of state-local coordination and communication is raised by response to questions about local smart growth policy. On the one hand, nine out of ten municipalities had adopted local measures that were in concordance with one or more of the State's smart growth criteria. However, this result sets the bar at a low level. It is contrasted with the fact that only two among the suite of State-specified smart growth goals were independently supported by local policy in more than half of responding municipalities.

In New York most powers over land use controls and hence development are vested with local government. Centralized control over sprawl or promotion of smart growth has inherent limits. SGPIPA directly affects only the role of State infrastructure agencies and authorities; it is designed only to minimize State infrastructure funding that promotes sprawl without articulation of a compelling justification.

SGPIPA can have a clear and significant impact on sprawl/smart growth insofar as it changes State infrastructure funding priorities.

But SGPIPA is limited in authority because it does not directly apply to municipalities or project applicants. The law has no relevance for municipalities or developers that do not foresee applying to state infrastructure agencies or authorities. Our results suggest that even leaders in municipalities that have applied may remain unaware how the State's smart growth criteria can influence their chances for funding. This is not least because the relationship between project competitiveness and the State's smart growth criteria is not fully articulated. Also, SGPIPA explicitly endorses "concentrated infill development in a municipally approved comprehensive land use plan". This underscores the importance for SGPIPA implementation of local comprehensive plans, only some of which endorse smart growth principles on their own. Finally, note that another smart growth criterion of the SGPIPA law is "to coordinate between state and local government and intermunicipal and regional planning". Ultimately, this reflects and understanding that smart growth policy cannot succeed in New York unless State and local government policies reinforce each other.

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Vital Infrastructure Needs, accessed July 31, 2014 at [pdf](http://osc.state.ny.us/localgov/pubs/infrastructure.pdf)
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Appendix – Survey Results

1.) “Before taking the survey, would you like to read a summary of the State Smart Growth Act?”

Possible Responses	Percent
Yes	36
No, I’ll just take the survey now	64

All survey participants should have answered this question.

2.) “How long (cumulatively) have you held **any** public office in this municipality?”

Possible Responses	Percent
Less than one year	4
One to five years	17
Five to 10 year	37
More than 10 years	42

All survey participants should have answered this question.

3.) “Before today, were you aware of the State Smart Growth Act?”

Possible Responses	Percent
Yes	41
No	58
Didn’t answer	1

All survey participants should have answered this question.

4.) “Before today, were you aware that some state agencies or authorities might apply the State Smart Growth Act to assess the strength of your municipality’s infrastructure applications?”

Possible Responses	Percent
Yes	52
No	45
Didn’t answer	3

Only survey participants who answered, “yes” in question 3 were directed to respond. Those who answered “no” or didn’t answer were directed to skip to question 9.

5.) “On the scale below, please rate how familiar you are personally with the State Smart Growth Act?”

Possible Responses	Percent
Not at all familiar	14

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Somewhat unfamiliar	27
Somewhat familiar	59
Very familiar	0

Only survey participants who answered, “yes” in question 3 were directed to respond.

6.) “The State Smart Growth Act includes specific criteria that define Smart Growth. Using the same scale, how familiar are you with the Act’s definition of Smart Growth?”

Possible Responses	Percent
Not at all familiar	8
Somewhat unfamiliar	24
Somewhat familiar	52
Very familiar	4
Didn’t answer	12

Only survey participants who answered, “yes” in question 3 and then anything except, “not at all familiar” in question 5 were directed to respond. Those who answered “not at all familiar” were directed to skip to question 7.

7.) “Has any State agency or authority provided you with information about the State Smart Growth Act or any of the Smart Growth criteria?”

Possible Responses	Percent
Yes	28
No	62
Didn’t answer	10

Only survey participants who answered, “yes” in question 3 were directed to respond.

8.) “Did the information conveyed by the state agency or authority include information about how the State Smart Growth Act might affect your municipality’s applications for infrastructure projects?”

Possible Responses	Percent
Yes	74
No	0
I don’t know	26

Only survey participants who answered, “yes” in question 3 and then answered, “yes” in question 7 were directed to respond.

9.) “Has your municipality approved, undertaken, financed, OR supported any of the following types of infrastructure projects during the **past** five years? (Please check all that apply.)”

Type of infrastructure project	Percent responding “yes”
Water supply infrastructure	45
Sewage and wastewater treatment	39

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Roads and bridges	72
Housing infrastructure	21
Education infrastructure	6
Health care infrastructure	6
Telecommunications/information technology/broadband infrastructure	14
Energy infrastructure	17
Other transportation infrastructure	10
Other infrastructure projects (please describe)	10 (culverts, drainage control/flooding mitigation, hydroelectric generation, installed water meters, park facilities, repaired a bridge, sewer repair, sidewalks, sidewalks and public works facilities, storm water and fire house renovation)
I don’t know	3

All survey participants should have answered this question.

10.) “On the scale below, how likely is it that your municipality will seek state financing for any water, sewer, or road infrastructure projects during the **next** five years?”

a.) Water supply infrastructure projects

Possible Responses	Percent
Not at all likely	25
Somewhat unlikely	3
Somewhat likely	15
Very likely	39
I don’t know	3
Didn’t answer	15

b.) Sewer and/or wastewater treatment infrastructure projects

Possible Responses	Percent
Not at all likely	24
Somewhat unlikely	9
Somewhat likely	24
Very likely	30
I don’t know	1
Didn’t answer	12

c.) Road or bridges infrastructure projects

Possible Responses	Percent
Not at all likely	10
Somewhat unlikely	15
Somewhat likely	25
Very likely	35
I don’t know	3
Didn’t answer	12

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All survey participants should have answered all parts of this question.

11.) “Is it likely that your municipality will seek State financing for any of the following types of infrastructure projects during the **next** five years? (Check all that apply.)”

Type of infrastructure project	Percent saying “Yes, likely”
Housing	17
Education	3
Health care	4
Telecommunications/information technology/broadband	18
Energy	21
Other transportation	10
Other (please describe)	9 (drainage/flooding, greenway trail and park improvements, highway, repaving of village street, replacement bridges, road paving, solid waste management, town hall wastewater treatment)
I don’t know	26

All survey participants should have answered this question.

12.) “Has your municipality adopted any kind of policies or local laws intended to address the type of growth and development known as “sprawl”?”

Potential Responses	Percent
Yes	32
No	59
I don’t know	6
Didn’t answer	3

All survey participants should have answered this question.

13.) “Using the scale below, how familiar are you personally with the general concept of ‘Smart Growth’?”

Potential Responses	Percent
Not at all familiar	27
Somewhat unfamiliar	22
Somewhat familiar	31
Very familiar	13
Didn’t answer	7

All survey participants should have answered this question.

14.) “The State Smart Growth Act establishes Smart Growth criteria on infrastructure projects, as listed below. Does your municipality have any **local policies already in place** intended to address any of the listed goals? (Check all that apply.)”

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Smart Growth Criteria	Percent saying “Yes”
To prioritize the use of existing infrastructure	23
To encourage projects near municipal centers	34
To channel projects to areas designated for development	35
To protect natural, agricultural, or historical resources	55
To encourage mixed land use	27
To revitalize downtown spaces	33
To increase the diversity or affordability of housing	24
To redevelop brownfields	15
To beautify public spaces	34
To improve public transportation	10
To reduce automobile dependency	16
To promote coordination between state, local, and regional governments	41
To encourage community-based planning, public participation, or collaborative decision making	36
To ensure that building and land use codes are fair and/or predictable	54
To promote sustainability by reducing greenhouse gas emissions	13
To promote sustainability by considering the needs of future generations	23
I don’t know	7
Our local policies do not address any of the above issues	10

All survey participants should have answered this question.

15.) “From your perspective, are the Act’s Smart Growth criteria (as listed in the previous question) useful guidelines for developing infrastructure projects in your municipality?”

Potential Responses	Percent
Mostly yes	42
Mostly no	14
I don’t know/no opinion	36
Didn’t answer	8

All survey participants should have answered this question, but only those who responded, “Mostly no” were prompted to answer the second part below.

a.) “Why not?”

“Another state mandate. Interferes with our own planning.”
“Localities are perfectly able to make these decisions on our own without State involvement.”
“More geared to more concentrated population areas.”
“Our community is older homes, they do not meet the newer building codes. Our infrastructure is old and we can’t get funding from the EFC, been on it for over 20 years, we moved up the list when the

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county was hit with a consent order from DEC only to be cut out by the county. We are 99% built out.
“Our town doesn’t have these issues.”
“We are a small rural town with no business center, limited infrastructure, and limited area for future infrastructure due to terrain, distance from an urban area, and in which the terrain limits development.”
“We are a small village in a rural area.”
“We are a very small and rural area with less than 300 permanent homes and maybe 150 seasonal. We don’t at this time see new development at a pace we have to worry about.”
“We are so small that we already try to do this.”

16.) “To the best of your knowledge, are your municipality’s current infrastructure applications to State agencies largely consistent with the Act’s Smart Growth criteria?”

Potential Responses	Percent
Yes	38
No	6
I don’t know	36
Not applicable	14
Didn’t answer	6

All survey participants should have answered this question.

17.) “Since the State Smart Growth Act was passed in 2010, has your municipality applied for infrastructure funding or approval from any **local** (county or regional, for example) **water and sewer** authority?”

Potential Responses	Percent
Yes	25
No	42
No such authority exists in my area	18
I don’t know	8
Didn’t answer	7

All survey participants should have answered this question.

18.) “Since the State Smart Growth Act was passed in 2010, has your municipality applied for infrastructure funding or approval from any **State** agency or authority, Regional Economic Development Council (REDC) or Consolidated Fund Application (CFA) process, or the New York State Cleaner Greener funding program?”

Potential Responses	Percent
Yes	38
No	44
I don’t know	10
Didn’t answer	8

All survey participants should have answered this question.

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19.) “Of these applications to the State, did any involve **water supply infrastructure?**”

Potential Responses	Percent
Yes	40
No	53
I don’t know	7

Only survey participants who answered, “yes” in question 18 were directed to respond. All others were directed to question 24.

20.) “Of these applications to the State, did any involve infrastructure for **treatment of wastewater or management of storm water?**”

Potential Responses	Percent
Yes	51
No	42
I don’t know	7

Only survey participants who answered, “yes” in question 18 were directed to respond.

21.) “To the best of your knowledge, did your municipality take into account any of the Act’s Smart Growth criteria in formulating any of the State applications?”

Potential Responses	Percent
Yes	48
No	22
I don’t know	30

Only survey participants who answered, “yes” in question 18 were directed to respond.

22.) “Please indicate which of the following criteria were cited as part of ANY of your municipality’s infrastructure applications to the State since the State Smart Growth Act was adopted in 2010 (choose all that apply).”

Smart Growth Criteria	Percent saying “Yes”
To prioritize the use of existing infrastructure	61
To encourage projects near municipal centers	39
To channel projects to areas designed for development	22
To protect natural, agricultural, or historical resources	56
To encourage mixed land use	33
To revitalize downtown spaces	39
To increase the diversity or affordability of housing	39
To redevelop brownfields	33
To beautify public spaces	39
To improve public transportation	6

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To reduce automobile dependency	17
To promote coordination between state, local, and regional governments	39
To encourage community-based planning, public participation, or collaborative decision making	56
To ensure that building and land use codes are fair and/or predictable	22
To promote sustainability by reducing greenhouse gas emissions	6
To promote sustainability by considering the needs of future generations	61
I don’t know	22
Our infrastructure applications have not explicitly cited any of the above issues	0

Only survey participants who answered, “yes” in question 21 (and 18) were directed to respond.

23.) “To the best of your knowledge, has the Act’s Smart Growth criteria had any influence on whether or not your applications were approved or funded?”

Potential Responses	Percent
Yes	8
No	18
I don’t know	74

Only survey participants who answered, “yes” in question 18 were directed to respond.

24.) “Based on what you know about the State Smart Growth Act now, do you think that implementation of the Act will affect your municipality’s ability to fund infrastructure projects?”

Potential Responses	Percent
Easier to fund	13
Harder to fund	21
Makes no funding difference	36
Does not apply to my municipality	4
Didn’t answer	26

All survey participants should have answered this question.

25.) “Would more information about the State Smart Growth Act be useful to you?”

Potential Responses	Percent
No, I already have adequate information	19
Yes, more general information would be useful	61
Yes, information about specific aspects of the law would be useful	11
Didn’t answer	9

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All survey participants should have answered this question, but only those who chose the third option were directed to the second part below.

a.) “Please specify what kind of information would be helpful to you.”

“Available information on roadway improvements and storm water management.”
“Broadband and public water to underserved areas of the town.”
“Using language consistent with the Smart Growth mission may enhance grant opportunities.”
“Whatever applies to small rural towns.”

26.) “How familiar are you with the new SEQRA forms?”

Potential Responses	Percent
Not at all familiar	19
Somewhat unfamiliar	21
Somewhat familiar	35
Very familiar	17
Didn’t answer	8

All survey participants should have answered this question.

27.) “If you would like to read more information on the new SEQRA forms now, please click Yes below.”

Potential Responses	Percent
Yes	19
No	70
Didn’t answer	11

All survey participants should have answered this question.

28.) “Have you ever tried to use the new EAF Mapper tool (including today)?”

Potential Responses	Percent
No, and I am not likely to try it	33
No, but I am interested in using it	44
Yes	13
Didn’t answer	10

All survey participants should have answered this question.

29.) “Please select the response that BEST describes your current opinion of the EAF Mapper.”

Potential Responses	Percent
Very helpful	65
Needs minor improvements	24

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Needs major improvements	0
Not helpful	11

Only survey participants who answered, "yes" in question 28 were directed to answer this question. All others were directed to the final comment box in question 30.

30.) "If you have any comments on the new SEQRA forms OR the EAF Mapper, please include them here."

"I think that they are an unnecessary burden on applicants and staff. D.E.C. must be realistic and recognize the fact that we cannot totally eliminate mankind's impact on the environment. Environmental protection is very important, but the pendulum has swung too far and we are having to jump through too many hoops with minimal benefit. I have to admit that some of these programs ARE showing possible if not probable connection to the U.N. agenda 21. The very idea that the word "SUSTAINABILITY" seems to mean whatever it's user wants it to is troubling enough, but now we have started to actually see it defined as "social justice" which to me is nonsensical, but more and more people are embracing this definition. What a load of crap."

"Maybe you could add a topographical map to this too."

"Members of the Planning Board and ZBA are probably more familiar with the new SEQRA regulations."

All survey participants should have answered this question.