

Commonwealth Forum Transcript

Conflict or Consensus? The Renewed Debate Over Land Use Planning in Massachusetts

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RSVP: No RSVP for this event

SUMMARY The following is a summary of the main points of the forum. It is not an exact transcript and should not be relied upon. This summary was prepared by State House News Service and is re-printed here with their kind permission.

SHNS 9/21/99 Introduction: Massachusetts is at a "crossroads" in deciding how best to preserve community character while permitting new development to drive the state's economy, experts said today at a forum sponsored by think-tank MassINC and the Massachusetts Foundation for the Humanities. While many panel and audience members agreed they've been discussing the same issues for several decades, there was a sense of a growing political and social call for action. Panel members said that consensus likely will drive the Legislature to give local communities the tools they need to preserve community character while permitting necessary growth. Among those tools: the Community Preservation Act passed last Thursday by the Senate, and the sustainable development plan up for a hearing before the Natural Resources Committee Wednesday.

Other policy points from today's session:

- Small and mid-sized communities should form master plans for growth right away so they know how they want their communities to look when developers come calling.
- Current state law is too weak to empower communities and residents to stem growth.

Moderator:

Lawrence Susskind, Lord Professor of Environmental Planning at MIT.

Panelists:

David Begelfer of the National Association of Industrial & Office Properties

John Bersani of the Commonwealth Development Group, LLC

Donald Connors of Connors, Bliss & Courville, P.C. Regional EPA Administrator

John DeVillars state Environmental Affairs Secretary

Robert Durand

Douglas Foy of the Conservation Law Foundation, Assistant House Majority Leader

Barbara Gardner

Douglas M. McGarrah of Foley, Hoag & Eliot LLP

Sarah Kuhn, Associate Professor, Dept. of Regional Economic and Social Development

University of Massachusetts Lowell

Sam Bass Warner, Jr., Urban Historian, MIT

Gregory Watson, the Dudley Street Neighborhood Initiative

Carter Wilkie, co-author of *Changing Places: Rebuilding Community in the Age of Sprawl*, and a policy advisor to Boston Mayor Thomas Menino.

MassINC co-chair Gloria Larson led off the event with an introduction: I want to thank everybody for joining us this morning. This is an awful lot of fun for us. This is our fourth forum, and we always take our lead from the last issue of *Commonwealth* magazine. This current issue focuses on our collective ability to boom and bloom at the same time. MassINC is a non-partisan but political think tank. We work for legislation and regulatory change. We believe fervently in civic engagement. We're proud to have put together the kind of awesome panel we have here this morning. Clearly land-use planning is one of those issues that affects us all. It's right on the front burner and is often controversial. We don't want this discussion to end today.

Larry Susskind: The problem is how to have a panel like this discuss engaging questions but also try to do something useful. So we interviewed most of the panel members last week regarding the key problems with land use, asked them what worries them the most. Based on that, I've picked six scenarios to help us in getting at the land use problem. The format will go like this: I'll give a brief synopsis of a scenario, then turn first to the people who have a big issue in that area. At the end of 10 minutes, we'll go on to the next issue.

Q: Let me get right to the rate of growth. Think of a small town - at the 30-mile level out from Boston. Small in numbers but big in area, and all of a sudden there's a departure in the rate of development. Suppose they been getting 50 zoning requests a year. Now they are getting 150. They're worried about the effects of rapid development. The town they know, the town that has kept people there is going to change. They're worried and they're scared. They don't have the wherewithal to even begin to handle this. That community wants your advice. Does the system need to be changed? Is it a blip? Will they adjust or should somebody do something out of the ordinary. **Wilkie:** It's a serious issue. Classrooms are being put in trailers because schools are growing so quickly. You go to small towns and they are being inundated with proposals from big-box retailers. The way the scenario usually gets played out is that the policymakers have to increase services and find a way to pay for it. That means raising local property taxes. As a last resort, they end up trying to sell off the green spaces to broaden the tax base. They're coming to you and asking what they should do.

Wilkie: They should have planned for it. It's only a matter of time before the market catches up with their planning. The best thing to do is to reach consensus about what to do before there's a problem. Slowing growth only postpones the problem. You have to come together and review the zoning codes.

Q: Zoning's not going to help you at this moment. If you think the community needs to manage the rate of development, they need new tools. But it's too late at this stage, it's too late to go to the Legislature. What about the development community?

Begelfer: I feel like I'm being walked down a road. I see what you're getting to. I would recommend that there be limit on growth - no, that's just a knee-jerk reaction and a joke.

It is a very serious problem. From most communities, we all want to see some growth. The cost is a big factor. There's a desire to keep open space but what's seen first are the rising property taxes. One of the things that is missing is the planning aspect. Communities haven't looked at growth and decided what their community should look like in the next 10 years. What can be done? There is an issue of cost. There is a bill in the Legislature that would let communities use property taxes to issue bonds. It's like tax-increment financing. That's one solution. The community has to work fairly quickly about deciding what to do. The solution is not to put a hold on development.

Q: Where is the middle, a system with community input? Do you think cities and towns have the tools they need?

Begelfer: The tools are available but not easily accessible. The biggest problem is for a community to decide what they want. If they know that, they can write a master plan. But most communities aren't sure what they want. That requires a lot of the community getting together and discussing the future. There's another bill up for a hearing tomorrow that deals with those issues.

Q: Do communities have the tools they need? They could have had a master plan all along. That's one view. The other view is that we need to give communities additional tools, like taxing windfall from development and using it for other things. Do we need additional tools? Are localities armed with the tools they need? Next scenario: A group of environmentalists say farmland is disappearing, wetlands are being filled. They're saying communities are obviously not up to the task of protecting statewide resources. The environmentalists get together and say we can't trust locals. There are limits on development. We better say what they are. Is this the federal government's responsibility? Is it the state's? Where is the federal government in this story?

DeVillars: There is a federal role but it needs to be exercised in partnership. It's a special challenge especially in New England where the motto on some license plates is "Live free or die." I'll give you an example. In Weymouth, three communities decided to site the largest mall in New England at the naval air station without a more thoughtful plan in place. That will increase traffic 38 percent in the area. It's not an easy commute today. Putting 40,000 more cars on the road would not be good. This development will also hurt their aquifer. Absent a federal and state role, that won't work. Simply coming in and saying "no" is a more limited view.

Q: You're saying this and this and this violate obvious constraints in Weymouth. Do they know that?

DeVillars: They do now. The plan wasn't reflective of full community input. This is a problem not just in Weymouth but across the country. The role for us is to give them the resources and assistance to put planners in place and have a community wide process.

Q: So the federal government gives them money. The experts manage everything. But then there's no law that says there's no need for consistency in zoning. What kind of system do we have? Should the federal government require consistency?

DeVillars: This Congress would not give us that legal authority. But we're giving them other tools, to do what is in their best interest.

Q: Why is it so hard for localities to take problems as seriously as they should? Why can't they take sustainability seriously?

Warner: People build their houses between hurricane cycles. They have no memory. We have very few resources. Water is one of them. People have 30-year mortgages and don't think in terms of aquifers and watersheds. There is an essential state role for protecting the water of the state. It's a resource that will rise in value every decade. There needs to be a meshing of federal, state and local concerns. If the state looks after the watersheds, since each town is different, within that frame the town could form their own patterns.

Q: So it's possible to get to sustainability?

Warner: We've done a lot with estuaries, but it's a case where the state must be on the job. We have an insane policy in this state. We take water from the Connecticut area and put it out into the Atlantic.

Q: What is the responsibility at the local level vs. the higher level? Can you figure out the power, the relationship for features and aspects. And just because we say a statewide interest doesn't mean state government. It could be volunteers. Next scenario: We move to the city. Think of how people want reinvestment in the city, but say, don't be so quick to put the money in unclean areas. If you live next to a brownfield, how excited are you at being a person at risk from contamination? What say do you have? We want development, but in the neighborhood, how do we make sure that central city redevelopment happens and how do we make sure we don't add unnecessary risk in areas where people don't have the voice?

Watson: Many folks living in cities feel the pendulum swings between neglect and exploitation. It's all about who makes the decisions. Can we put the decisions into the hands of residents? I think the tools exist. You want an informed citizenry. That's what will make the difference, but we have to understand the options. Scenario planning is an inexpensive tool that helps us understand what we can do and what it might mean. There is a need to work with cities and states to talk about who controls land. We are talking about taking resources to come up with a plan and implement it. The best resources are the most knowledgeable people in cities - the people who live there.

Q: Is the state prepared to turn over authority to neighborhood residents?

Durand: The problem is this: Local decisions and local autonomy have to be respected. I really believe that is what community preservation is all about. Take Worcester. It's lost population but its suburbs have grown. We need to make cities more livable by giving them the tools they need to make informed decisions. By going around the state and doing the build-out analysis, we can discuss sustainability. Looking at build-out tells you there is a problem. You need to start thinking along ecological lines. That decision cannot be imposed by EPA or our agencies. It can be done locally if those communities have those tools. It could be that a community like Roxbury or Pittsfield wants more growth. If the federal or state government can make investments, we can really make our cities livable. That includes brownfields help, revolving loan funds and historic preservation. We've lost half of our dairy farms since 1970. At the same time we've seen

urban flight. There are little things we can do: investment tax credits, streamlining the regulatory process.

Q: You agree with Greg? The decision-making should be local?

Durand: It should be local with federal and state assistance.

Q: Sam, you're an advocate of urban farming. What do you think?

Warner: What we're talking about are surges in population caused by social changes.

Watson: We ask people, 'Can you change the way you look at cities?' Right now, we have two acres in agricultural production. Take advantage of your cultural identity. We're too eager to be homogenized with the Gap and Dunkin' Donuts.

Q: Next scenario: You wake up one day. You've been planning. But a town two towns away is planning a gigantic project. And you have nothing to say. The area communities say they'll handle their part. What kind of crazy system is that? How can you respect local control and still deal with the spillover effects of large scale projects?

Connors: We need a whole lot better system to deal with management of growth. Not everything can be done locally. We need a set of expanded abilities locally but we need a regional development framework, We do have a plan in one part of the state: On Cape Cod. We're doing this all in a volunteer effort. We need resources to get communities together.

Q: But we've had regional planning in the state for decades.

Connors: The people in regional planning boards are wonderful people but they don't have the power they need. The legislation David was talking about talks about regional plans. The most important element is that there has to be a plan for implementation.

Q: What powers would you seek?

Connors: You need a plan that deals with housing, environmental preservation, historic preservation. There has to be coordinated implementation of a plan. Look at Fall River and Freetown. Both want an industrial park. Maybe we should have a multi-town plan. Maybe the communities should be able to invest their own money and reap the benefits.

Q: I can see the town meeting now. You stand up and tell people to vote for a regional plan with pieces you know they won't like and you tell them it's for the best but you know they don't like it. Connors: It's going to take a long time. But Bob Durand's build-out analyses are shocking.

Q: What's the role of the development community in all of this?

McGarrah: The development community is not interested in assuming responsibility for infrastructure. They want certainty. They want the rules of the game. Let's mitigate our impacts, but it's the implementation of planners and regulators that is most frustrating.

There's got to be an appreciation that smart growth does not mean no growth. Development happens. Development does follow population growth. A big-box retailer wants to locate where there are people. As long as this sustainable effort is based upon something people participate in, then I don't think the development community has a problem. It's the process that keeps people uncertain that is the frustration.

Q: Next scenario: Somebody says we need a regional airport, a regional rail system. If we leave it to the locals, it's never going to happen. It's state money. The state makes a decision, says to the community, 'you're the lucky winner. We've done our homework and this is the place. We want you to be happy so we'll compensate you.' And the community says 'no.' How do we get things done on a statewide basis?

Foy: I want to turn that on its head. I want to figure out how to not build things we don't need. The image that I always have when we wrestle with these small towns is that we're creating a tidal wave of development activity. But we have to look at where the wave came from. The state built the interstate highway system, so we have rapid development along it. Why are we surprised that Boston Harbor was polluted for 50 years when we sewered Framingham and told them to flush and they didn't care where it went? Why are we surprised that Weymouth wants to develop the airport when we keep expanding Route 3 and cars go 50 mph through our small towns? What you have here is the basic core problem: we are spending our money on things that encourage development in the wrong place.

Think about suburbs being swamped and cities being emptied. Both are at the end of the road. It's not how we get things built, but how do we not build things in places we don't need them? I'm a big fan of local control but we have to harness transportation dollars. We now have more malls in America than high schools. We're building new schools in fields because there's more state money in building a new school than renovating an old one. So we leave the school in the center of town where people live and build one out in a field. Then we wonder why the houses and cars follow where the school is. Duh. Take the runway at Logan. All the communities are berserk about the noise. But we really need the runway, we're told. And we also have two other good airports in the area - Manchester and Green. Those airports are closer to Boston than the London airports are to London. Logan can't really grow. But they're tearing up the train lines in Manchester as we speak. We're trying to stop that. People want the train to Boston. Duh - If you tear the train tracks up at Manchester, will we be surprised that it is not effectively connected? This conversation is being driven by decisions made 50, 40, 30, 20, 10 years ago and today.

Q: Is there a strategy for promoting growth using state funds?

Kuhn: We seem to be having a contest here in who can be most enthusiastic about local control. But local control is insufficient to accomplish local goals. We should focus on how to get to those goals. People will realize that the things they have control over are not sufficient. It doesn't take too long for local communities to see they need to be talking to more than people in just their locality. There are many approaches to this. We need to help communities complete the process of deciding what they want. I'm beginning a project in Lowell.. We're borrowing an approach from Denmark using scenario workshops. It's a technology the Danish developed because they wanted to help people think about the future. This takes a group of stakeholders and technical

experts to look at scenarios about what people really want. This process is very important because its hard for people to imagine things differently from what they see. You must show them other possibilities. We just have to get people up front participating in the process. And then there will be upward pressure for state help.

DeVillars: As you know EPA has come out strongly against the runway. You should hope and expect the FAA to call time-out on that runway and call for a regional development policy. Sometime in the next two weeks (FAA Administrator Jane) Garvey will make a decision. I would encourage you to encourage her to call for a regional strategy. Also, is there a public investment strategy? No. The amount of money the state is prepared to spend on development in Weymouth is roughly equivalent to what we spend on open space protection. For many decades we had an urban investment strategy. We don't have it now. It doesn't have to be that way. It isn't that way in other states. The best example is Maryland. There, if they didn't have a master strategy in place, not one dime of state assistance would go to that community. That's the kind of strategy we once had here.

Foy: The cost to add a lane to Route 3 south is \$5,000 per driver, per year. Think about that. You can give each driver a transit pass for life for that price. It's the "if you build it, they will come" philosophy. With roads, development grows everywhere. But if you add a rail line, you can target growth around the stations because you can site the stations where you want.

Q: It's not about the amount of development but the opportunities created. Is everyone benefiting? We should be able to push for more for the people who are least able to benefit. What are we doing about affordable housing? Whose responsibility is it to make sure that housing and jobs are provided? Are you satisfied the system has the tools in place?

Gardner: This is the old dilemma of the locals vs. the state. We have traditionally suggested to communities that they provide more diversity. But it's not happening. Rents are rising dramatically. Communities sense a certain dissatisfaction that all the houses are starting to look alike, on 3-acre plots that no one can afford. In most of my communities, there is very little effort going on relative to affordable housing. Maybe 10 years ago there were affordable housing committees. They've fallen apart. There's no correlation at looking where we want growth and helping communities with capacity-building and providing that kind of housing. Only about 22 communities in the state have actually gone forward with affordable housing initiatives.

Q: So if we push harder for a master plan, there ought to be a fair share requirement?

Gardner: I think we are missing that component. There should be a correlation between funds and whether that community has satisfied the affordable housing goal, which is 10 percent. The efforts are minimal at the present time. Without that gentle reminder, it won't happen. If you can identify as a local goal the need for housing, people will come around. Most people are too busy with their own lives to think about it regularly.

Q: Does the development community have any responsibility to do anything but follow the rules? Is there something other than a return on capital?

Bersani: That's a tough one. In large measure, we are reactive. We look at what's put before us and we try to do our job within that. I do think we shoulder some responsibility, particularly with my generation of developers. Having said that, the question you posed really gets at the heart of the issue. Socioeconomics drives issues. I don't think people move to Weymouth or Franklin because we build roads, but because they can no longer afford to live closer to Boston. Before we simply write off projects as encouraging growth, we should think about what the real needs are. I've seen processes that range from few tools in places like Houston to places in Pennsylvania, where they are in the middle of the road, to Massachusetts, which is really the end of the spectrum in terms of tools and local sensitivity. There are plenty of tools available. Take the MEPA process. That gives power to agencies to deal with issues that are within their purview. What we really do need most is some degree of predictability. I can deal with tough rules, but I need to know what those rules are. That's not always clear as we make our way through the development of complicated projects. Watson: We don't want to preserve just the land but its uses as well. Beyond the housing, we need homebuyer counseling. We want to build assets and wealth.

Durand: I just want to react to a few things. The housing issue is a problem in the MetroWest areas. As much as we do housing planning for all of these communities, we really get back to the issue of having the tools. We don't have the tools at the local level to implement a master plan. That's why it's so important to get the Community Preservation Act passed. It's tailored to each community's needs. It's tailored in such a way that the local process works. It can respond to issues of affordable housing and preservation - neighborhoods are being destroyed. We must keep the community character that people want in Massachusetts, if we want to keep the economic engine going. We need to keep the Cape the Cape and the Berkshires the Berkshires.

Q: Let's say the state gives the resources to communities that they need to prepare a master plan. You tell them it has to produce more predictability. You tell them that if they don't have it, they get no state money. Then that plan goes into a regional strategy, and that gets pulled together into a state plan. And there you have it. So why don't we do it? What's wrong with that model?

Audience member: In Lexington, we love local planning but it isn't the answer. We have a good idea what our town wants to look like but we don't control it. The major drivers are state tax policy and Prop 2 1/2. We've got an airport in our midst and the owner of that makes haphazard decisions we don't control. Decisions about highways come down without our control. We need a much better system to protect the abilities of towns to plan.

Q: We're talking about a nested system. Locals participate in their plan. And then we end up with an integrated state capital plan. Doesn't that allow locals to say what they want, allow for sufficient input?

Audience member: I think we can't think of planning without considering other aspects of state policy. Audience member: This is a classic MIT model. Home rule is usually the basis for growth policy. Home rule is dead in Massachusetts. The state makes decisions in a vacuum.

Audience member: I want to talk about restoration. Shouldn't we talk about that as a tool? If there are empty malls, tear them down. It seems to me there's room to back up. That brings a lot of goodwill from the development community.

Audience member: Where do corporate interests lie? What about urban partnerships?

Q: When you say local interests, you are talking about corporate interests, not just local lawmakers. But some corporations may not see their best interests served in participating.

Begelfer: You have to understand who 'they' are and why they go where they do. That's all about consumers. People chose to be in areas with a good school system. You have to understand why someone wants to be in a location, and that has to do with corporations. Without question, the corporate interests are floating out there. Maybe City Hall can't move, but a business can move where it feels it's appropriate. Another thing, we talk about sprawl and growth interchangeably. Sprawl may be irresponsible growth, but it isn't just growth.

Audience member: I'm from the Massachusetts Foundation for the Humanities. I was looking back to our first meeting, and in 1975, there were six grant awards made. One of the awards went to Larry Susskind for a statewide land use conference. Have we learned anything since then? We seem to be talking about the same issues.

Susskind: I think we've learned a number of things. But we don't know what to do. There's this mismatch. We've been talking about the impact of state tax policy for years. No one agency can take up the problem. We've learned a lot. We just haven't translated it.

Connors: I participated in that conference 25 years ago,. I'm very encouraged about the climate. The opportunity lies ahead of us. We may build a constituency for a better arrangement. These are political issues and we need to build political support. The Legislature won't act unless there's a real call for change.

Foy: One of the things we've learned is that there's not an infinite amount of public money. Transportation agencies have stuck in the 1950s, with these huge wish lists that they could never get done. But now they have to have plan on spending money, they must attach amounts and where that money will come from. But it's still road oriented. I disagree with the contention that we move to where we do because we want to live there. If you can't get there, you don't go there. The interesting question is how can Bob Durand and John DeVillars seize control of the transportation agencies?

Gardner: I served on a legislative commission on growth and change about 12 years ago when I first arrived in the Legislature. That really fell apart. You have to build a natural and vibrant political community. It's starting to happen now because it's bigger than Massachusetts. And people are increasingly unhappy with their communities.

Audience member: The key thing here is not local planning but state investment. There is a structural barrier that has not been addressed: the inability of a municipal government to change its zoning without waiting eight years after a change. We have volunteer boards that lack the resources to perform what is asked.

McGarrah: Take the Central Artery. It's a massive urban project. We're going to see a huge opportunity. In 1990 when we were at the crossroads, there was an exercise in community consensus building to decide how the project would get to fruition. We reached a consensus. That was no small achievement.

Audience member: I don't see much change since the conference 25 years ago. The one thing I didn't hear mention of is that we're all talking about command and control. We haven't talked about property taxes. What we ought to do is put in high-tech high-volume lanes on highways that let people pay for the privilege of driving with less traffic. Then we take that money that's available and use it for local tax reduction. We're not paying our fair share - we're unfairly subsidizing our automobile drivers.

Audience member: The debate about urban planning has been going on since at least the MDC was created in the 1900s. The debate should continue and maybe we will reach a solution.

Audience member: I would love to have this panel come with me to Ipswich tonight. We are at the crossroads. We are trying to get a building permit on the warrant for the fall town meeting. My basic question is what do I say to these people. They say they don't believe the costs of development. The basic argument they fall back on is property value. What do I say to them?

Susskind: I think Sara's comment is a starting point. If you can get people to say what they want, and ask if they are happy, you can ask them if they want to improve. That's the opening. You have to ask what you most want to achieve. Otherwise you'll just end up fighting each other.