The Consideration of Implementation Issues in the Drafting of Public Policy: An Interdisciplinary Analysis of the Massachusetts Balanced Growth and Development Act

by

Virginia Chrisman Welles

B.A. Yale College (1976)

SUBMITTED TO THE DEPARTMENT OF URBAN STUDIES AND PLANNING IN PARTIAL FULFILLMENT OF THE REQUIREMENTS OF THE DEGREE OF MASTER OF CITY PLANNING at the MASSACHUSETTS INSTITUTE OF TECHNOLOGY June 1981

© Virginia Chrisman Welles 1981

The author hereby grants to M.I.T. permission to reproduce and to distribute copies of this thesis document in whole or in part.

Signature of Author

Department of Urban Studies and Planning May 25, 1981

Certified by

Donald Schon Thesis Supervisor

Accepted by

Langley Keyes Chairman, Department Committee

ARCHIVES MASSACHUSETTS INSTITUTE OF TECHNOLOGY JUL 27 1981
THE CONSIDERATION OF IMPLEMENTATION ISSUES
IN THE DRAFTING OF PUBLIC POLICY:
AN INTERDISCIPLINARY ANALYSIS OF THE
MASSACHUSETTS BALANCED GROWTH AND DEVELOPMENT ACT

by

Virginia Chrisman Welles

Submitted to the Department of Urban Studies and Planning
on May 25, 1981 in partial fulfillment of the
requirements for the Degree of Master of City Planning

ABSTRACT

On March 19, 1981, the Special Commission on the Effects
of Growth Patterns on the Quality of Life in the Commonwealth filed
the Massachusetts Balanced Growth and Development Act. The Act is
designed to put into effect a set of growth management policies
which were generated in 1976-1977 by an unusual "bottom-up" approach
to policy formulation.

This thesis explores the eight years of work of the Special
Commission which lead up to the filing of this Act. It focuses on
the difficulties involved in drafting implementable growth management
legislation, particularly in light of significant changes in political,
economic, and social circumstances over time.

Thesis Supervisor: Dr. Donald Schon

Title: Professor of Urban Studies and Planning
ACKNOWLEDGEMENTS

This thesis is dedicated to my parents, to Dwight, and to Nancy, for all that they have done to help me get this far.

I wish to thank Don Schon for his patience, his insights and valuable comments, and for the time spent working with me. Thanks also to Phil Herr and Larry Bacow for their support and guidance, and to Chuck Perry and Larry Susskind for providing me with the opportunity to work with the Growth Policy Commission and for their support during my efforts to understand and critique the process of the drafting of the Balanced Growth and Development Act.

I also wish to thank those people who consented to interviews and who provided valuable information on the history of the Commission's work.
# CONTENTS

| CHAPTER I  | INTRODUCTION       | 5 |
| CHAPTER II | SETTING THE STAGE  | 13 |

THE CASE STUDY: THE HISTORY OF THE GROWTH POLICY COMMISSION

| CHAPTER III | INTRODUCTION      | 22 |
| CHAPTER IV  | PHASE I: THE FORMULATION OF THE COMMISSION AND THE DRAFTING OF THE MASSACHUSETTS GROWTH POLICY DEVELOPMENT ACT | 34 |
| CHAPTER V   | PHASE II: IMPLEMENTING THE GROWTH POLICY ACT  | 47 |
| CHAPTER VI  | PHASE III: THE DRAFTING OF THE MASSACHUSETTS BALANCED GROWTH AND DEVELOPMENT ACT | 58 |
| CHAPTER VII | THE UNCERTAINTIES OF THE BG&I+A IMPLEMENTATION: A CLOSER LOOK AT THE ASSUMPTIONS | 78 |
| CHAPTER VIII| CONCLUSIONS       | 100 |

| BIBLIOGRAPHY |

| APPENDICES |
CHAPTER I

INTRODUCTION
INTRODUCTION

People have (with the help of conventions) oriented all their solutions toward the easy and towards the easiest sides of the easy; but it is clear that we must hold to what is difficult; everything alive holds to it, everything in Nature grows and defends itself in its own way and is characteristically and spontaneously itself, seeks at all costs to be so and against all opposition.

--Rainer Maria Rilke

The following story is about an eight year legislative struggle to make sense of a complex web of disjointed policies, programs, and intergovernmental processes which, directly or indirectly, control land use in Massachusetts. Each strand of the web was created deliberately to provide a solution to a single problem perceived in any one of a broad range of areas (economic development, environmental protection, preservation of valuable resources, the provision of adequate housing, equity of access to jobs and neighborhoods, the management of the consequences of rapid growth, etc.). Each strand was justifiable by itself. But when viewed as a whole, the web was not efficiently serving the needs of the state, its local governments, and its citizens.

The story of this legislative struggle holds particular meaning for me for two reasons. First, I was a participant in part of the process. I became involved because of my interest in the problems of designing workable public policies (those which are both desirable and implementable) and because of my position as a student in the Department of Urban Studies and Planning at M.I.T. The importance of my association with M.I.T. will be explained later. The importance of my previous interest in policy formulation leads directly to the second meaning of the struggle--it presented me with insights into the present nature of policy formulation
and its relationship to the problems of implementation. I am convinced that the first five years of this struggle were successful largely because they were characterized by an attempt to formulate policy which would be implementible. I believe that the last three years were less successful because less attention was paid to this problem. Why did this happen? What can the makers of future policies learn from this particular struggle?

There is ample evidence that the distinction between formulation and implementation is not a problem peculiar to land use regulation in Massachusetts. A review of the wider nature of the problem can best begin, however, with attention to the meanings of these terms. By policy formulation, I mean the selection of desirable goals—a description of the way things ought to be. Legislation lays out the specific laws, rules, incentives, and penalties which are supposed to produce that desired state of affairs. Implementation is the process by which these laws, rules, incentives, and penalties are translated into actions. Administration I will use to refer to the day-to-day operation of the agencies which seek to implement legislation.

The existing literature on policy formulation and implementation is striking in that it tends to discuss either the process of policy formulation or the problems of implementation without recognizing a process by which policies can be made more workable if early attention is given to the fact that policy will eventually need to be implemented.

Policy formulation is almost always analyzed as an entity unto itself, like a work of art. Eric Redman, describes it as a dance. Other

---

1 Redman, Eric, The Dance of Legislation.
scholars have concentrated on the actors involved, the urgency of the is-
ues and their place on the public agenda (ideas in good currency), and 
the rational nature of the decision making process.2

The study of implementation has likewise tended to concentrate on
process of translating legislation into action and on the day-to-day ad-
ministration of those actions. It has been viewed as a game, an act of
power brokering, or the juggling of conflicting imperatives.

More recently, however, there has been recognition of the connec-
tion between formulation, legislation, and implementation.

In contrast to negotiations in the implementation
phase, negotiations in the policy-adoption phase
are simple and faster because the participants feel
it is less important to resolve uncertainties (they
can be taken care of in the implementation phase!) and also because the rules of the game do not really
require uncertainties to be resolved. The rules of
that game merely require that enough support be
brought together to tip the relevant decision-making
body in favor of the proposal. The main uncertain-
ties to be resolved at that stage concern the scope
and intensity of the opposing coalitions rather than
the commitment and capabilities of the collective
of potential implementors.3

In addition to these games, recent studies have also shown that un-
successful implementation can result from a poor understanding of the na-
ture of the problem which legislation seeks to solve. Although there has
now been some understanding of the hazards of implementation and their
effect on policy makers, there has been very limited recognition of the
problem on the part of the actors involved in policy-making processes.

---

2 Schon, Donald, Beyond the Stable State.

3 Bardach, Eugene, The Implementation Game.
Legislators seem more concerned with creating legislation that will pass than with legislation that will work. Those in favor of specific pieces of legislation, as Bardach points out, often ignore the capability of the implementors. Those opposed realize that they can avoid the public forum of the legislative debate and succeed in hobbling the policy by passing laws that will not be implemented.

Policy makers continue to be surprised and dismayed by the outcomes of their efforts. Prohibition did not seriously affect the consumption of alcohol by those who wanted it. It was a law that could not be implemented. Aid to Dependent Children was not designed to encourage fathers to disappear and create single parent households, but it had just that effect. It was based on some very faulty assumptions about human behavior and the structure of relationships among the target group. The bill was implementable but the effects of its implementation were not understood.

Administrators, charged with implementation, have their own agendas. Given the latitude of interpretation and the ability to apply variable amounts of energy, they engage in intense, often invisible, battles which can seriously alter the intended effects of the legislation.

The problem is further complicated by the fact that the boundaries between implementation and formulation remain fuzzy. Functions frequently shift back and forth among the three branches of government and private interest groups: thus implementors can become the formulators or the legislators. This may occur because the formulators have so completely failed to understand implementation that the implementors can do a better job of designing policy. Or a shift may occur simply because one actor has the power to make it happen:

Although the Constitution grants all legislative powers to Congress, in practice, nevertheless,
the legislative power is a shared power. In Chief Justice Marshall's famous 1803 decision in Marbury v. Madison (1 Cranch 137) the Supreme Court asserted the power to declare unconstitutional a law passed by Congress if the Court felt that law conflicted with the Constitution. Marshall further declared that interpretation of the laws passed by Congress was a primary province of the federal courts. This important decision left the intent of Congress dependent in large measure, on judicial interpretation. Judicial decisions may greatly affect both the content and operation of legislation passed by the nation's lawmakers. Furthermore, modern executive leadership makes a pronounced contribution to the proposing and drafting of new legislation. It is noteworthy that in the 20th century the Congress has steadily declined as an original source of legislation. To a significant degree the executive branch has absorbed a considerable amount of traditional legislative responsibility. Executive interpretation of Acts of Congress and executive power to make rules and issue orders give the President an additional share in the lawmaking function.\footnote{Eugene P. Dvorin & Arthur J. Misner, Government in American Society, Addison-Wesley Publishing Company, Inc. Philippines, c 1968 p. 162.}

Two authors have recently attempted a novel approach to the problems of policy implementation and have begun to fill the gap in the literature between description and the design of better solutions. In making this transition from critic to playwright, Lipskey (1978) suggested that the problem was too often studied from the perspective of the makers and deliverers of policy and not from the perspective of its beneficiaries (victims?).

Lipskey suggested that the study of public policy implementation should be turned upside down and examined from the perspective of the people and the structure of work which are ultimately affected by the
by the policies. The focus should be on the way the work is structured, on what people actually do and not on the way in which policy ought to work if one were to map it out according to the organizational hierarchy. He bases his argument on the observation that the hierarchy of influences (or power) is not necessarily congruent with the hierarchy of authority in organizations. He further contends that administrative agencies are frequently thought to be connected in some "policy system" which is not necessarily connected at all.

Wildavsky further supports Lipskey's argument "Good analysis (as a body of thought about public policy) remembers people, the professionals in the bureaus who must implement the programs as well as the citizens whose participation in collective decision-making can either be enlarged or reduced in the historical structure of relationships." 5

In "Conversational Planning," a paper written in the Fall of 1980, Donald Schon makes a further point about this involvement of the affected groups in policy formulation. Their involvement, he argues, must take the form of a conversation. There must be two way communication and an exchange of ideas. Merely listening to the public will be much less effective than exchanging perceptions with them, testing ideas on them, and asking them to help design legislation that will affect them. He expands the use of "conversation" to describe the interpretation of actions as well as words. For example, the state builds a bridge in response to a perceived problem with transportation access from one place to another. The situation can talk back--perhaps more people use the bridge than the

engineers expected, or perhaps it does not get used much at all. The situation talks back providing valuable information about the initial assumptions which were made regarding the need for the bridge in the first place. Thus assumptions are tested and errors detected.

However, it takes considerable skill to be able to listen carefully and to correct for errors once detected. This process appears to be further complicated by changes in political or economic circumstances over time. But, I believe that this conversation metaphor is one that can be useful in describing the process of policy formulation as it began to happen in my story.

The first five years of the story of the legislative struggle to make sense of the complex land use policy web were conversational in nature and form. The last three years were less so. It also appears that the actors were better able to pay attention to the problems of implementation during the first five years than they were in the last three years of their work. As the story will illustrate, there were significant changes in the context in which their work was happening which contributed to a change in the type of process used for their work, which led to fewer conversations.
CHAPTER II

SETTING

THE

STAGE
SETTING THE STAGE

As I mentioned at the beginning of the last chapter, the story is about an eight year legislative struggle to make sense of the complex web of policies, programs, and intergovernmental processes which determine land use in Massachusetts (hereafter referred to as the "policy web"). Before elaborating on the legislative process itself, it is important to reflect on the social, political, economic, and technical forces which led to the initiation of the legislative involvement in the land use debate in 1973.

The use of land has long been a source of debate and controversy. Individuals, cultures, and societies have been tied to specific lands. Governments have been formed to place and keep land use in the hands of private citizens; still others have been formed to make it public.

Much as a weaving or piece of fabric is defined by many threads running in different patterns and directions, social problems are defined by their cultural, political, economic, and social dimensions. Land use is a particularly colorful topic because it cuts across all of these various dimensions.

In the United States and in Massachusetts the control over land use has been traditionally controversial. Municipalities have sought to maintain local control over decisions pertaining to land use within their own jurisdictions and state government has sought to ensure that the well-being of the state as a whole is not compromised, or sacrificed, by the separate actions of municipalities.

Prior to the early 1970's, land use decisions in the United States and in Massachusetts were made on a piecemeal basis. There were few land
use policies which encompassed the different social, political, economic and technological aspects of land use.

With the significant expansion of state and federal government activities in the 1960's--the era of the Great Society with all its social welfare programs and policies--came the need for a better understanding of the interrelationships among federal and state funding expenditures and the nature of growth and development which happened as a result of increased capital expenditure.

For example, increased federal expenditure on better highways and transportation networks, coupled with the financial boost offered under the post World War II GI bill, spawned a surge in the demand for single family homes in suburban areas. As rural areas were made physically and financially accessible, they became suburbs. This, in turn, placed demands on rural land devoted to agricultural use. It raised the value of the land until agriculture was no longer a viable alternative to selling for development.

As more and more people moved out of the central cities, the demand for housing in suburban areas increased. Thus pressure was placed on suburban areas. For many people who had moved to the suburbs to escape the pressures of city life, the advent of ever increasing numbers of newcomers threatened the very lifestyle they had chosen when they just moved in.

When their seemingly stable, predictable, and comfortable environment began to change, the citizens in such communities felt the need to manage and control their environment. Thus they banded together to attempt to gain some control and impose order on their situation. One means available to gain control was to restrict access to land within their jurisdictions. Many suburban communities imposed minimum lot sizes
and strict building code standards so that less development would occur. As access became restricted, growth and development was forced to move elsewhere (either completely out of the state or to other, less "controlled" municipalities).

Because traditional means of "managing" growth usually cause artificial suppression of demand by raising the dollar cost of access, land use policies designed to prevent undesirable changes in a particular way of life frequently also prevent entry to individuals without capital to buy in—hence the poor and lower middle classes are kept out. This raises yet another question regarding the social justice of land use decisions.

To control the movement of people is to withdraw an important personal freedom, to restrict access in a most fundamental way. In theory this is unconstitutional within the United States, but any extensive local growth controls will have that indirect effect... If equity of access is our aim, growth rate control at the settlement level should at least be accompanied by some rationing of relocation opportunity that does not discriminate by income.\(^6\)

In the 1960's and early 1970's Massachusetts was also experiencing a change from an industrial to a service based economy along side this shift of people from central cities to suburbs. As people who could afford to, moved out of the cities, those less fortunate remained behind. City services no longer had the support of valuable tax dollars of many wealthy residents, and so services began to decline. Industrial sector decay exacerbated central city decline by adding many more people to the lists of the unemployed.

Meanwhile, new service sector businesses found it preferable to locate in the suburban areas of the state, principally along the highways

---

128 and 495 which offered ample land at reasonable prices with good transportation access.

Many of the skills required by the new businesses (primarily high tech industries) were not among those of the unemployed residents of the central cities. Thus, not only was there a mis-match between the location of jobs and residences of workers but there was a gap between the skills of the unemployed and the needs of the employers. In the early 1970's the unemployment rate in Massachusetts was well above that of the nation and there was considerable concern about the economic viability of the state as a whole. Even though the state population growth rate was well below the national average, Massachusetts was experiencing increased demand for "affordable" single family/residential housing.

Thus there were considerable pressures bearing down on different kinds of municipalities, in Massachusetts and throughout the nation. The 1960's had been a decade of governmental expansion, an era of "plenty." It was also a period of environmental awakening and mobilized public action. Admirable social objectives led to the creation of a multitude of programs, rules and regulations designed to achieve these broad social objectives. However, many wound up creating falsely high expectations for what government could do. Many policies and programs were tried and failed. Many others were created but never were properly funded or activated. Nonetheless, the '60's were years of increased technological sophistication, rapid growth, and changing economic development.

In the 1960's, the Massachusetts's legislature pioneered in the development of innovative planning, land use, and environmental policies. It led the nation in 1965, in the efforts to develop legislation providing
for state control of land use in wetland areas deemed critical to the preservation of state and national natural resources. In 1969, the legislature passed the so called "Anti-snob" Zoning Act, which marked the first attempt by any state to overrule local zoning provisions when it was determined that the community was exclusionary in its zoning practices. The over-ride applies to permits for the construction of low income and elderly housing.

The early 1970's marked an increased public awareness of the interrelatedness of cities, regions, and nations, and a broader realization of their economic and environmental interdependencies. Problems were seen in a new, more global perspective. People became concerned with the pace and nature of the changes taking place around them. The realization of the finiteness of "spaceship earth" took hold, and environmental preservation moved towards the forefront of the public agenda.

In 1970, Frank Sargent, a Republican and an environmentalist responsive to increasing concerns expressed about the negative impacts of growth in the Commonwealth, was elected Governor of Massachusetts. During his four year administration, the legislatively mandated restructuring of the state bureaucracy began to take place. Prior to the reorganization of the system over 300 state agencies reported directly to the Governor. The reorganization grouped the various agencies into sub-units of ten umbrella agencies. At the head of each agency was a gubernatorial appointee, a Secretary, who also served as a member of the Governor's new Cabinet.

---

1 Massachusetts Wetland Protection Acts, Massachusetts General Laws Annotated Chapter 131, Paragraphs 40 & 40A.

Thus the agencies reported to the Secretaries, who in turn reported to the Governor.

A sub-Cabinet level body was created, called the Resource Management Policy Council (RMPC), to address environmental and planning policy concerns. Because of the significant resistance from once autonomous state agencies to the new Cabinet structure and because of past turf battles regarding the control over land use, planning, and environmental issues among many of the 300 agencies involved, the RMPC met with little success.

While the Sargent administration was struggling to come to terms with the web of policies and programs related to land use, the legislature was trying to make sense of a myriad of disjointed bills which had been filed on land use, growth policy, planning, agricultural and economic development, environmental preservation and other related issues. Each individual bill was intended to improve some piece of the policy web which had gotten too large to manage well. Because there was no overarching strategy of land use which the legislators could use to make sense of the importance and likely consequences of each individual bill, several legislators decided to propose the formulation of a special legislative commission to study the problems and to make recommendations for legislative action.

It was evident that existing land use policies and programs were not being used effectively. Changes in social, political, and economic circumstances had evoked new questions regarding the role of state government in the management of growth and development throughout the Commonwealth. Given the fact that the state's municipalities had a long tradition of home rule and local autonomy over land use decisions, what might be done to provide an atmosphere of better state-local cooperation and coordina-
tion of land use related decisions?

Were the land use decisions of the state's 351 individual municipalities collectively hindering the economic growth and development essential to the well-being of the Commonwealth as a whole? And were suburban towns indirectly excluding certain types of people (i.e., the poor or minorities) by their land use controls? When should the state intervene in local decisions in order to protect the rights of other state residents and particularly those of lower income people? Would it be possible to plan for and manage growth in such a way that individual citizens and municipalities would not feel so threatened by necessary changes?

These questions were some of the many questions which the concerned Massachusetts legislators felt ought to be evaluated and worked through. They were also questions on the agenda of many legislators and administrators in other states in the United States. Should states attempt to come up with a comprehensive land use program and policy or should they design policies which would serve to focus the use of existing land use related programs, rules, and regulations? And what should be done in the design of the state approach to ensure that the policy or policies would be implementable; so that downstream issues (and potential snares) would be considered and dealt with upstream so that the stream would be more navigable once the policy was launched?

Under what conditions would it be possible to consider implementation issues in the drafting of legislation? And what could impede their consideration in the design of legislation?

The next four chapters tell parts of the Massachusetts story about the past eight years of work (from 1973 to 1981) on the questions raised and discussed above. Because I was directly involved in part of this
story, the next chapter, (III) will describe my position and the point of view from which the story is being told. The following three chapters cover the three basic phases of the Massachusetts story to date: Chapter IV describes the formulation of the special legislative Commission and the drafting of a bill designed to formulate statewide policies on growth management; Chapter V describes the implementation of the bill and the formulation of the state Growth Policy Consensus; and Chapter VI describes the drafting phase of a second bill designed to implement the policies generated in the first phase.

Because the bill has not yet received legislative consideration, the story is incomplete. Therefore I can only speculate on the likely journey of the bill through the legislature and on its implementation if it is passed. Chapter VII addresses my concerns regarding some of the underlying assumptions which were made during the drafting of the bill, and the problems which they might cause in its implementation.
CHAPTER III

THE CASE STUDY:

THE HISTORY OF THE

GROWTH POLICY COMMISSION

INTRODUCTION
INTRODUCTION TO THE CASE STUDY

The following case study tells the story of the Special Commission on the Effects of Growth Patterns on the Quality of Life in the Commonwealth, and its work during the past eight years (from 1973 to 1981). My interest in writing about the Commission's work stems from a seven month internship as a member of the Commission staff, during which time the Commission was working on draft legislation, titled the Balanced Growth and Development Act (BGDA), designed to implement a growth policy consensus which had been formulated from the outcomes of a process established by the Commission in a previous bill, passed in 1975. Before introducing the work of the Commission and the questions it raised which led me to write about it for my thesis, I propose to describe the work of the Growth Policy Commission as I came upon it for this will explain why I have chosen to write about it in the way I have.

A Particular Point of View

After my first year in the planning program at MIT, and at the suggestion of Lawrence Suskind, Director of the Department, I decided to apply for an internship with the legislative Growth Policy Commission at the State House. After an interview with Charles Perry, research director for

\[9\] The Special Commission was formulated by the Massachusetts General Court as the legislature is formally called, under Chapter 98 of the Resolves of 1973.
the Commission, I signed on. I knew that the Commission was chaired by Senator Wetmore, a Democrat from Barre; and I knew the staff was working on a draft bill to implement an unusual "bottom-up" policy consensus which sounded intriguing to me. I knew very little about the Senator, about the past work of the Commission, or how it had gotten to the point of drafting legislation, but I was interested in learning first-hand about the process of policy making, particularly as it related to environmental issues. Therefore, it seemed to me that an internship with the Commission would provide an interesting compliment to my studies at MIT.

Upon my arrival at the office, the first week in June 1980, I discovered that the Commission was a spin-off of Senator Wetmore's office and that there were actually two commissions chaired by the Senator, (Growth Policy and Hazardous Waste), which shared the same office space. A small staff had been hired to work for each commission but there was considerable movement of staff back and forth between the work of the two commissions, depending on the relative importance of the tasks at hand.

The Senator's offices were located on the fourth floor of the East Wing of the State house; the office of the two commissions was on the second floor. It turned out that this physical separation of the two offices was symbolic of the relationship between their occupants. I soon discovered that although officially there were two directors, one for each commission staff, Perry was directing the work of both. In effect, he had a monopoly on the Senator (a bit harsh perhaps, but in fact true, and not totally of his own doing because it was the obvious preference of the Senator.) As a result, Perry was the link between the two commissions' staffs and the "office upstairs".
The work of the Hazardous Waste Commission had precedence over that of Growth Policy in June. The Hazardous Waste Commission staff was working on the final stages of drafting a Hazardous Waste Facility Siting Act, getting commission approval, staging public hearings, etc. They were working towards the deadline of an early recess of the legislature because it was an election year. They wanted to get the bill filed, considered, passed, and signed into law before the session adjourned.

When there was a lull in the frenzied pace of the work of the Hazardous Waste Commission, the staff of the Growth Policy Commission was able to work on their own tasks. Growth Policy Commission activities involved three ongoing projects: a rural growth management study funded by a Farmers Home Administration 701 Planning Assistance Grant, a Growth Policy Newsletter which was to be issued each month from July through December, and the drafting of the Balanced Growth and Development Act (BG&DA). Although I was soon to be working between the two commissions, along with the rest of the staff, I was hired to work on the newsletter and on the drafting of the BG&DA. The drafting process had been started in the fall of 1978 and had crept along since then. It appeared to be a rather lame effort as I began to understand it in June, 1980. The issue was not high on the list of priorities in the Senator's office, nor was it anywhere on the public agenda. There were far more "serious" or "pressing" issues which needed to be dealt with immediately.

I worked with the Growth Policy Commission from June, 1980, until January, 1981, during which time the Hazardous Waste Facility Siting Act was filed, passed and signed into law by the Governor. The work of the

10Chapter 508 of the Massachusetts Acts of 1980:
Growth Policy Commission proceeded slowly, at what seemed a snail's pace to me, particularly by comparison to that of the Hazardous Waste Commission. The legislature adjourned over the 4th of July weekend and the State House emptied out for the remainder of my time on the GPC staff. The newsletter never got out of the "almost ready to go to press" stage even though two full editions were on hand and acceptable.

Work on the BG&DA proceeded slowly during the summer and fall of 1980. The Commission met several times in the fall to discuss the draft which the staff finally decided was suitable for "selective" consideration, (by Commission members and invited interest group representatives). Numerous revisions were made as suggestions were received from meeting participants.

By the time I left the Commission staff in January, 1980, to work on my thesis, the bill seemed only slightly further along than when I had joined the Commission in June, 1980. However, from January to March, the Commission staff managed to get the bill into a form which a majority of Commission members were willing to file for legislative consideration.

As I worked on the BG&DA I became increasingly concerned about the bill and the way it was being drafted. I became intrigued with an apparent inconsistency between the written documents which described what was supposed to happen in the drafting phase of the BG&DA and what was actually happening. I noticed that the espoused theory about drafting legislation, which was to be sensitive to problems of implementation, was quite different from what I observed happening in practice.

It also seemed to me that there were several basic assumptions underlying the bill which did not make sense. It appeared that they might well lead to serious problems in the process of implementing the bill. This
led me back to the questions of what an implementation sensitive drafting process would involve, as discussed in the first chapter of this paper, and why the BG&DA was not implementation sensitive when its protagonists had intended it to be and had, in fact, tried hard to make it be.

The actual work of the Growth Policy Commission began with the drafting, filing, and implementing of the Massachusetts Growth Policy Act (GPA). The GPA created a process designed to formulate a Growth Policy for Massachusetts. The BG&DA legislation is considered to be the next step in this process. It is designed to implement the Growth Policy derived from the outcome of the first bill, the GPA.

Before beginning the history of the Commission's work, a brief overview of the different phases of the Commission's work, and a discussion of the assumptions made during the course of the drafting of legislation should provide a useful base for the story of the next three chapters.

The work of the Commission can be thought of as a recurring\textsuperscript{11} process.

In Phase I of the recurring process, questions were asked and legislation (GPA) was drafted. In Phase II the legislation was implemented and a policy consensus\textsuperscript{12} was formed in response to the original questions. In Phase III the questions were re-framed on the basis of the policy outcomes of the first part and legislation (BG&DA) was drafted. The first phase involved the determination of the most desirable means for deciding the appropriate statewide growth policy. This process led to the drafting

\textsuperscript{11} Recurring as defined in Webster's New World Dictionary: returning in thought, talk, or memory to an earlier question.

\textsuperscript{12} For the purposes of this paper "consensus" will be used to mean general or collective agreement, not unanimity.
of the Massachusetts Growth Policy Act (GPA) in 1975.\textsuperscript{13} The Growth Policy Act designated a "bottom-up" approach to policy formulation, whereby the 351 municipalities and the 13 Regional Planning Agencies (RPAs) were invited to assist the state government in defining its priorities to better address the problems of growth and development in the Commonwealth.

The second phase, (1975 to 1978) involved the implementation of the GPA in which the 13 RPAs and 301 municipalities participated. The process included the collection and synthesis of their growth policy statements into a Growth Policy Consensus which then was tested through a series of hearings and widespread distribution of summary reports to ensure that the policy represented a statewide consensus.

The third phase (1980-1981) entailed the determination of the most desirable means for implementing the growth policy consensus derived from the growth policy process. This process resulted in the drafting of the Massachusetts Balanced Growth and Development Act (BG&DA).

The BG&DA would establish a voluntary planning process whereby municipalities will plan for and show how they will accommodate their "fair share" of statewide housing need. In return for accepting their fair share of housing, they will be allowed to designate sensitive areas for protection: they will be allowed to use time phased growth controls to manage their growth and development; and they will be granted priority on the state's lists for program funding eligibility. The act also states that communities which ask for technical planning assistance funds will be granted funding through the Executive Office of Communities and Development (EOCD). (See Table I ).

\textsuperscript{13} Chapter 807 of the Massachusetts Acts of 1975.
Table I

BASIC COMPONENTS OF THE BALANCED GROWTH AND DEVELOPMENT ACT

Municipalities

Prepare Balanced Growth and Development Plans

Designate Planned Development Zones where willing to accept and expedite growth and development

Designate Environmentally Sensitive Zones where development should not occur

Accommodate "fair share" of state housing need in Plan (Agrees not to exclude residential development)

IF Plan is approved:

Get town approval of Plan.

Change Zoning By-Laws as necessary to make consistent with Plan.

State

EOCD determines fair share

Provides technical assistance grants to communities for planning

Approves Plans

Targets program funds to towns with approved Plans

Agrees not to license, permit, etc. state development in ESZ's

Permits towns with approved Plans to use time based growth controls to manage their growth

The "bottom-up" approach to policy formulation, used in the first bill, was devised by several academics at MIT as a result of research and policy analysis on growth management and land use legislation tried in other states. People elsewhere were wrestling with non-implementable policies. The researchers believed this resulted from efforts to substitute one set of values for another, where actually what had to be done was to surface value conflicts and mediate the differences. They believed land use and growth management policy required trade-offs among competing interests and that in order to know what those interests were, policy had
to be made by the people who held the conflicting interests. Thus keeping in mind the problems of implementability which other legislation often had, the protagonists designed a "bottom-up" approach to policy formulation.

In the first phase of the Commission work, close attention was paid to the problems of implementation as discussed in the introduction to this paper. The bill institutionalized an implementation sensitive process of growth policy formulation. Conscious effort was made to incorporate those people who would be affected by the policy outcomes of the process in the actual formulation of the policies. As the case will explain, an extensive "bottom-up" approach was devised whereby municipalities and regional agencies were asked to consider the past, present and desired future states of growth and development and to indicate what kind of involvement and assistance they might like or need from the state.

Although the original idea for the "bottom-up" approach to policy formulation came from the MIT academics, the drafting process of the first bill was an open, inclusive process. Its leaders actively sought the views of a variety of people with different perspectives on what growth management should be and how it should happen. As the participants conversed, assumptions were surfaced, and they were challenged and discussed. People became better informed about differences and similarities in points of view. This led to a broader basis of understanding even though not necessarily to common agreement on acceptable solutions. This common understanding appears to have contributed to the implementability of the Growth Policy Act, because many different people were able to figure out a way to benefit from the process.
In the drafting of the second bill, the process was espoused to be a continuation of the "bottom-up" approach; but there were some notable differences. The drafting process was more closed. Participation was not openly encouraged as in the first drafting process. Instead, certain key people were included at specific points in the process.

Perhaps as a result of the more closed process assumptions were not surfaced and tested as thoroughly in the second process as they were in the first. This in turn, leads me to believe the second bill is not as implementation sensitive in its design as was the first bill. Why is it less sensitive to the problems of implementation?

To what extent did the actors make a difference? And what can be attributed to changes in the economic, political and social context in which the drafting occurred? In order to get at the answer to these questions, it is important to look at the assumptions held at the beginning of the second drafting process and examine how they were tested during the drafting process.

There are many different types of assumptions which get made in the process of defining a problem and designing a strategy to cope with it. The following is a list of ten different types of assumptions which I believe were being made by the different actors in the Growth Policy Commission's work.
TYPES OF ASSUMPTIONS

1) THAT A PROBLEM EXISTS

2) WHAT THE PROBLEM IS: PROBLEM DEFINITION

3) WHOSE PROBLEM IS IT? WHOSE INTERESTS ARE REALLY INVOLVED?

4) THAT THE PROBLEM CAN BE SOLVED

5) THAT THE PROBLEM SHOULD BE SOLVED

6) WHAT WOULD CONSTITUTE A SOLUTION

7) WHOSE RESPONSIBILITY IT IS TO SOLVE THE PROBLEM—WHO CAN SOLVE IT? (e.g., executive, courts, legislative, business, the family...)

8) HOW THE PROBLEM SHOULD BE SOLVED

9) WHAT WILL HAPPEN WHEN THEY TRY TO SOLVE THE PROBLEM—HOW PEOPLE WILL REACT

10) WHAT WILL BE THE MEASURE OF SUCCESS—HOW WILL WE KNOW THE PROBLEM HAS BEEN SOLVED?

The case study of the history of the Commission's work will show that assumptions about the problem—that it exists and can be solved by legislative action (or at least partially solved or improved)—were derived from the outcome of the implementation of the first legislation (GPA). It will also show that these assumptions (made in 1978) about the need for legislation about growth management did not change much while circumstances suggest that the general public is not operating on the same assumptions about growth management in 1981, as it was in 1976-77.

Assumptions were made in 1978 about the feasibility of defining a workable legislative solution to state problems of growth and development. The case suggests that the administration in 1978 was actively doing what the legislative design suggests is desirable but that the administration in 1981 is not at all inclined to do what the legislation specifies, in
fact it is operating on an entirely different philosophy about government intervention in the affairs of localities.

Further, the facts of the case suggest that questions were asked which were intended to surface implicit assumptions, but that the assumptions were not tested and adapted to the changes which were occurring in the context of the drafting process. A closer look at the nature of the drafting process will show that inquiry into the assumptions did not occur in an environment which was likely to confront and challenge the assumptions, which may account for the fact that they were not tested and adapted to make the legislation more sensitive to the likely problems of implementation.
CHAPTER IV

PHASE ONE: THE FORMULATION OF THE

COMMISSION AND THE DRAFTING OF

MASSACHUSETTS GROWTH POLICY ACT
THE FORMATION OF THE GROWTH POLICY COMMISSION AND THE DRAFTING OF THE MASSACHUSETTS GROWTH POLICY ACT

In the summer of 1973, a bill calling for the creation of a Special Commission to study the Effects of Present Growth Patterns on the Quality of Life in the Commonwealth was filed by Representative Robert D. Wetmore. He was a Democrat from Barre, Massachusetts, a relatively new member of the legislature, and concerned about demographic trends and environmental issues both in Massachusetts and nationwide. It also appears Wetmore and other legislators were impatient with the ineffective efforts of the Sargent administration's RMPC (Resource Management Policy Council) and its inability to tackle the problems involved in the web of disjointed state policies and programs.

The Special Commission Relative to the Effects of Present Growth Patterns on the Quality of Life in the Commonwealth (hereafter referred to as the Growth Policy Commission) was officially formed by the Massachusetts General Court, as the legislature is formally called, in August, 1973, under Chapter 98 of the 1973 Resolves, Massachusetts Acts 1696.

"The Commission was given a broad mandate to study a variety of issues: demographic and population trends, the preservation of agricultural land and open space, the supply and utilization of the State land and natural resources, and methods of community, regional and state planning."

14 For a complete description of the dynamics of the formulation and the early years of the Growth Policy Commission work written by direct participants, I refer you to the paper by Lawrence Susskind and Charles Perry, "The Dynamics of Growth Policy Formulation and Implementation: a Massachusetts Case Study," (Published in Spring 1979 issue of Law and Contemporary Problems, Duke University School of Law, Durham, North Carolina 27706). pp. 144-196.

15 A special commission is a "temporary" research arm of the legislature, usually created to study a series of issues and to make recommendations to the legislature for action. I placed temporary in quotes because the Life of the Commissions may be periodically renewed.
Shortly after the bill passed with which formulated the Growth Policy Commission, the legislature adjourned for the year. It was not until June of 1974 that the Commission actually began its work. Senator Allan McKinnon was given the Senate Chairmanship and Representative Robert D. Wetmore was given the House Chairmanship. The Commission met and adopted its by-laws and then decided to divide into four investigative sub-committees: 1) Demographic Information; 2) Growth Policy; 3) Land Use; and 4) Public Education, in order to cope with the breadth of its mandate.

Of the four sub-committees only the LUSC managed to produce any notable work. The Growth Policy Committee held monthly hearings but did not produce a report. The Demographics and Public Education sub-committees never got off the ground.

The success of the LUSC can be primarily attributed to the personality and commitment of its Chairman, Senator William Saltonstall. Saltonstall, a Republican, had been a Senator for seven plus years. During his tenure, he had not had much opportunity to lead in the Senate because the majority leadership had been continuously held by the Democrats.

Therefore, he welcomed the opportunity to chair the LUSC. He proved willing to devote considerable time, energy, and resources to make the LUSC work. He had the respect of environmentalists and businessmen alike and therefore, served a critical role as an adept facilitator of conversations among people with outwardly conflicting interests and points of view.

Perhaps because he was not personally invested in any particular land use or growth management strategy, he was able to listen carefully to different sides, to create a cooperative environment which led to a common basis of understanding among the participants.
Near the inception of the LUSC, Lawrence Susskind, assistant professor in the Department of Urban Studies, volunteered to help with the work of the LUSC. Susskind was known to Saltonstall because of a project they had both worked on the previous year on the South Shore. Saltonstall respected his abilities. Thus he was a welcome addition and driving force on the LUSC. Susskind had valuable knowledge and information about other state level planning efforts. He also had time and energy to devote to developing a more workable policy for Massachusetts because he had his own theory about how state land use planning and policy making ought to be done.

Susskind brought a particular ideology to the Commission. His approach to policy formulation at that time was one of a "bottom-up" strategy whereby those affected by policies should be encouraged to have a say in determining what the policies would be. It happened that Susskind was committed to a strategy which meshed well with Saltonstall's style of leadership.

By August, 1974, Saltonstall had secured staff commitments from Susskind at MIT and from the Department of Community Affairs (DCA). The staff was critical for the momentum of the sub-committee. It took a lot of time and effort to recruit a broad representative group of people with whom to discuss and analyze the diverse land use and growth management problems confronting the Commonwealth. Saltonstall and his staff worked hard to recruit participants from business, industry and labor to provide more balance to the group of environmentalists, legislators, planners, and academics who were ready volunteers. Industry, business and labor were critical to the formulation of workable land use policy. Saltonstall was
concerned at the decline of the industrial economic base of Massachusetts and felt industries were being forced to leave in part because of high cost of living imposed by more restrictive housing and zoning practices in the suburbs. He hoped that by bringing the various parties together to study the problems they might arrive at more reasonable and joint solutions to their problems.

During the LUCS meetings, two strong factions developed. One faction, called the "strong coalition", patterned their approach after a new and innovative Model Land Use Code developed by the American Law Institute. The ALI model supported strong administrative action, which would include the creation of a system of local over-rid by regional authorities and/or state agencies on matters of greater-than-local significance, i.e., developments with regional, economic and/or environmental impact.

Membership of the "strong coalition" included staunch environmentalists, members of state agencies (many of whom had been engaged in the turf battles mentioned earlier in this section), and members of RPA staffs (who were unhappy about the fact that they did not have any control over local action; that they had only advisory responsibilities.)

The second faction, led by Susskind, was a coalition of people who were "process oriented" in their approach to solving the land use and growth management problems of the Commonwealth. Its membership consisted of legislators, local officials, representatives of home builders and

---

manufacturing interests, and moderate environmentalists, according to the Susskind and Perry report.\textsuperscript{17} They neglect to mention, however, that this coalition was led by a strong minded academic contingent who were convinced they had different and better ideas about how state land use planning ought to be done and they had the determination to try to get their ideas translated into policy.

The "process oriented" strategy was based on an analysis of various land use and growth management attempts in other states. The analysis indicated that shifting economic and political conditions made it difficult to maintain state-wide coalitions of support for land use legislation to insure its proper implementation. In order to correct for this missing coalition, the analysis concluded that a "bottom-up" policy formulation process would lay the groundwork for developing a state-wide coalition for the implementation phases. The "bottom-up" process would also create a local network through which state government could learn about rapidly changing economic and political conditions and respond to them more efficiently.

The "process oriented" coalition adopted the point of view as described in the analysis and proceeded to espouse it as their own. They wanted to provide localities with a formal mechanism for assessing their changing needs and priorities and for informing state and local government of alternative policy solutions which might better address their needs.\textsuperscript{18}

About the time the LUSC began to propose alternative ways of coping

\textsuperscript{17}Ibid. pp. 144-196.

\textsuperscript{18}Ibid. p. 159.
with the positions held by the two coalitions, Governor Sargent was replaced by Michael Dukakis, a Democrat who had very strong notions about what he wanted state government to do and not do. Dukakis believed that the state had enough policies and programs on the books but that they needed to be coordinated and managed more effectively. He also felt that the state needed a comprehensive master plan to guide funding decisions and future policies. He wanted a map which would indicate where development existed and where it could occur—not only residential and commercial, and industrial development but development of future public facilities such as airports, prisons, solid waste disposal facilities and so forth.

Dukakis met with the entire Growth Policy Commission on February 27, 1975, to announce the formation of the Office of State Planning.

"I wanted to emphasize that the creation of the Office for State Planning will not be yet another excuse for inaction. In fact, it will be precisely the opposite. I hope that careful planning will eliminate the kind of pitched battles between state agencies, citizens groups and private developers which have been so costly here in Massachusetts. I hope also that it will end once and for all the kind of endless bottlenecks which have confronted so many private developers in Massachusetts and which have led some of them to become so frustrated that they have decided not to locate anywhere in Massachusetts. The creation of a strong OSP, overseen by a Governor who is deeply committed to its work, will finally provide environmentalists and those interested in economic growth with a framework within which they can work together toward the goals that are so important to all of us."19

The LUSC had not reconciled the differences between the "strong coalition" and the "process oriented" coalition before Dukakis came into office.

19 Testimony before the Growth Policy Commission, February 27, 1975.
office. Therefore, Dukakis' comprehensive plan approach added yet a third element to the committee deliberations. Neither coalition of the LUSC felt that the comprehensive plan approach was preferable to their own approach. So the task became one of figuring a way to reconcile the differences internally before approaching the Governor to attempt to convince him of the merits of a joint administrative and legislative effort to formulate state land use and growth management policy for the Commonwealth.

The "strong coalition" approach, patterned on the ALI Code, had a certain appeal to believers in governmental inervention as the only way to solve land use and growth management/environmental problems. The proponents of the "process approach" believed that the ALI Code would only work if localities agreed to follow it and they did not believe that the strong home rule stance of Massachusetts municipalities would bend to meet the demands of all ALI Code.

The "bottom-up" approach was new and untested. It did not have a prestigious institution such as the American Law Institute backing it. But, it was grounded in a solid theory about public learning and policy formulation which was hard to fault (in theory form). Its proponents believed that planning could, and should, happen at the local level where information is most accessible. Local residents know more than state administrators can learn about their land, its capacity, and so forth. However, they believed that many people at the local level did not know much about planning or about many of the problems which concerned the state and regional authorities because of their local focus. Therefore,

---

20 Largely because comprehensive plans were costly to do and because dated so quickly that they could not serve as a realistic guide for state action as Dukakis proposed.
if a process could be designed to surface what the community residents knew, what they believed was happening, and what they wanted to have happen in the future with regards to the growth and development of their communities, then state government could become better informed about what its role should be. The information generated could be compiled into a state growth policy, which would serve as a guide to state agencies and localities alike.

Two weeks after Dukakis announced the formation of OSP, the LUSC met in several special drafting sessions to determine a compromise between the two coalition positions. The MIT staff drafted an outline of the "process oriented" bill which ultimately surfaced as the LUSC choice. The final argument in favor of the "process oriented" bill was offered on April 24, 1975 and LUSC members agreed to give it a try.

Social, environmental, economic and political conditions in the Commonwealth are changing rapidly. In the past, most of our legislation dealing with land use and growth policy on a state-wide basis had dealt with environmental problems (i.e., wetlands, scenic roads, rivers, sensitive coastal and mountain areas, etc.). Now we are faced with a situation in which economic decline is clearly the most highly perceived issue in the state. If we are to prevent environmental legislation from becoming the scapegoat for our economic problems, we must attempt to design legislation that will work towards balancing the needs for economic development and the needs for environmental protection. That is, we must encourage economic growth in the areas in which it is appropriate and where people want it. At the same time, we must protect those areas which are most sensitive environmentally. Only a process that involves a large number of people from all levels of government will be able to formulate such policies and carry out their implementation. In the past few years, we have begun to see land use legislation in Vermont and Colorado come apart. The problems in these programs are largely due to the fact that economic and political conditions have changed; and there is no longer a viable state-wide coalition to support implementation efforts. A "bottom-up" policy formulation process will do at least two things. First, it will lay the groundwork for developing a state-wide coalition for implementing any recommendations which may stem from the process. Second, it will create a local network which will allow the state government to respond to rapidly changing conditions and problem definitions. Local groups, for the first time, will be given a formal mechanism for assessing their changing needs and priorities and informing state and local government of alternative policy solutions which may better address their needs...Personal notes from April 24, 1975 LUSC Meeting, (Perry and Susskind).
During the week of the LUSC deliveries regarding the specific form of the bill "bottom-up" or ALI model, Dukakis announced the appointment of Frank Keefe as Director of OSP. Keefe had been working on an ambitious and successful downtown revitalization strategy for Lowell, Massachusetts, a decaying former textile center. Keefe was not a state bureaucrat and had a refreshing perspective on what government could do.

Keefe proved to be an energetic addition to the Dukakis team. He was intent on making things happen. He believed the administration should be setting policy and translating policy into action. He viewed himself as a mover and shaker. His attitude was later captured by a staff member of the Boston Globe, (January 29, 1978):

'First of all, successful planning is realistic planning, and realistic planning is the political process. This office is very much involved in the political process...that is in winning support for an agenda that is deemed in the public interest...

Public policy. There are people who study it, people who write reports about it...But there have got to be those shakers, those hustlers who are really going to take a broad view of public policy and translate it into action...this office is like that.

When Dukakis announced the appointment of Frank Keefe as Director of the Office of State Planning (OSP) the LUSC leaders approached Keefe and invited him to participate in the LUSC activities. They were able to engage him in conversation. He had his mind set on the notion of strong administrative involvement in guiding the growth and development of the Commonwealth. But he was also politically astute and quick to recognize the possible value of the "bottom-up" process as a vehicle for a statewide growth management policy endorsement of the state.

Keefe, and Dukakis, had a definite point of view; so did the LUSC leadership. Through repeated conversations, each point of view changed
enough so that the two sides could agree to a common set of goals and objectives for the legislative action which the Commission wanted to propose. A two way conversation made it clear that each side had something to gain from joining forces: Keefe could use the public support for his strategies, and LUSC needed administrative endorsement to bolster the Act's journey through the legislature, and to ensure administrative cooperation in its implementation.

After careful negotiation about specific aspects of the legislative bill, Keefe endorsed the bill and convinced Dukakis to do the same. The Growth Policy Commission filed the bill, "An Act for Providing the Formulation of a Massachusetts Growth Policy and Development Act," in the House on July 21, 1975. It was sent to the Joint Committee of Commerce and Labor for review.

During the time the Growth Policy Act was being considered by the legislature, OSP was clearly moving along on its own agenda towards the formulation of an administrative growth policy. They were not waiting for the possible passage of the bill and the "bottom-up" process. As was typical of Keefe's style, OSP was acting to fill an important void in the state level policy until such time as the citizens of the Commonwealth might indicate they should do otherwise.

In October of 1975, OSP published a report titled Towards a Growth Policy for Massachusetts. The report described OSP's view of the problems created by past growth and development patterns in Massachusetts and its

---

view of the issues ahead. The report critically analyzed seven state agency programs by way of beginning to "clean house", for Keefe believed that before OSP could ask municipalities to shape up their own growth management strategies, the state should have its own house in order. The report suggested that "identifying the public activities which influence growth and development in Massachusetts and recommending changes in these activities so that they conform with sound growth policy is one of the basic purposes of the public discussion which should ensue from the dissemination of this document."23

Of the Growth Policy Act under legislative consideration, the report stated the following:

It is important to remember that the General Court through its Wetmore Commission, already has established itself as a concerned and committed party to public discussion on the policy implications of growth and development problems and opportunities in Massachusetts. Legislation proposed by the Wetmore Commission invites the 351 cities and towns to participate in the formulation of state growth policy "from the bottom-up". Thus, there is a fortuitous coincidence of effort on the part of both the executive and legislative branches with regard to growth policy.24

In early December, 1975, the Growth Policy Act was passed by the legislature. It had taken four months to work its way through both houses, and it did so with surprising ease.

Saltonstall had worked carefully to ensure substantial Senate support for his sub-committee's bill. Senator McKinnon, the Senate Chair-

23Towards a Growth Policy for Massachusetts, OSP, October 1975, p. 2.
24Ibid. pp. 3-4.
man of the Growth Policy Commission, had not been particularly involved in or committed to the work of the Land Use Sub-Committee, but he was willing to go along with the whole Commission in its decision to file the LUSC report. He had considerable clout in the Senate and was a member of the majority leadership. Because the majority leadership ultimately decides which bills are considered and which ones are not, Senator McKinnon's position also contributed to the bill's passage in the Senate.

Representative Wetmore, the House Chairman of the Growth Policy Commission, decided the bill was worth working for. He was "owed" several favors by key people in the leadership of the House and he decided to collect by requesting full consideration of his Commission's bill.

In addition to obtaining House leadership support he also had a strange sort of assistance in getting the bill through the different readings in the House. An extremely controversial figure, Representative Colo of Athol, made the defeat of Wemore's bill his "cause" and because of his ill-favored status in the House at the time, his opposition appears to have swung votes in favor of the bill's passage.
CHAPTER V

IMPLEMENTING THE GROWTH

POLICY ACT
IMPLEMENTING THE GROWTH POLICY ACT

Governor Dukakis signed the Massachusetts Growth Policy and Development Act on December 22, 1975.

With the Governor's signature, the first phase of the Commission's effort to initiate a comprehensive planning process for the State of Massachusetts came to a close. Simultaneously, however, implementation of the legislation marked an important next step. In order to understand the Massachusetts Growth Policy Development Act, one must realize that the legislation was viewed by its proponents as an initial step which would lead to a new outlook toward planning and implementation of a policy formulation process involving all levels of government in the Commonwealth. . . . The Act was intended to initiate an innovative process that would lead not only to more effective responses to growth management needs, but also to a continuing State-wide commitment to land use planning and growth management. 25

The Growth Policy Act set up a process whereby the Office of State Planning invited municipalities to form Local Growth Policy Committee (LGPCs). Recommendations for the membership of the LGPCs were included in the bill, with the hope of involving a cross-section of representatives from the community in the discussions of local growth management problems. The Act specified a number of steps to be accomplished within a set amount of time. Based on a questionnaire designed by the Office of State Planning, each LGPC was to develop a local growth policy statement after holding two public hearings. The questionnaire was to be designed with the intent of generating information on the attitudes and priorities of municipalities which the state could then combine to use as the basis for an

implementation strategy—to provide a growth management and balanced development strategy for the state as a whole.

The Growth Policy Commission staff and the staff of OSP worked side by side in the process of generating interest in the voluntary Growth Policy Process. The Commission staff held workshops to explain what was to be done, by whom, when, etc. They published a newsletter to keep localities informed of the actions of other localities. In effect, they made it known that it was relatively easy to participate and there was nothing to lose by doing so.

Perry, who was the Growth Policy Commission staff director at this time, had been involved in much of the work done at MIT during the drafting phase of the bill. He joined the Commission in Wetmore's office to help with the work of implementing the Act. He served as an important link between theory and practice. He knew the theory well because he had helped create it and he was in a strong position to ensure the theory was appropriately translated into action.

During 1976 320 LGCDS were formed and 301 LGPCs worked through the OSP questionnaire and submitted Local Growth Policy Statements. Although the quality of the information varied considerably, communities at least began to discuss problems related to growth. Judging from the significant response of the State's municipalities, one might surmise that the climate throughout the state was such that people were willing to volunteer their time to generate the kind of information which the administration was saying it would be willing to pay attention to in the formulation of a statewide growth policy.

However, as mentioned earlier, OSP did produce its report, Towards a Growth Policy for Massachusetts, which may well have acted as a catalyst
for many municipalities who otherwise might not have bothered to participate. As a result of the OSP report, some people perceived the state policy as a given, others believed it could be changed and that the local process was one way of trying to change it. Still others felt coerced into participating in order to avoid the administrative top-down policy as stated in the OSP document. Also, according to Keefe, OSP actively recruited local participation; they helped form LGPCs, "held a lot of hands," and worked hard to get "at least" 301 localities to participate. (This might be interpreted as an effort to get "statistically significant" participation but one should not lose sight of the fact that such a novel approach towards policy formulation was being tried in the first place.

Once the local statements had been submitted, the RPA's were responsible for generating regional summary reports. Because these were delayed, OSP filled the void by producing Perspectives on Growth: Excerpts from Local Growth Policy Statements, in January of 1977. The Introduction provides an interesting view of OSP's perspective on the Growth Policy Process.

The Growth Policy Act set in motion a process designed to generate widespread participation in the development of future growth policies, for cities and towns, for regions, and for the state as a whole. Local Growth Policy Committees, comprised of key local officials as well as citizen representatives, were established earlier this year in 330 communities, representing over 98 percent of the state's population. These Committees have been hard at work articulating local growth problems and priorities, and advising state government on how it might best foster that future which its citizens desire.

Interview, May 1, 1981.
Perspectives on Growth is a progress report on that process, and yet it is a part of the process itself. For a clear goal of the process is devoted to the sharing of information, the sharing of perceptions, the sharing of values—so that we may learn from one another's experiences, and so that we may better understand one another's points of view.27

During the Spring of 1977, OSP and the Growth Policy Commission staff studied the information received from the 13 regional planning agencies28 and 301 municipalities who voluntarily participated in the growth Policy Process. OSP compiled the information into suggestions, policy statements, and recommendations for action. These were presented in a document titled "City and Town Centers: A Program for Growth (September 1977).

(It appears there was considerable collaboration among the staff members of OSP and the Commission throughout the statements review and report writing processes, it is difficult to determine just who was responsible for which aspects of the work that was produced.)

As designated in the Act, OSP's synthesis and interpretation of the information received was checked and tested by the Growth Policy Commission through a series of public hearings held throughout the state (from December, 1977, to March, 1978). The participation at these hearings was small by comparison to the local LGPC efforts but the input the Commission received was mostly favorable.

Once the results of the study had been tested and found basically sound, the question became one of policy implementation. Now that a large


28The RPA reports were poorly written and had to be completely redone by the staff of OSP, according to Keefe.
number of people had helped to generate a growth policy consensus for the state, the question became: what should be done to ensure that the momentum generated by the process would be channelled into the actual realization of the goals embodied in the consensus? And how should this be done? And by whom?

Because of the strong position of the Dukakis administration against the proliferation of more rules and regulations, and in favor of the use of existing mechanisms, the staff members were faced with a challenging dilemma. Would it be possible to manipulate existing programs and policies sufficiently to fulfill the policy mandate generated through the "bottom-up" process, or would some formal legislative restructuring of intergovernmental activities be necessary in order to implement the consensus? The Dukakis administration worked hard to formulate policy which could then shape the use of existing programs, without requiring legislative intervention at all.

After consideration of the original LUSC "bottom-up" coalition protagonists (Susskind and Perry) determined that legislation, carefully drafted with a view toward minimizing additional rules and regulations and administrative procedures, would be necessary to give the state land use and growth policy a backbone. The protagonists believed that a formal, but voluntary, planning process which required state and local cooperation and coordination, if institutionalized via legislation, would serve as a guide and a source of structure to promote more and better planning at all levels throughout the state.

During the Spring of 1978, the Commission staff was writing the Commission's final report covering the completion of the Growth Policy Process.
During this time, it appears that the Commission staff, or more likely the original protagonists, Susskind and Perry, decided what should come next and basically informed the Commission of the direction it should take next.

In a March 3, 1978, memo to the Commission members from the Commission staff (Perry) the strategy of the protagonists (Perry and Susskind) was mapped out.

The intent of the Massachusetts Growth Policy Development Act (Ch. 807 of the Acts of 1975) was to make state government more responsive to local growth management needs and concerns by involving communities and RPA's in the formulation of a comprehensive set of state growth and development policies. The process has been successful in forging a policy consensus. A mechanism is now needed to involve localities and RPA's in the implementation of this policy consensus.

The staff proposes a "mass Growth Policy Implementation Act" to accomplish this objective. Basically what we are proposing is the next logical step to the "bottom-up" policy formulation process which the Commonwealth has just completed. That is, a "bottom-up" policy implementation process. Since we involved the communities in forging the policy consensus that emphasizes the coordination and targeting of state investment programs to guide the state's future growth and development, the best way to ensure that this policy consensus is implemented is to give localities and RPA's a larger role in setting state budgetary and investment priorities.

The staff memo also indicated the following recommended components of the Implementation Act:

1) Municipalities would be encouraged to form Local Balanced Growth Committees (again on a voluntary basis) to generate Local Growth Programs and Local Priority Lists for state and federal investments. Suggested components of the Local Growth Programs were: projected growth rates, the number of housing permits to be issued annually, and the establishment of a program for infrastructure and capital improvements to accommodate the growth.
2) Two options were suggested for the review and approval of these two local documents: a) submit them to the RPA which would certify that the program meets the regional share of housing need and would issue a permit to limit the number of housing permits allotted annually; b) submit them to abutting communities, the appropriate RPA, OSP, DCA, and the Attorney General's Office: if any of the above had problems with the plans objections would be authorized to initiate a negotiation process designed to reach a compromise between the community and any contending parties. The community would be allowed to withdraw from the process at any point, but would not be allowed to limit the number of housing permits issued annually.

During the Spring, the staffs of OSP and the Commission worked together to determine what might be administratively feasible once the Commission had seen the basic conceptual outline in March.

As the preparation of the Third Interim Report was nearing completion in early June, Perry left the Commission staff to return to student life and the writing of his PhD dissertation. Perry had lured Chris Green to work with him on the writing of the Commission report, so Green stayed on to fill Perry's shoes. Green finished the report and filed it on June 29, 1978, shortly before the legislature adjourned for the year. When the session ended, legislators returned to their districts and campaigning began in earnest. (Particularly for the House, this election year was different from others because the House would shrink from 260 to 180 seats.)

A press conference was held in August to announce the completion of the Growth Policy Commission's work on the Final Report of the Growth Policy Process. The conference was well attended and received good press coverage. The report summarized the Growth Policy Process the statewide hearing and the local reactions to the OSP summary reports. It also in-
cluded a discussion of legislation which had been filed to address some of the recommendations generated during the process.

Thus one cycle came to a close with the beginning of another. An innovative "bottom-up" policy formulation process had generated considerable input from a wide range of people. State government had a more realistic picture of what the localities were concerned about, what they valued and what they needed from the state. Some of the recommendations had already made their way into legislation and into agency activities. Others still needed to be addressed. The Third Interim Report suggested that the next step should be the drafting of legislation to implement the Growth Policy consensus, and it included a conceptual outline of what such a piece of legislation might do.

Before moving on to describe the drafting of the implementation legislation, what did the Growth Policy Process mean? How successful had it been?

The Growth Policy Process had included plenty of people from all parts of the state; and it had generated some useful and interesting information.
The Growth Policy Process had been viewed at the outset as a bothersome one, even foolish or unnecessary by some, but the concept was a tough one to fault in theory. Because there were no sanctions imposed on non-participating municipalities, its opponents had not been able to fight the proposal with much strength or conviction. Thus the view that it might be a worthwhile experiment had prevailed.

The Growth Policy Process was as successful as I believe one could hope for in terms of public participation. It attempted to include the persons to be affected by the policy in the formulation of the policy itself. It got people together at the communities level to converse about their past, present, and future growth and development, and it established a creative tension between state administrative and legislative policy making processes. It represented a commendable effort to establish multiple conversations intended to arrive at a widespread and common understandings of the state's land use and growth management problems.

However, there was some question as to what land and quality of information could be generated at the local level. Without some sanctions for non-participation, many people whom planners would want to have involved in a planning process simply had not joined in. So what could be expected a second time through when there might be more at stake in the process? Who would participate then and what level of agreement could be generated locally at that stage?

The state OSP reports provided constructive and solid direction to land use decisions. Alternative policy options were juxtaposed with their costs and benefits, for the first time in any state document. This format made the trade-offs between different strategies more explicit than they had ever been before.
But it had taken a significant amount of time and energy to make the process work. There had been an unusual degree of collaboration between the legislative Commission and the state executive and administrative leaders.

One can't help but pose several questions about the uniqueness of this effort. Could it be sustained? And is it replicable? To what degree was its success attributable to the process itself? How might it have depended on the particular individuals involved at the time (both in the administrative and on the land use sub-committee)?
CHAPTER VI

THE DRAFTING OF THE

MASSACHUSETTS BALANCED GROWTH AND

DEVELOPMENT ACT
THE DRAFTING OF THE
MASSACHUSETTS BALANCED GROWTH
AND DEVELOPMENT ACT


The objectives of the proposed legislation were summarized as follows:29

A. To involve communities directly in guaranteeing that the growth policies formulated through Chapter 807 will be carried out;

B. To increase the capacity of local and state government to guide growth and development;

C. To make state and federal investment programs more responsive to local needs and concerns.

"In response to these objectives, the Commission recommends that a wide variety of citizens, representatives of interest groups, and members of Local Growth-Policy Committees be involved in drafting a legislative proposal which will hold the state and federal agencies directly accountable for the responsiveness of their decisions to the growth policy consensus and to the local priorities on state and federal investments.20"


20 Third Interim Report, p. 7.
SUMMARY OF THE BASIC CONCEPTS
OF THE PROPOSED "GROWTH POLICY IMPLEMENTATION ACT".

MUNICIPALITIES

Reconstitute Local Growth
Policy Committees

Prepare Local Growth
Management Plans (LGMPs)

Plans would include:
desired level and location
of municipal growth over a
specified # of years

Prepare priority list for
state and federal capital
investments they would
like in their community

Legislation should include:
-procedural criteria for at
least three different types
of LGMP's

-a formal process for public
input into development of
plans and priorities (e.g.,
town meeting approval)

-and it "should include a process for determining and certifying accep-
table local growth rates. The process would include a number of in-
tervention points which would allow citizens, communities and regional
planning agencies to have significant input into the determination of
state, regional, and local housing allocation estimates. This process
should ensure that the allocations and the locally proposed growth
rates are sensitive to unique local characteristics and that signifi-
cant public discussion of state and regional housing needs precedes
local planning activities."

RPAs

Review and comment on LGMPs
ensure "fair share" of region's
housing responsibilities is
included

Regional priority lists for
state and federal investments
in region

STATE (executive and adminis-
trative)

should be required to make all
investment decisions and allo-
cation of federal aid consis-
tent with local investment pri-
orities

---

Special Commission on the Effects of Growth Patterns on the Quality of
Life in the Commonwealth, p. 82.
The summer of 1978 was one of political upheaval. Just after the Third Interim Report was filed the legislature recessed. It was an election year, and a particularly significant one in the House because House membership was to decrease from 260 to 180 members as of the upcoming election.

Governor Dukakis was unexpectedly unseated by Edward King in the August primary. He had not taken King's challenge seriously, so his whole administration was shaken. King had won the primary on a pro-growth platform and clearly was taking the Office of State Planning to task for devoting so much attention to city centers.

Because OSP had been established by Dukakis, and was not formally required or established in any legislative form it was clear King intended to get rid of the OSP if he were elected.

With the future of OSP up in the air, the solid legislative/administrative cooperation on the growth policy issues was suddenly tenuous. No one could predict what might happen to the work of the past three years. Would the process withstand the change in administration?

When the dust cleared from the completion of the Third Interim Report, Green found himself swamped with constituent work and little time to devote to Growth Policy Commission activities.  

Note: Perry had seniority on Wetmore's staff before his June 1978 departure. He had a solid working rapport with the Senator. He therefore had considerable latitude in determining how much staff time was devoted to Growth Policy Commission activities, which were his own primary interest.

The rest of Wetmore's staff was not particularly interested in growth policy and upon Perry's departure they were only too eager to enlist the Green's time for ongoing constituent work, their own main interest. Because Green had neither the seniority nor the rapport with the Senator necessary to be master of his own time, he had little choice but to do the work he was given and resort to Growth Policy Commission activities in slow moments.
As Green acclimated himself to his new position, without Perry, it took some time to figure out where the work of the Commission should go next. As explained above, the political climate was shifting but the outcome was not certain.

Perhaps largely because of the uncertainties of the election, Green also had a tough time figuring out what Senator Wetmore's commitment to Growth Policy Commission activities really was and what his involvement might be in the Growth Policy Implementation Act drafting process. It is interesting to note that Green's forte was in natural resources and rural policy, not on Growth Policy as studied by the Commission up to that date. Because Green was not as personally committed to the growth policy process and the drafting of an implementation act as Perry was, he had less at stake in the proceedings. He tried to figure out what was wanted, but found significant inertia. There were more salient issues which legislators, including Wetmore, were concerned about.

It is also important to note that the items on the public agenda had shifted considerably from an emphasis on environmental and social problems to a more economic focus on inflation, recession, high energy costs, and interreactionary political uncertainty. Personal security had risen above the concern for environmental quality, economic development over preservation.

During the fall of 1978, Green helped restructure the work of the Commission into several new sub-committees, one of which was called the Implementation Act Sub-Committee (TASC), and another the Rural Policy Sub-Committee. Green channelled his time primarily into the activities of the Rural Sub-Committee, but the Implementation Act Sub-Committee managed to materialize with Wetmore as the Chairman. (It appears the chairmanship
of the IASC was given to Wetmore in an attempt to secure his continued participation in Growth Policy Activities. Wetmore's role throughout is rather peculiar and worth mentioning. When provided the opportunity to be involved in an innovative and controversial issue, Wetmore would willingly partake...but it does not appear that he is much of a mover, a leader without some outside nudging.)

As Green had not been around when the Growth Policy Commission or the Land Use Sub-Committee meetings had transpired he asked Joe Flatley at OSP and Saltonstall to help develop the list of people who should be included in IASC activities. Four IASC meetings were held during the winter of 1978-79. According to Green\textsuperscript{33} most of the attendees were the longstanding participants in the Growth Policy Commission's work.

As the four meetings were similar in content and style, it makes sense to talk of them as a unit. The conceptual outline of a possible Implementation Act from the Third Interim Report served as the springboard for the discussions. At the first meeting, Susskind introduced the concept of the Act. He stated that the general purpose of the process was to deal with the rate and pattern of community development by restructuring intergovernmental relationships.

Many of the same kinds of questions were asked time and time again during these four meetings. According to the minutes of meetings, it seems that there was little substantive consideration of issues raised.\textsuperscript{34}

\textsuperscript{33} Green Interview, May 4, 1981.

\textsuperscript{34} Growth Policy Commission files, Senator Wetmore's Office.
In fact, the meeting minutes indicate that Susskind played the role of informant in the discussions; as questions were raised, he responded to them. But they were not questions to which there were readily available answers, and they kept getting asked over and over again.

The following list is only a partially complete list but surfaces some of the main points raised in the four IASC meetings. It is interesting to note that they address many of the kinds of assumptions discussed in the introduction to the case, in Chapter III.

a) What is the need for the legislation in the first place? Aren't we able to do most of what is suggested in the outline under current rules and regulations?

b) What local mechanisms should be used to make the Local Growth Management Programs to ensure more adequate representation of the different interests in communities which did not surface so well in the first round?

c) What is the best way of projecting growth for the state and localities?

d) How do we set standards for a minimum "fair share" within a region?

e) What are the state responsibilities which should not be allocated to local governments?

f) Which incentives will be most effective in getting municipalities to accept their "fair share" of residential growth?

g) By what process would localities set up capital improvements programs and how can we make them binding on the state?

h) What are the fiscal and other incentives which could be used to make this policy work?
i) Some communities already have limited their growth using time based growth controls and they appear to be getting away with it...will the state be able to take them away if these towns choose not to join in the process?

At the third IACS meeting several participants pointed out that there needed to be more interface with local officials and planners. Many people felt the momentum generated by the Local Growth Policy Committees had begun to dissipate. It was suggested that members of the original LGPCs be invited to participate in the IACS meetings. Wetmore made the comment that he believed the process should remain "in committee", until a full draft was prepared and then it could be circulated for comments. The process occurred as Wetmore suggested, which marked the beginning of a divergence from the openness of the Saltonstall style of drafting and positioning.

At the end of this same meeting, the participants agreed that it would be useful to have a more concrete draft of the bill to work from. Susskind volunteered to do the drafting to attempt to incorporate the suggestions raised in the first three meetings. According to Green, Susskind had been the prime mover and protagonist in these IASC meetings. Saltonstall attended, but he was leaving public office in January and thus his participation was no longer from a position of power.

Shortly before the fourth IASC meeting, Susskind "hatched" the Balanced Growth and Development Act. The transformation of the bill from the Third Interim Report outline\(^{35}\) appeared to have taken place in

\(^{35}\) (To Green, Interview, May 4, 1981.)
Susskind's head although two luncheons were held, one with businessmen and the other with environmentalists, which served as tests for the ideas in the bill. The new bill included several things that were distinct from what had been discussed at the previous IASC meetings. The most striking addition was the "Siting of regionally necessary but locally undesirable facilities". (It appears that Susskind adapted information generated in a project at MIT, of which he was co-director, called the Energy Impacts Project. The EIP suggested an innovative negotiation strategy for facility siting which Susskind felt was worth testing in a broader context.)

Another addition created a case-by-case evaluation and appeals process for municipalities who might not be satisfied with their "fair share" allocation. (This appeals strategy was prompted by Susskind's interest in negotiation and environmental mediation. As is characteristic of his style, ... he constantly learns about new theories/approaches to planning practices and tries to incorporate them into his work.)

Upon review of the new draft BG&DA, participants expressed reservations about the capability of towns to comply with the provisions of the act. They believed that the towns would have to invest time and resources which were already scarce on one more state thing. (Which it was made clear in their local Growth Policy Statements they were vehemently opposed to doing.) Again, many of the same questions were raised about the housing element of the bill, and about the incentives which appeared to be nothing more than sanctions couched in new terms.

The housing issue was one of the most controversial. Susskind and Saltonstall raised the option that perhaps the housing issue should be omitted from the process if satisfactory and realistic policy could not
be developed. However, in an inter-office memo, the wisdom of this suggestion was questioned because the participation of the Secretary of Executive Office of Communities and Development hinged on the inclusion of the housing component. Because EOCD was at that time the only administrative agency vaguely interested in and participating in the IASC meetings, the Secretary of EOCD was also the only tangible access to Governor King, the IASC had. From there on, the housing component was solidly entrenched in the draft bill.

At the end of the fourth IASC meeting (February, 1979) it was decided that the bill should be drafted in legal language before further IASC consideration. Don Connors, a known and respected environmental lawyer, had been working with the Commission for quite some time and had expressed an interest in doing the drafting. Green was charged with the task of locating appropriate funding to retain Connors as legal counsel to the Commission.

The problem of locating funding was new to Green and it took him most of the Spring to get anywhere with this task—hence the work of the IASC ground to a halt.

Sometime during the Spring of 1979, Perry decided to return for the summer to work on the staff of the Commission once again to help get the Implementation Act back on track...it seemed to him that things were moving too slowly. Joe Flatley, at Department of Community Affairs (DCA) agreed to provide the Commission with $25,000 of the State's HUD 701 state incentive planning grant in exchange for some leg work and community outreach study directed by Susskind in the DUSP at MIT to investigate alternative fair share housing allocation strategies.
During the fall of 1979, Connors and the Growth Policy Commission staff were working on the draft implementation bill, and the DUSP research team was working on the generation of housing allocation formulas. No Commission meetings occurred during this time. In October, a memo was sent to Commission members which stated that the staff was continuing the drafting effort begun late last year to generate implementation legislation which would be partially aimed at "addressing the projected severe housing shortage." It also stated that the findings of the DUSP fair share of growth study would be forwarded to Commission members as soon as they were finished.

The DUSP fair share growth study was intended to serve as a trial run for the generation of several fair share housing allocation formulas which then could be used in a sensitivity analysis. This analysis was intended to show what two different formulas, based on two different sets of variables, might do to the growth projections and patterns of the 351 municipalities. One formula was based on relative municipal and statewide past growth rates--as represented by building permit data (which was incomplete in many cases in local records), and the other incorporated the past growth trends and a measure of individual municipal fiscal capacity to accommodate future growth. The two formulas were generated in part to demonstrate that a formula could be developed which was more technically sophisticated and justifiable than the methods used in state level decisions to date (e.g., Chapter 774).

The study brought out another interesting and problematic issue surrounding the generation of a fair share formula. The researchers found that while admittedly technically difficult, the issue was highly politically sensitive. It might be possible to generate a formula that would
be better than past formulas; but, it would not be easy to "sell" the concept.

Thus, the importance of the negotiation feature, added into the bill that Susskind drafted for the fourth IASC meeting, became more apparent. The issue of fair share was a political one in which there were no right answers. A formula could be used to generate a starting figure for each community, then communities would have the option to negotiate their figure with the state, on an ad hoc basis, if they felt the number was unreasonable for a justifiable reason.

It is interesting to note, given the nature and intent of the study, that the results were not publicized. The numbers were not shown to Commission members, they were only discussed in the abstract. It was feared that someone who did not understand the experimental spirit in which the numbers were generated might misuse them to "bad-mouth" the work of the Commission.

While the study allayed the fears of the fair share formula protagonists surrounding the technical feasibility of designing a workable formula; the public did not receive the same sort of benefit from the study. Many people did not even know it had been conducted. It would seem that the results could have been summarized into a presentable form to be used as a basis for public discussion. It could have informed people on the negotiation component and the flexibility of the intended bill. Public discussion might have been used at this stage to generate some interest in the unique aspects of the bill. But, once again a decision was made to keep the discussion of the bill "in committee" and public appeal was delayed until some later unknown date.
During the fall of 1979, and the lull in the activities of the Commission, a Special Commission on Hazardous Waste was established under Section 4, Chapter 704 of the Acts of 1979. Senator Wetmore sought the chairmanship of this special commission. Although the Senator had not been directly involved in the passage of the Act, he had been actively involved in the hazardous waste debates of the past year. Hazardous waste had moved to the top of the political agenda and Wetmore positioned himself carefully in the middle of it all.

(In addition to the Senator's environmental bent, his interest in the problems of hazardous waste can also be traced to his involvement with the work of the Growth Policy Commission.)

January 2, 1980 marked a brief resumption of the IASC meetings. A new conceptual draft was proposed, this time in legal language. Little had been lost in the translation although several advocates of the RPAs felt that there should and could be more RPA involvement in the process.

In an "in house" memo regarding the January 2 meeting, it was recommended that the administrative responsibility for the IG&DA be delegated to the Executive Office of Communities and Development, and not to the Department of Communities Affairs where it was originally placed. One might speculate about the meaning of such a shift...but it seems likely that some political positioning was occurring here with the hope of getting eventual endorsement by the Governor. DCA is a smaller sub-agency within EOCD. Flatley was in DCA and probably was responsible for the EOCD position on the IASC in the first place...however, as the Secretary became interested, it seems appropriate that he would want to have control over the IG&DA implementation.
Shortly after the January 2, 1980, meeting of the Growth Policy Commission, the work of the Hazardous Waste Commission took off. A new staff person was hired to manage the work of the Hazardous Waste Commission, which had been in Perry's hands up to that point. The Commission had a tight time frame within which they were to submit a report on facility siting problems in the Commonwealth. Therefore, the work of the Hazardous Waste Commission began to take precedence over that of the Growth Policy Commission.

Near the end of January, a decision was made to separate the Siting of Regionally Necessary but Locally Undesirable Facilities component from the BG&DA and to use the concept as a focus for the discussions of the Hazardous Waste Commission. The Facility Siting component would create an innovative negotiation and compensation process whereby communities could work with potential facility site developers to design facilities which would serve the intended waste disposal purposes in an environmentally sound manner and provide communities willing to accept the facilities with some form of compensation for doing so. The Facility Siting concept had been incorporated into the BG&DA by Susskind in February of 1979 as a result of the research done on the Energy Impacts Project (EIP) at MIT because it appeared to be a useful means of introducing the new and innovative siting strategy into state government.

As the problems of hazardous waste disposal became a highly volatile public issue it became clear that the siting of hazardous waste facilities would provide a better testing ground than would the BG&DS for the EIP model.

There had been considerable resistance to the addition of the facility siting concept to the BG&DA in the first place. The use of the model
in hazardous waste would be more likely to succeed because the debate was so heated, time to devise new strategies was limited, and there were proponents of the model working in the legislative and the administrative offices where the action on the issue had to take place.

The Hazardous Waste Commission had been given a six month period within which to produce a report and recommendations. Because the staff of the Growth Policy Commission, under the direction of Perry, was located in the same office space, and because Perry had access to the Senator, Perry served as the liaison between the newly hired Hazardous Waste Commission project manager and the Senator. Perry had an understanding of the "ins" and "outs" of the State House and the ways of the Senator; and he had a political savvy which the newcomer did not have initially and did not have time to develop.

As Perry was pulled into the day-to-day activities of the Hazardous Waste Commission there was less and less time available to work on Growth Policy Commission activities. There also was considerable pressure from Wetmore to concentrate on hazardous waste. Thus, during the Spring of 1980, up to my arrival on the Commission staff, the offices of the Growth Policy Commission and the Hazardous Waste Commission staffs were preoccupied with the translation of the negotiation and compensation of the EIP model into a Hazardous Waste Facility Siting Act; considerable time was spent mobilizing sufficient support to get the Commission to adopt the bill and positioning people to aid the bill in its journey through the legislature.

Once the Hazardous Waste Commission filed their bill and it had passed, which happened just hours before the legislature went into recess
for the year, Perry and his staff were free to return to their other pro-
jects. July and August were spent picking up the pieces of projects that
had been virtually neglected during the spring's hazardous waste frenzie.
Connors and the Growth Policy Commission staff met with Susskind to dis-
cuss the draft in progress of the Balanced Growth and Development Act.
By the end of August, a decision was made that the bill was good enough
to show to Commission members to begin to get their approval.

On August 27, 1980, a summary was sent to Commission members and a
full Commission meeting was set for September 10. No non-Commission mem-
bers were invited. Because the Commission had not been in on drafting
process since the January 2 meeting, the September 10 meeting would be
very important in terms of introducing the new ideas put forth in the
draft and trying to get the Commission to accept and modify the bill to
make it their own.

It was clear at the outset of the September 10 meeting that few at-
tendees had read the draft well enough to make specific comments. But it
did serve as a re-orienting process to bring people back to the growth
policy issues. There was considerable discussion of the housing need as
represented in the bill. Some people felt the bill's intent was leaning
too afr towards the promotion of new housing. Various members of the
Commission felt that the housing crunch was not real. There was no appar-
ent shortage in their districts and they believed they would have a hard
time selling a bill whose intent was to alleviate a severe housing short-
age. They felt it would be tough to convince their constituents that the
bill was necessary at all.

The environmentalist on the Commission, Representative Bickford, was
also frustrated with the slant towards growth and development. It was
taunted to provide more balanced growth, he wanted to guarantee that it would do so. He wanted to emphasize the protection of valuable state natural resources.

Questions were asked about the MIT fair share growth study. There was a little discussion of the report, again in the abstract. They were told that because of the potential controversy of the numbers if not taken in the context in which they were generated, a decision had been made not to circulate the results.

A second Commission meeting, with no outsiders, was held September 24, to continue discussion of the bill and to surface Commission members’ reactions before inviting any outside participation. The issues raised in the second meeting concerned the incentives and the legislative passage of the bill. A 10 percent local aid set aside had been proposed by the staff for those towns with approved BG&D plans. The legislators were adamant in their resistance to this provision. The local aid formula had been too controversial upon first passage to attempt to tamper with it now, particularly for an unpopular provision such as fair share housing allocation.

A third meeting was held on October 23, to which the executives of the Massachusetts Municipal Association were invited. They were concerned about the imbalance of the membership, suggested in the draft, on the various committees and appeals boards which would comprise the administrative arm enforcement for the act.

A fourth meeting was scheduled for December 17, to meet with environmentalists to get their reactions to the bill. The staff of the Commission decided to take an active role in the positioning of the people for
this meeting. Informal meetings were held with several environmental lawyers, who were invited to attend the meeting, to discuss the bill and get their reactions ahead of time.

One lawyer, Thomas Arnold, decided to write his comments in a form which could be directly transferred into the draft. He made several suggestions about improving the force of the environmental areas for protection by granting them equal status to the zones for development.

The December 17 meeting was interesting because it showed what concerted staff effort ahead of time could do to enhance the discussion and to set the agenda. The comments received from Arnold were subsequently transferred directly into the legislation.

At this point in the story, the sequence of events is not clear to me. I ended my internship with the Commission just as a big push was made to get enough support for the draft to file the bill and let happen what would in legislative debate. It appears that Susskind and Perry decided that the bill was going to get no further in the types of meetings which had been occurring up to this point.

A couple of meetings were held in January and February to secure the support of the Massachusetts Municipal Association and several other key interest groups. Their support was necessary to get the Commission members to sign the bill so it could be filed for consideration during the 1981 session of the Legislature.

At this stage, the actions of the staff were clearly intended to minimize opposition against the bill and to squeeze it through to filing. The desired outcome was to file the bill. It no longer mattered whether or not the provisions in it were sound. That decision would be left up to the legislators.
The signing of the bill occurred at a Commission meeting to which very few people came, (although probably not intentional, it sure was one way to avoid further conflict over the signing). The remaining signatures were secured individually.

The future of the Balanced Growth and Development Act is uncertain. It seems likely that it will face a tough journey through the legislature, if it works its way onto the 1981 agenda at all. The bill has the support of several interest groups including the Massachusetts Municipal Association and respected members of the environmental community. It has the support of Byron Mathews, Executive Secretary of Communities and Development and of Buick, Executive Secretary of Environmental Affairs. Through these two men, it appears the support of the Governor may be secured.

But, the support of municipalities will hinge on the credibility of the MMA support and on local perceptions of the state incentives. Municipalities were not sent drafts of the bill, so relatively few know much about its content. (And some local officials are furious they were not allowed to participate in the drafting process.)

There has been little press coverage and virtually no communication from the Commission by way of a description of the bill, the process, the goals and objectives, etc. (Although this was suggested by Commission members and the staff never followed through.)

Relatively little is understood about how most people will be likely to react to the BG&DA. The uncertainties of the bill's implementability are significant. This would lead one to believe the process must have been insensitive to the problems of implementation. But, according to the participants, close attention was paid during the drafting process to
the lessons of the implementation literature. They had tried to design a bill that would establish a planning process which would be sensitive to the differences among individual localities; they had tried to design a process which would make the state government more responsive to local needs; and they had tried to create an incentive-based, voluntary process. How can this apparent discrepancy between espoused belief and the outcome of the process be explained?

Let's go back to the assumptions mentioned in the introduction to the case study. How were these dealt with during the drafting process? Were the issues raised? Were they resolved?
CHAPTER VII

THE UNCERTAINTIES OF THE BG&DA

IMPLEMENTATION: A CLOSER LOOK AT THE

ASSUMPTIONS
During the first four meetings of the Implementation Act Sub-Committee meetings, held in the winter of 1978-79, many questions were raised which touched on the different types of assumptions on which the legislation was designed. The following discussion will examine several of these questions and assumptions in some depth to document the possible implications for implementability of the BG&DA, if it were to pass. I do not believe that these questions were sufficiently addressed in the drafting process to anticipate the likely problems of implementation.

The case study indicates that certain assumptions were questioned whenever people met to talk over the drafts in progress. Questions about how the bill might work were being asked, but it appears their answers were not being tested. I would contend the answers were not being tested because of the closed nature of the drafting process.

After the exploration of several assumptions which are critical to the bill's implementability and which I do not feel were well tested, I will return to the question why not?
Is the Housing Crisis Real?

When one attempts to document the housing shortage one has to ask where are people living now? If there are not hoards of people sleeping in the streets, the questions becomes quite difficult to answer. According to the EOCD report on "Housing Massachusetts: Meeting the Needs of the 1980's", published in 1980, "the Commonwealth is facing a critical and growing shortage of housing at all levels in almost every community." However, the mere statement of the existence of such a housing shortage does not necessarily mean that state residents will behave as if such a shortage did in fact exist.

State census figures for 1980 show that the rate of household formation far exceeds the rate of population growth in the state as a whole. This has been explained by EOCD in terms of changing lifestyle patterns from large numbers of people per household to more single occupant households (as a result of increasing proportions single people, divorcees, elderly, etc.).

How long will the trend towards single occupant households last? And what weight should be given to this factor in determining likely household housing demand in 1990 or beyond?

Current economic trends (and international political trends as well) suggest that current patterns of household formation may well differ considerably from those of previous generations. In an article which appeared in the Economic Diary section of Business Week, December 8, 1980, a telephone survey conducted by Sindlinger and Co., of Media, Pennsylvania, indicated that there is a trend towards the disappearance of households approximately equal to the annual rate of household formation for the period July through November, 1980.
Nearly half a million households disappeared between July and the end of October as people moved in together to escape the economic squeeze of the recession and the bite of inflation. Singles have doubled up, parents have moved in with children, and children with parents. Sindlinger estimates that by the end of November the number of households will be about 600,000 below July's peak of 73.8 million. This rate of decline far exceeds the disappearance rate during the 1974-75 recession, when it took 13 months for 800,000 households to disappear.56

Will the 1980's mark the beginning of an era of adjustment and lifestyle adaptation to existing types of housing availability as a result of increasing energy costs and spiralling inflation; instead of the scenario suggested in the OECD report indicating large increases in the demand for housing?

My understanding of the balanced Growth and Development Act indicates that it is a bill intended to induce localities to plan for and accommodate their share of statwide growth (read housing). This is based on the assumption that growth should be spread evenly through the state and that it can be defined, managed, and planned for. It rests on further assumptions that localities can be induced into changing their behavior towards the acceptance of their share of growth, and that administrators will be able to manage the day-to-day activities required to implement the provisions of the Act.

Who is to say that growth is desirable in Massachusetts in the first place? What if the additional units predicted by DCA as necessary by 1990 are not built? Where will the people live? Will they leave the state? Or will they double up? Or will they be forced to live in sub-standard

56 "Economic Diary", Business Week, December 8, 1980,
conditions? And what can state government do to influence these events?

Even if housing were made available can we predict what the economic situation will be and whether the people whom we think need the homes will be able to afford the types built? The energy situation is vulnerable enough that it would be wise to reflect on possible cost scenarios before encouraging all municipalities within the Commonwealth to encourage growth within their boundaries. It may well be that transportation costs and heating costs will once again create a demand for more densely populated use of central cities.

**Fair Share Housing Allocation Formula**

Putting aside for a moment the problem of lack of public awareness of the impending housing crisis and the technical questions about how to predict growth and housing demand, is it possible to generate a **politically palatable** fair share housing allocation formula?

In order to allocate the fair share of growth the state EOCD will have to arrive at a formula which will generate actual numbers of housing units which each municipality will then be required to accommodate in its Balanced Growth and Development Plan. It is my belief that such a formula will be extremely politically controversial, particularly in view of the strong home rule tradition in the state. Therefore, I argue that it would have been advised to allow public debate and discussion of the inclusion of the allocation formula concept in the bill in the first place.

I believe that the originators of the draft felt that such a formula could be determined so long as there was a mechanism through which communities who were dissatisfied with their specific allocation could negotiate with the state to arrive at a number that would be mutually
acceptable. There is such a provision in the current draft of the act. However, given the hostile nature or potentially hostile nature of the bill's audience if passed, it might have warranted public debate and discussion if for nothing more than to dispell the myths and to clear the air so as to emphasise the negotiability of the figure. What criteria should be used and what assumptions were they to base their theory on? Should types of households be allocated to communities or just a general number to be interpreted at will by communities? Is the purpose to get as much of any type of housing built throughout the Commonwealth or is it to distribute the burden of lower income households or both? My guess is that the two were equally important to the members involved in the discussion of the draft bill.

There is no agreement among academics or politicians or lawyers for that matter on the issue of fair share allocations of housing. The courts in New Jersey (67 N.J. 151, 336 A.2d 713) have been debating the issue for a little over six years now and cannot agree on an acceptable means for empirically calculating a just and equitable formula by which to determine specific numerical values for housing which communities then must provide. What should go into the formula? And how to monitor it in place? Who should determine it?

Given that there is no politically credible formula in existence it does not follow that we should not try to produce one; however, I feel strongly that we should investigate carefully the political consequences of the development of such a formula and perhaps spend some time in conversation with municipalities before adopting such a technique in order to gain a more realistic perspective on the potential difficulties and
and hurdles as well as the potentially prohibitive time and dollar costs which might ensue from state/local court battles and debate over the legitimacy of the figures.

Even under the proposed negotiation process whereby communities have the right to request adjustment of their own figure, on a case-by-case basis, the costs could be prohibitive. Judging from the local growth policy questionnaires responses there could well be a flood of protests regarding growth policy rates which require even minimal additional growth to municipalities. However, in a conversation with Phil Herr, who does a lot of work for localities throughout the Commonwealth, there are towns (particularly in Western Massachusetts) who desperately want growth and are not attracting it. So, there is a group of towns who are not under pressure from present growth who would probably not worry about specific numbers on paper.

However, because the "stem" of implementation is presently so vague one needs ask the question how shall the fair share allocation be monitored in practice? Will the State rescind funding if a town does not grow to fulfill its quota? What constitutes the demonstration of a good faith effort to include housing growth.

The DUSP conducted a study to experiment with possible formulas was described as a sensitivity analysis of two possible formula approaches which in fact revealed that relatively small numbers of communities will be "significantly affected" by the demands placed on them by state figured allocations. Whether or not there are large numbers of communities which will be affected, my guess is that many communities will not stand for what I believe that they will perceive as state infringement of their
rights to control and direct their own growth. Neither of the formulas is ideal, and I do not believe they could withstand public or legal scrutiny as just or equitable (or logical) means to distribute growth on a municipality by municipality basis in the Commonwealth.

What Does It Mean To Demonstrate Accommodation Of Fair Share of Residential Growth?

The bill does not specify or suggest alternative means of accommodating a fair share of growth except to state that the municipality will designate Planned Development Zones (indicating where they will accept growth), in which they will agree to expedite the permitting processes. While it was the intention of the original drafters of the bill to give the communities reasonable flexibility in the designation of these zones, it would seem to me that in order to change their current behavior one might have to at least provide some suggested alternatives which are tangible enough to be influential (e.g., make the downtown a development zone to meet numbers of units, or change zoning by-laws to allow the development and rental of auxiliary units in large homes.) In the event that such a patterning element is not included, I believe the need for "technical assistance" becomes critical.

One of the main criticisms of the state's participation in local affairs (which surfaced from the Growth Policy Process) was the fact that act after act required action from the localities without providing funding to assist in covering the costs of such regulation, etc. from the state down. Under the current administration the likelihood of the actual appropriation of money for technical assistance is marginal at best. It will be very difficult to get the legislature to allocate much funding to provide the technical assistance to municipalities in order for them to plan
effectively according to the intents of the BG&D Act.

Which Towns Will "Buy Into" The Process Or Are The Incentives Adequate To Induce The Behavior Change Of The Towns Who Exhibit Such Behavior?

Which towns will be able and/or willing to plan under the conditions of the act? Is the bill intended to promote more and better planning throughout the Commonwealth and therefore intended to reach all types of municipalities? Or are there some municipalities with effective planning mechanisms in place who will be able to plan without much difficulty and then there would be to others who would have serious difficulties without financial and technical assistance. It seems to me that there is a hierarchy of planning capabilities already existant in Massachusetts. In the event that the bill does not receive much funding, the municipalities with good planning capabilities will be first in line for the targeted funds and those towns most in need will lag far behind in their efforts to comply with the basic requirements for the plan under the act.

Then one might ask, what was the intent in the first place? To enhance the planning capabilities of all municipalities to help the Commonwealth achieve a more balanced state of growth and development? Or perhaps it is to increase the aggregate total of housing in the Commonwealth? If the intent was to eliminate exclusionary tendencies, I do not believe it can. Towns with money (it is plain) tend also to be the ones who might be accused of exclusionary practices. Will they simply decide not to participate? Or might they figure a way to meet the state on paper and still be able to avoid accepting what they don't want, e.g., Ch. 774.

Another thought, the mere fact that the Plan calls for the incorporation of the municipalities fair share of housing does not mean that the housing will in fact be provided. It is true that a few more units
might be built but, I would guess that plenty of municipalities will attempt to design their plans to "accommodate" their fair share with the intent that once the plan is reviewed they will figure out ways to avoid actually encouraging the building of many additional housing units.

What I fear is that we will have one more instance of regulations modifying superficial behavior towards the appearance of compliance when in fact the behavior will not be modified much at all.

**Incentives**

Four basic incentives are proposed in the legislation to encourage town participation in a voluntary planning exercise. The intention of the act is clearly to create rewards for towns which volunteer to enter the planning process outlined by the state legislature in the act.

I am not at all convinced that the incentives offered are 1) realistic and 2) sufficient to induce the type of planning desired, nor am I convinced that the process is actually "voluntary". For example state funding is limited to begin with. Especially in light of Proposition 2½ competition for small amounts of existing funding will increase. Thus towns are likely to view the prioritization of funding as a mandate to plan if they believe the prioritization is possible and realistic in the first place.

The Commission initially considered a proposal to designate 10 percent of the local-aid fund as a set-aside for those communities who planned early in the process. There was vehement opposition (in the Commission meetings) to such a set-aside because the legislators felt that the original state local aid formula was so complex and politically sensitive upon initial passage that any attempts to adjust or change it would mean political suicide for the bill as a whole.
If the prioritization of funding is left up to the administrative agency, the impact of the incentive will be contingent upon the efforts made to obtain MOU's and the extent to which such MOU's are binding.

Further elaboration on this point is worthwhile because some interesting questions are raised about who has the power and the authority to govern.

**Prioritization of State Administered Discretionary Grants-In-Aid To Towns With Approved Balanced Growth and Development Plans**

The summary of the BG&DA states that "State government should give priority in disbursing state and federal discretionary investments to communities which adopt local Balanced Growth and Development Plan." The bill itself states that, "...to the extent permitted by law, the Secretary (EOCD) shall enter into agreements or memoranda or understanding with any applicable state or federal agencies regarding such allocation and disbursement priority..."

I do not believe it will be possible to secure such memorandums from state agencies under the King administration, particularly in an era of decreasing funding availability. It might be possible to get agency heads to agree to consider the existence of an approved BG&DA plan among their own lists of priority items; but, unless there is an atmosphere of cooperation among the program directors such as there was for a brief time under Dukakis, agency program administrators are not likely to give away their discretionary powers to another agency administrator unless forced to do so by law.

It is one thing to tell subordinates to obey their superiors, or agency heads to obey the legislature—but it is quite another for one agency head to command obedience from another agency head of equal rank,...
or for state officials to give orders to county (or municipal) officials.\(^{39}\)

The recent announcement by EOCD of an Executive Order \#194 suggests that EOCD did not feel it could get substantive compliance from other agencies, who were funding economic development activities, to consider the housing issue in their funding prioritization schemes. The order gives EOCD the power to establish whether a community is being exclusionary in its zoning and permitting procedures related to residential development and to ensure that these communities must reform their exclusionary ways before they will receive further funding from any state agency who is funding economic development activities.

At the time the notion of targeting funds (to areas which are growing or are willing to grow) was put into the act, Dukakis was in fact using this strategy in support of the urban centers philosophy of development which he held so dear. But, it appears that this type of cooperative atmosphere is the exception and not the rule. The Executive Order attests to this. And Susskind himself had though about this at one point.

Administrators tend to favor proposals coming from cities or agencies with whom they have worked closely. As professionals, though, they are compelled to strive for objectivity. They attempt to give the impression that the needs of the department and not those of other state agencies or community groups take precedence. More often than not, this conflict is handled through a number of subtle techniques, all of which relate to the flow of privileged and timely information regarding funding priorities and the design of grant applications. The annual state plan cannot provide such inside information. Only through personal contact with state administrative officials can applicants gain this competitive edge.\(^{39}\)

\(^{39}\) Bardach, *Implementation Game*, p. 112.

\(^{39}\) Susskind, April 1974, Unpublished, "Decategorization and the Emergence of Bureaucratic Impediments to Institutional Reform," p. 11.
So what made the drafters of the BG&DA lose sight of the rule? Perhaps it was the excitement of actually realizing someone could work the exception. Perhaps it was a lack of recognition that the exceptions were time specific and depended on a considerable amount of leadership from people in positions of power. The role of administrators has long been contested. Are they to lead or are they to follow the public agenda?

The national tendency, which is certainly visible in Massachusetts as well, is moving away from strong governmental leadership. Government has gotten too big: even Massachusetts voted for Reagan and that is a strong indication of public sentiment in the state. Thus, it does not make good sense to me to predicate an incentive for behavior modification on a condition that is non-existent in state government at this time and may not be in the near future. In order for incentives to work they have to be credible.

I would suggest that when Mathews as Secretary of EOCD decides that an Executive Order is necessary to secure the cooperation of his fellow agency heads, the chances of MOUs working to accomplish the same tasks are limited.

Towns With Approved Plans Will Be Allowed To Use Time Phased Growth Controls

Another incentive permits the use of time based growth controls. It also is likely to be controversial. If worded differently, it would read that towns without approved growth management plans will not be permitted to adopt time phased growth management techniques...The incentive disappears and there is a stick instead.

There is further cause to suspect that this incentive will be viewed as a sanction against towns who choose not to plan. Under Massachusetts
law at present some 15-20 towns have legally imposed growth management con-
trols. What will happen to their policies if they choose not to plan? And is this likely to be viewed as an infringement on home rule authority of municipalities?

In some instances, moratoria have been imposed to protect the health, safety and welfare of a town (i.e., if sewer capacity is taxed beyond limits and is causing contamination of water supply sources). Perhaps the bill should at minimum, provide for the interim use of phased growth controls in environmentally and health protectionary ways when a town, with an approved plan or none, is threatened in such a way.

It is important to ask the question what other growth management options do towns have in the event they are not permitted to use time phased techniques? Under many zoning statutes courts have interpreted the rights to include legal mechanisms for the design of alternative methods which can by-pass this state imposed incentive/sanction.

From Stop Me Before I Plan Again!
Richard Hedman, SPA
Possible Reasons Why the Assumptions Were Not Tested

Because the espoused theory about the importance of including consideration of implementation issues in the process of policy formulation remained consistent throughout the work of the Growth Policy Commission, one must ask whether both processes were sensitive to the lessons of implementation. As the preceding discussion of assumptions indicates, the answer is no. However, as one reads the case and realizes that the people involved in the drafting of the second bill were still concerned about the implementability of the bill, the question then becomes why not?

There were noticable differences between the two processes:
--leadership of Commission activities, allocation of money, time and resources to Growth Policy Commission work changed
--the environment in which the drafting was occurring changed
--the amount of openness and inclusion of participants with interests at stake changed
--the point at which participation was encouraged changed
--the amount of public outreach in the form of newsletters, media, publications changed
--the amount of reflexive listening and the amount of assumption testing changed
--the frequency of Commission meetings and the ability of staff to control the process changed
--the relative implementation importance of the sensitivity of the process compared to the commitment to a desired outcome changed.

The following table (II) compares the two processes from an observational viewpoint, extracting data from the case.
Table II  
PROCESS COMPARISONS

<table>
<thead>
<tr>
<th>FORMULATION OF FIRST BILL</th>
<th>FORMULATION OF SECOND BILL</th>
</tr>
</thead>
<tbody>
<tr>
<td>OPEN/INCLUSIVE PARTICIPATION</td>
<td>SELECTIVE/INCLUSIVE PARTICIPATION</td>
</tr>
<tr>
<td>INFORMATION SEEKING/INQUIRING SUPPORT SEEKING</td>
<td>INFORMATION PROCESSING AND PACKAGING SUPPORT SEEKING</td>
</tr>
<tr>
<td>SUPPORTIVE ENVIRONMENT</td>
<td>HOSTILE ENVIRONMENT</td>
</tr>
<tr>
<td>FREQUENT CONVERSATIONS AMONG PARTICIPANTS</td>
<td>SPORADIC CONVERSATIONS</td>
</tr>
<tr>
<td>ACTIVE LISTENING</td>
<td>APPEARANCE OF LISTENING</td>
</tr>
<tr>
<td>SURFACING AND CHALLENGING OF ASSUMPTIONS</td>
<td>MINIMAL ATTENTION PAID TO SURFACING AND CHALLENGING ASSUMPTIONS</td>
</tr>
<tr>
<td>IMPLEMENTATION SENSITIVE</td>
<td>ATTEMPTS MADE TO BE IMPLEMENTATION SENSITIVE</td>
</tr>
</tbody>
</table>

The differences in the two processes can be explained by examining the changes in circumstances over time and the roles of the different actors as the context changed. Table IV lays out a diagram of the social, political and economic context and the changes in various aspects of the context over time. Table V examines the changes in the commitments of the key actors over the eight years of the story. The behavior of the actors can be partially explained by the changes in the context in which they were operating.

As the political environment became hostile to the Growth Policy Process, it appears that the process was closely guarded by the Commission staff. As a result, the open, participatory nature of the process was closed. People
who were perceived to be threatening to the drafting of the Balanced Growth and Development Act were simply not allowed to participate. Hence an avenue of valuable information about the bill's implementability was closed. (See Table VI.)
<table>
<thead>
<tr>
<th></th>
<th>1960's</th>
<th>1970's</th>
<th>1980's</th>
</tr>
</thead>
<tbody>
<tr>
<td>EXECUTIVES</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>NATIONAL LEVEL</td>
<td>JOHNSON</td>
<td>NIXON</td>
<td>FORD</td>
</tr>
<tr>
<td>STATE LEVEL</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>PUBLIC ATTITUDE</td>
<td>&quot;GOVERNMENT CAN SOLVE OUR PROBLEMS&quot;-LBJ</td>
<td></td>
<td>&quot;GOVERNMENT IS THE PROBLEM&quot; -RJR</td>
</tr>
<tr>
<td>TOWARDS GOVERNMENT</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>INTERVENTION</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>ISSUES ON THE PUBLIC</td>
<td>SOCIAL POLICY</td>
<td>ENVIRONMENTAL PROBLEMS</td>
<td>RECESSON, ENERGY SHORTAGE, INFLATION, OVERBURDENSOME TAXATION</td>
</tr>
<tr>
<td>AGENDA</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>ROLE OF PLANNING</td>
<td>FEDERAL FUNDS ABOUND URBAN RENEWAL... HEAD START, SOCIAL SECURITY...</td>
<td>FEDERAL FUNDS THIN FORMATION OF MASS. OFFICE OF STATE PLANNING</td>
<td>PRO-GROWTH MANAGEMENT PLAN FOR AND ACCOMMODATE</td>
</tr>
<tr>
<td>EMPLOYMENT</td>
<td>HIGH UNEMPLOYMENT IN MASSACHUSETTS</td>
<td>LOW UNEMPLOYMENT IN MASSACHUSETTS</td>
<td>SERVICE SECTOR IS THRIVING</td>
</tr>
</tbody>
</table>
### TABLE V: CHANGES IN THE COMMITMENTS OF KEY ACTORS OVER TIME

<table>
<thead>
<tr>
<th>Early Process</th>
<th>Later Process</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>SUSSKIND</strong></td>
<td><strong>RECOGNITION OF FACT</strong></td>
</tr>
<tr>
<td>New ideas, contrary to all code which was considered most innovative, thus challenge to test his own theory</td>
<td>Reads environment, sees that timing not stellar...</td>
</tr>
<tr>
<td>Leads process along with Saltonstall</td>
<td>Participation wavers, not as committed to action takes back seat or alternative</td>
</tr>
<tr>
<td><strong>WETMORE</strong></td>
<td><strong>THEORY: HAS NO CHOICE,</strong></td>
</tr>
<tr>
<td>Young member of House—looking for a &quot;cause&quot; rural constituency, votes with constituency on all but environmental matters, then votes his conscience</td>
<td>No clout at outset of new administration, takes time to re-access ear of power</td>
</tr>
<tr>
<td><strong>PERRY</strong></td>
<td><strong>ESTABLISHED MEMBER OF SENATE</strong></td>
</tr>
<tr>
<td>Dedicated to cause, works very hard to move things along</td>
<td>Same constituents, same voting pattern, new environmental concern cause his attention to shift—as this happens, shifts resources to new issues</td>
</tr>
<tr>
<td>Intrigued with the ideas of participation and public learning, decides to write dissertation on the subject</td>
<td>Dedicated to cause but wants clear outcome</td>
</tr>
<tr>
<td>Loses sight of the process by seeking specific outcome loses sight of the process. by seeking specific outcome</td>
<td>Impatience with the slowness of events and loss of power may have been taken away (Wetmore)*, may have been weakened because left on his own (Susskind tires-onto other things)</td>
</tr>
</tbody>
</table>

---

*In terms of Resources—Time, Staff, Money.*
### CHANGES IN THE COMMITMENTS OF KEY ACTORS OVER TIME

**Table V: (Page Two)**

<table>
<thead>
<tr>
<th>EARLY PROCESS</th>
<th>LATER PROCESS</th>
</tr>
</thead>
<tbody>
<tr>
<td>SALTONSTALL</td>
<td>LEAVES PUBLIC OFFICE</td>
</tr>
<tr>
<td>MOVER, FACILITATOR, CONVERSATIONALIST, REPUBLICAN IN DEMOCRATIC ADMINISTRATION, HIS CHANCE TO SHINE, WILLING TO DEVOTE LOTS OF MONEY AND TIME</td>
<td>CONTRIBUTES TO MEETINGS READS DRAFTS BUT NO LONGER IN A POSITION OF POWER</td>
</tr>
<tr>
<td>AND TIME</td>
<td>(NOT REPLACED BY ANOTHER LEGISLATOR)</td>
</tr>
</tbody>
</table>

### POSSIBLE REASONS WHY CHANGES HAPPENED

**SUSSKIND**

I) COMMITMENT TO OUTCOME BECOMES GREATER THAN COMMITMENT TO OPEN PROCESS SENSITIVE TO IMPLEMENTATION ISSUES

**AND/OR**

CHANGE IN PROCESS TO FIT NEW GOAL—REPRESENTATIVES OF KEY INTERESTS CAN SWAY VOTES, BEST PLACE TO DEVOTE TIME IS TO SECURE PASSAGE (NOT TO IMPROVE BILL)

**PERRY**

II) HOSTILE ENVIRONMENT CREATES DEFENSIVE BEHAVIOR

III) OTHER ISSUES TAKE PRIORITY OVER GROWTH POLICY PUBLIC ATTENTION SHIFTS, PROTAGONISTS GET TIRED—PARTICIPATION MODE DIFFICULT TO SUSTAIN

IV) LOSS OF ACCESS TO POWER AND EAR OF POWER, MAY HAVE FIGURES A NEW ACCESS ROUTE BUT IT IS NOT ONE THAT APPEARS TO BE WILLING TO LEARN THROUGH AN OPEN OR INCLUSIVE PARTICIPATORY PROCESS.
### Table VI

#### MODELS OF ORGANIZED PARTICIPATION

**OPEN/INCLUSIVE PROCESS**

Anyone who wants may join in and participation actively recruited and encouraged

Usually have open meetings with heterogeneous participation as well as meetings of specific interest groups as brain-storming sessions

**SELECTIVE/INCLUSIVE**—(almost closed)

Specific

Participants invited to join at strategic points in process

(often participants are representatives of powerful interest groups...pivotal people who can sway votes)

Typically homogeneous participation at meetings

**COMMONLY USED WHEN:**

Inquiring—generating or testing ideas

Seeking Support in Comfortable Environment

Educating

Tends to be implementation sensitive

**COMMONLY USED WHEN:**

Protecting turf—high stakes in outcome

Testing ideas in Hostile Environment

Seeking Support in Hostile Environment

Tends to preclude sensitivity to implementation

---

CHAPTER VIII

CONCLUSIONS
The assumptions embodied in the BG&DA are questionable, as discussed in Chapter VII. They were derived from a "bottom-up" policy formulation process which occurred five years ago. A lot has happened since that process occurred which suggests that policy formulated by such a process today would be quite different. But, the assumptions underlying the BG&DA are not significantly different from those made as a result of the 1976 process. Why?

It appears that the assumptions were held constant. Further, the process through which the (BG&DA) legislation was formulated did not allow for sufficient questioning and testing of the assumptions.

The case study explained that the assumptions were questioned by those people who were periodically included in the drafting process; but that they were not tested by many people because relatively few people participated in the process. Entry into the process was closely controlled by the Commission staff, and entry appears to have been restricted to those participants who might help get the bill passed. Thus, the goal of participation in the drafting process was to achieve a specific outcome—the filing and passage of the BG&DA.

Actions were taken to avoid participation of those people whose involvement might delay or derail passage of the bill. Their participation became a threat to the passage of the bill, yet their participation might have helped to test the assumptions and to help make the bill more implementation sensitive.

For example, during the summer of 1980, the Commission staff received numerous requests from municipal officials for copies of the draft in progress. These requests were ignored. But, it would seem that comments from municipal officials might have provided valuable insight into
the likelihood of the bill's implementability—it might have provided clues about which towns would plan and whether the incentives were sufficient.

Given the nature of the first two phases of the Commission's work, and the espoused "bottom-up" theory of policy formulation, it is curious that the process of drafting of the second bill was so different. The goal of the first bill and its implementation had been to build a coalition for, and to generate, workable growth management and land use policy by permitting those people who would ultimately be affected by the policies to participate in the actual formulation of the policy—with the belief that policy formulated from the "bottom-up" would stand a better chance of being implementable.

The second bill was explained as a next step in the "bottom-up" policy formulation process. Participation in the drafting process was to be actively encouraged, according to the Third Interim Report of the Commission in 1978. It made sense that once policy had been made, workable legislation to implement that policy would be most likely to succeed if also generated from the "bottom-up". However, the espoused theory did not in fact guide the drafting process. Why not?

Generating implementation legislation turned out to be more difficult than the protagonists had thought it might be. Whereas the policy formulation process had not been very threatening to most people, policy implementation was a different story. There was more at stake the second time around.

The political and economic climates had shifted. New actors with different priorities gained positions of power. As the first part of the Commission's work drew to a close, so did the administration whose support had been crucial to the effectiveness of the participatory model on which
the bill was based. The "bottom-up" approach to policy formulation had taken enormous amounts of energy and time to implement; it had also yielded significant rewards to the protagonists and to the participants.

The approach, however, was not viewed as a total success by many people. Some felt that the process was too superficial, that the right people did not volunteer to participate in the local discussions. They felt that these non-participants' opinions would be the ones that would count if any implementation policy were to be derived from the "bottom-up" process. Many of these opponents wound up working in the King administration.

When King took over from Dukakis, he was not interested in continuing the work of the Dukakis years. Instead, he was looking for a way to create a new image and a way to do new things. Growth policy fell from the public agenda and those people connected with the Growth Policy Process of the Dukakis years fell from political favor. This meant that the protagonists for the Balanced Growth and Development Act did not have the same kind of access to the decision-makers as they had enjoyed under Dukakis.

Upon closer look, the protagonists had gotten their entrée into the Dukakis administration via a well respected Republican Senator, Saltonstall. Saltonstall left the Senate the year King came into office. His presence on the Growth Policy Commission was sorely missed because he had been an effective facilitator and mediator. He had managed to listen and to learn about errors. He was not replaced by any particular person when he gave up his seat on the Commission. There was no one in a similar position in either the Senate or the House who could provide the protagonists with the same type of access to people in positions of power this time around.
This proved crucial as the King administration turned away from the growth policy and growth management focus of the Dukakis administration. The environment which had been friendly towards the drafting of the Balanced Growth and Development Act turned hostile. As the environment changed, so did the strategy of the protagonists for pushing their bill.

While the open, inclusive participatory process of policy formulation had worked as the protagonists wanted in a friendly political environment, it was feared it would not work so well in a hostile environment.

Therefore, it seems, the protagonists closed the process to protect the bill from being derailed or delayed by those people whose participation was perceived as threatening to the passage of the bill.

Thus the mode of participation shifted away from seeking out those people who might help design a better, more implementable bill; to those people who could help secure its passage. The protagonists had enough at stake in the bill that they were not going to sit back and wait until a more favorable political shift in climate occurred. Nor were they going to try to worry any longer about a bill which would be implementation sensitive. Instead, they just sought votes for its passage.

This style of coping with an unfavorable shift in political environment is not unique to the BG&DA drafting process. If people have a lot of time invested in a particular bill, they are not likely to abandon it easily. It takes people with rather unusual outlooks on life to be able to realize that a particular issue is not in favor presently but would be worth saving for a future trial. Instead, people usually tend to plot and scheme to devise ways of getting their strategy through the legislature and sacrifice some quality in the implementability of their legislation as a result.
BIBLIOGRAPHY AND APPENDICES
BIBLIOGRAPHY


Massachusetts Growth Policy Project, MIT, Laboratory for Architecture and Planning,


Schon, Donald A., "Conversational Planning", MIT, Fall, 1980.


Executive Office of Communities and Development

"In the Face of a Growing Housing Shortage," 1980.


Office of State Planning, Commonwealth of Massachusetts:


Third Interim Report of the Special Commission Relative to the Effects of Growth Patterns on the Quality of Life in the Commonwealth:


Fourth Interim Report of the Special Commission Relative to the Effects of Growth Patterns on the Quality of Life in the Commonwealth:


Other Sources

Personal files, including minutes, meeting notes, plans, thoughts, etc.
Senator Saltonstall
Lawrence Susskind

Official files of the Special Commission, Senator Wetmore's Office.
CONVERSATIONS
AND
INTERVIEWS

Casual conversations with Commission members and meeting participants during the Fall of 1980.

Positioning meetings with Thomas Arnold, Esquire, Greggor and McGregor for environmental interests meeting, December, 1980.

Ongoing conversations with Susskind, Perry, Wetmore's staff

Joe Flatley
February 6, 1981
April 30, 1981

Frank Keefe
May 1, 1981

Chris Green
May 4, 1981

MEMBERS OF THE GROWTH POLICY COMMISSION (1981)

Senator Robert D. Wetmore, Chairman
Senator Allan R. McKinnon
Representative Royal L. Bolling, Jr.
Representative Walter E. Pickford
Mr. Byron Matthews, Secretary, Executive Office of Communities and Development

Professor Lawrence Branch
Mr. Chester N. Gibbs
Professor Lawrence Susskind
HOUSE — No. 6149

The Commonwealth of Massachusetts

MEMBERS OF THE COMMISSION

Sen. ALLAN R. McKINNON, Senate Chairman
Sen. ROBERT D. WETMORE
Sen. WILLIAM L. SALTONSTALL
Rep. RICHARD H. DEMERS, House Chairman
Rep. GENEVRA R. COUNIHAN
Rep. MARY E. FANTASIA
Rep. ROYAL L. BOLLING, Jr.
Rep. TERRENCE P. MCCARTHY
Rep. ROBERT W. GILLETTE
Rep. WALTER E. BICKFORD
Prof. LAURENCE G. BRANCH
Mr. CHESTER N. GIBBS
Prof. LAWRENCE E. SUSSKIND
Mr. FRANK KEEFE, Director, Office of State Planning
Mr. WILLIAM FLYNN, Secretary, Executive Office of Communities & Development