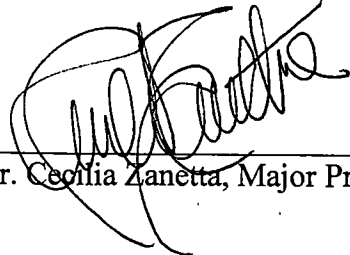


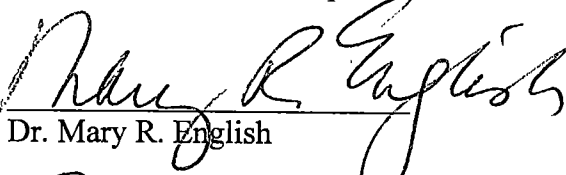
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I am submitting herewith a thesis written by Melissa Johannah Manderschied entitled *Public Participation in Mandated Local-Level Growth Management: A Comparison of Legislative Approaches in Florida, Oregon, Tennessee, and Washington*. I have examined the final copy of the thesis for form and content and recommend that it be accepted in partial fulfillment of the requirements for the degree of Master of Science in Planning, with a major in Planning.

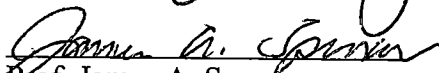


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PUBLIC PARTICIPATION IN MANDATED LOCAL-LEVEL GROWTH MANAGEMENT

A Comparison of Legislative Approaches
in Florida, Oregon, Tennessee, and Washington

A Thesis Presented for the
Master of Science in Planning Degree
The University of Tennessee, Knoxville

Melissa Johannah Manderschied
August 1999

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DEDICATION

This thesis is dedicated to my family and close friends

Dad, Mom, Alicia, Christena, Lisa, and Kate

without whom I would never have been able to persevere with such dignity and grace.

ACKNOWLEDGMENTS

There are many people to whom I am grateful for making my time at the University of Tennessee so rewarding. I have benefitted greatly from knowing the faculty and graduate students in the School of Planning over the last two years, and I hope these relationships will endure. I am particularly grateful to my Thesis Committee, Cecilia Zanetta, James Spencer, and Mary English, for their academic and personal support. Their encouragement and assistance have been greatly appreciated.

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ABSTRACT

This thesis examines the mandated local-level growth management legislation of Florida, Oregon, Tennessee, and Washington and its mechanisms for public participation. The main approach to this investigation was in the form of an inventory and analysis.

Mechanisms were inventoried within the legislation and then this information was analyzed to discover the effectiveness of each state's attempt to engage the public in the planning process. It was found that financial assistance is necessary to assist local governments in the process. Additionally, it was determined that public hearings are most effective if the civil society is already organized. Public ownership in the process is essential to meaningful policy making at the local level.

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CHAPTER ONE

INTRODUCTION

This thesis advances the study of public participation by systematically inventorying the mechanisms of public participation in mandated, local-level growth management legislation and then assessing the effectiveness of the strategies used by several states in the United States. Attention is focused only on those states with mandated, local-level growth management. The first section of this chapter presents a brief discussion of the policy implications of this research. A discussion of the specific research question and the objectives of this research follows this. The last section is an overview of the research approach used in this thesis.

Policy Implications

The need for specific legislation to regulate urban growth has become increasingly apparent. To date, thirteen states have responded with growth management legislation. Many other states are currently debating similar legislation within their respective Houses of Congress. Involving the public in the planning process has long been hailed as “good planning.” Public participation lends validity to the final plan. There is a shared vision for the future. There is consensus. Academics and practitioners alike praise the benefits of public participation. The *American Planning Association's Ethical Principles for*

Planning's (1988) second principle, *Support citizen participation in planning*, declares "the right of citizens to influence planning decisions that affect their well-being."¹

The role of citizens in growth management legislation is complex. Because growth management legislation is enacted by the states, several have begun testing some of the theories and ideas proposed by various organizations and academics. The mechanisms and approaches used to integrate public participation into the visioning and planning process varies in the states surveyed. While some states have mandated workshops or surveys, others rely on citizen review boards or citizen-led task forces. Oregon, for example, mandates citizen participation in its growth management visioning process (Statewide Planning Goal 1: Citizen Involvement). Oregon's Citizen Involvement Advisory Committee published a "how to" manual titled *Putting the People in Planning: A Primer on Public Participation in Planning* (July 1992). The degree of citizen participation varies with the state and its legislative mandates.

Research Question

Public participation is therefore an important element of state growth management legislation. However, a myriad of choices and options are available to each state during the development of legislation. It is important to identify and understand the benefits and consequences associated with each mechanism of public participation, drawing from the experience of those states that have adopted and implemented them. This thesis will

¹ William H. Lucy. 1988. APA's Ethical Principles Include Simplistic Planning Theories. *Journal of the American Planning Association* 54:2.

present an inventory of mechanisms for public participation and will illustrate how several states have used each of these mechanisms. This information will allow states still developing their legislation an opportunity to preview their options and how each can be carried out.

Because of the changing nature of public participation, depending on whether the legislation is mandated or enabling and the level of government developing the plan, it is necessary to categorize those states with growth management legislation. For the purposes of this thesis, only those states with mandated local-level growth management will be considered because public participation is best implemented at the local level. These states are: Florida, Maine, Oregon, Rhode Island, Tennessee, and Washington. This thesis compares only four of these states, and the reasons are explained in the next chapter. It is also important to determine a temporal dimension. Attempts were made to obtain the most current versions of the above states' growth management legislation. Versions that were current as of Spring 1999 were used for reference and citation.

Additionally, it is important to note that not all of the states considered in this thesis use the term *growth management* to title their legislation covering this topic. However, for the purposes of this thesis, the term growth management is used. Other terms are *growth policy*, *land use planning*, and *smart growth*. Each term implies slightly different aims. Growth policy implies that growth is still welcomed by many, and it is the term being used in Tennessee. Growth control is considered to have notably more stringent constraints, and is typified by Oregon's slow/no growth philosophy of the 1970s. Growth

management is a more neutral term; it still implies government intervention. When states have written growth management legislation into their state statutes for zoning and land use, only those publications specifically termed *growth management* were used. Also, interviews with officials of the state's planning office were conducted to ensure that all articles relevant to this thesis were considered.

As is the case with many of the states used as case studies in this thesis, not only does the state publish its legislation for growth management, but it also publishes guides and handbooks to assist those municipalities and counties required to implement the legislation. Although this thesis attempts only to examine the mandates found within the growth management legislation, this author feels it is imperative to also consider those publications that further explain and guide the local-level administrators in the implementation of the legislation. Thus, for the purposes of this thesis, these state publications will be considered together with the body of the legislation. However, the differences in these two forms of instruction (legislation and other published guides/handbooks) are indicated in the body of the text and in footnotes.

Lastly, the organization of planning duties and responsibilities within each of the states discussed in this thesis varies. Some states have an official state planning office that oversees the entire process, and often the legislation requires final approval of the localities' plan and process from this administrative body. However, not all states operate in this fashion. Some states have regional agencies that function in much of the same way as the state offices mentioned above. Other states do not have a regional or

state agency to report their progress or problems. These differences are important to note as they relate to the localities' accountability; they will be examined in Chapter Two.

The next and last section lays out the organization of the present thesis.

Organization of the Present Thesis

The remainder of this thesis consists of four chapters. Chapter Two provides an outline of the literature within the field of growth management and its legislative implications.

The changing definition of growth management in the United States is traced within this field of study. Out of the thirteen states that have adopted growth management legislation, only six with mandated, local-level growth management legislation have been selected as the subset used in this thesis. Basic differences between those states falling within this subset are highlighted to close out the discussion in this chapter.

Chapter Three presents the literature within the field of public participation. Because of the variety of definitions used to describe the characteristics necessary for public participation, a definition is operationalized from the existing bodies of research. Following this operationalization, mechanisms for public participation are discussed.

Chapter Four merges the two concepts of growth management and public participation, resulting in a dual analysis. Each state's legislation is inventoried for opportunities for public participation. These public participation mechanisms are then examined within the context of the legislation of that state. Negative and positive characteristics of each mandate are discussed.

Chapter Five summarizes the conclusions derived from this investigation, outlines suggestions for future policymaking, and indicates directions for future research.

CHAPTER TWO

GROWTH MANAGEMENT

Habits, quality of life, commuting patterns, environment, public facilities, and open space are only a few things that can change as a result of growth. One thing is for sure: growth brings change. Local governments must respond to growth. They are composed of more than just locally elected officials; citizens, public officials, and city planners are the building blocks of an effective local-level government. Together, these groups must learn to manage change. When stakeholders can adopt a comprehensive view of the challenges facing their community and region then growth management can begin.

For decades, Americans have been moving away from the city to the countryside. Because of this trend, new communities are created and old ones left behind. Even though this process seems positive, moving outward causes new problems and new issues for both the new communities and the old ones left behind. Population increase and decrease affect growth. Sprawl is related to changes in population density. These changes alter the character and fabric of established rural and urban communities. It can threaten ways of life for city dwellers and rural residents alike. A country gravel road can become a four-lane divided highway as suddenly as in a year or two. When growth skips over the inner cities, neighborhoods begin to decline and opportunities for employment nearby decrease. Bustling downtown areas can turn into refuges for homeless people once people stop patronizing the local businesses.

Because rural settlement patterns have tended to favor large lot sizes and the preservation of rural characteristics, certain environmental and cultural necessities are protected due to the nature of development. These same essential qualities can be threatened when land consumption encroaches upon sensitive areas. Wildlife habitats, valuable open space, prime farmland, heritage rivers, and cultural features can be threatened and disturbed. This encroachment coupled with the growing desires for large lot size (and resultant low densities), changes additional land from its natural condition.

Not only does the condition of the land change as a result of growth, but the social and economic make up also shifts. New and different groups of people begin to move into and out of one's community. These changes translate into new demands for public services and facilities. If these changes were not anticipated by the local government (and they usually are not), the local government is forced to scramble to secure funding, construction, and administration of the new (often larger) systems for providing public services and facilities. Postponing these necessary services and facilities can quickly affect the quality of life for the citizens of the community – inadequate roads, schools, and water systems easily lead to decreasing property values and daily inconveniences.

Local governments are generally accustomed to only responding to change – being reactive. Town administrators are often unequipped to deal with the situations described above. Increasingly, however, they have begun to realize the benefits of being proactive.

Growth management is a proactive approach to tackling the tough issues of rapid growth and sprawl.¹

What is Growth Management?

In the 1960 and 70s, Americans increasingly became interested in the areas of land use and environmental protection, and the term *growth management* was thereby popularized. At this point, growth management was tied to a resurgence in the ideals of comprehensive planning. The Federal Land Use Act (which later failed) and the Council on Environmental Quality was central to the movement. Later, the Environmental Protection Agency led a push to study the factors contributing to growth and the ramifications of such growth – controlled, managed, or otherwise. Already at this time, scholars and practitioners alike had adopted the word *sprawl* as a term to describe the development patterns of some of the United States' urban areas.

In 1974, *The Costs of Sprawl: Detailed Cost Analysis* was published. This study, by the Real Estate Research Corporation (for the United States Council on Environmental Quality, the Department of Housing and Urban Development, and the Environmental Protection Agency), changed public attitudes and laid the groundwork for planning and policy making for the next ten years.² Four communities ranging in density were examined. The study concluded “that high density conferred significant economies in

¹ Douglas R. Porter. May 1997. *Managing Growth in America's Communities*. Washington, DC: Island Press, p 3-13.

² Randall W. Scott, David J. Brower, and Dallas D. Miner, eds. 1975. *Management and Control of Growth*. Volume 3. *The Costs of Sprawl: Detailed Cost Analysis*. Washington, DC: The Urban Land Institute, p 577-8.

energy consumption.”³ The purpose of the publication was to assist mayors, city managers, planning commissioners, and other officials in answering the difficult questions they were being asked, such as, “What will the development do to air pollution, water pollution, wildlife, and open space? What is the impact of development on energy consumption? On water consumption? How will the development affect the lives of the people who live in it? Of those who live near it?” The publication was intended to make local decision making less difficult.⁴

Even though the publication above was extensive in its description of the situation and in its analysis, a definitive book had not been published covering the range of topics related to growth management. A major step toward this was taken a year later when, the Urban Land Institute (ULI) published *Management and Control of Growth*. It defined managed growth as the “utilization by government of a variety of traditional and evolving techniques, tools, plans, and activities to purposefully guide local patterns of land use, including the manner, location, rate, and nature of development.”⁵ It refers to growth management as a “well-integrated, efficient, and affirmative system where decisions are made explicitly and with full knowledge of the variables and trade-offs involved, and where programs are coordinated in furtherance of clear community growth and land use objectives.”⁶ This publication even makes mention to the evolution of new attitudes and

³ Benjamin Chinitz. Winter 1990. Growth Management: Good for the Town, Bad for the Nation? *Journal of the American Planning Association* 56:1, p 6.

⁴ Scott, Brower, and Miner, Volume 3, p 577-8.

⁵ Scott, Brower, and Miner. Volume 1, p 4.

⁶ Scott, Brower, and Miner, Volume 1, p 4.

issues (such as zero-population growth) and the “ethos of managed growth.”⁷ The Urban Land Institute’s definition laid the foundation for today’s research and understanding within the field of growth management.

Still working under the ULI definitional understanding, academics continue to discuss the finer points of growth management. One current scholar is Benjamin Chinitz (1990), who defines growth management within a more comprehensive framing:

“Growth management is active and dynamic . . . it seeks to maintain an ongoing equilibrium between development and conservation, between various forms of development and concurrent provisions of infrastructure, between demands for public services generated by growth and the supply of revenues to finance those demands, and between progress and equity.”⁸

One can easily see the commonalities between the ULI definition and that of Chinitz as they both refer to the dynamic nature of growth management and its interconnectedness of multiple systems. Douglas Porter is no different; he interprets growth management as “a dynamic process in which governments anticipate and seek to accommodate community development in ways that balance competing land use goals and coordinate local and regional interests.”⁹

The main thrust of these definitions is that growth management is the interlinking of many systems to create a synergistic approach to planning and policy making. This synergistic approach is most often displayed in growth management legislation. The next

⁷ Scott, Brower, and Miner, Volume 1, p 23.

⁸ Chinitz p 6.

⁹ Porter (1997) p 10.

section will introduce the thirteen states that currently have growth management legislation and then categorize them using four criteria.

What States are Using Growth Management?

Although many states have special-purpose legislation directed toward growth management, such as shoreline protection and site location laws, the focus of this thesis is to compare general growth management. A short but growing list of state governments have developed general growth management legislation. Hawaii and Vermont, Oregon, and Florida pioneered the legislative movement in the 1970s. Maine, Rhode Island, New Jersey, and Georgia joined in the 1980s. Today, thirteen states have growth management legislation, most recently, Tennessee passed its legislation in 1998. Within the context of public participation, mandated or enabling legislation are two simple ways can be used to categorize those states with growth management legislation.¹⁰

Mandated growth management requires government units to apply the statutes of the growth management law and it can ensure formal mechanisms for participation.

Mandated simply means one has to do it and usually provides a punishment for not complying. Enforcement mechanisms often accompany the legislation; they can be positive or negative. For example, a negative enforcement mechanism is sanctions, such as the withholding of grant monies. Alternatively, a positive enforcement mechanism is incentives, such as special program funding for on-time completion of the legislated mandates. An example of a commonly mandated piece of legislation is that of public

¹⁰ Chinitz p 4.

notice. Before any public meeting, a formal public notice is mandated in most states' planning legislation.

Enabling legislation empowers municipalities and counties to do things they would otherwise not have the power to execute. An example of enabling legislation is zoning. Municipalities are not required to adopt a zoning policy; however, they are empowered to do so and if they choose to implement zoning there are specific guidelines to follow (such as the creation of a Board of Zoning Appeals and a Planning Commission). An example of enabling legislation as it relates to public participation is the creation of a visioning process. Several states, for example Florida and Rhode Island, recommend that local governments utilize a visioning process to identify the public's needs and opinions. However, there is no penalty to the local governments if they choose not to use this process. Enabling growth management leaves compliance as optional and it may promote opportunities for participation but does not guarantee or enforce its presence within the overall planning process. Planning enabling legislation was first written in the United States in the 1920s. The United States Department of Commerce distributed a *Standard State Zoning Enabling Act* (1924) and *Standard City Planning Enabling Act* (1928) which were largely written by Alfred Bassett and Thomas Adams. These acts were model state codes for general legislation and became the foundation for the institutionalization of planning and zoning as a government function. States could adopt the code, and many did in the 1930s. Table 2.1 divides the thirteen states with growth management legislation into the categories described above – mandated or enabling.

A second method to categorize those states with growth management legislation is by the level of implementation of the legislation. Even though this is an oversimplification, two choices exist: local-level or state-level. This is being used for convenience, but it should be noted that some state's legislation mandates or enables other levels of implementation, such as regional or combinations of local and state. The term *local-level* includes municipalities, counties, cities, townships, and villages. An assumption with local-level implementation is that local government is working hand-in-hand with community members and that at this level of implementation there are more opportunities for effective public participation. The term *state-level* refers to the state. A possible assumption here is similar to the top-down approach and its "guide from above" approach. In contrast to local-level implementation, state-level tends to offer fewer opportunities for public participation. Table 2.2 divides the thirteen states with growth management legislation into the categories described in this paragraph.

Table 2.1 States with Mandated and Enabling Growth Management Legislation

Mandated Growth Management Legislation	Enabling Growth Management Legislation	Both Mandated and Enabling Legislation
California Florida Hawaii Maine Oregon Rhode Island Tennessee Washington	Maryland New York	Georgia New Jersey Vermont

Table 2.2 States with Local-Level and State-Level Growth Management Legislation

Local-Level Growth Management Legislation	State-Level Growth Management Legislation	Both Local- Level and State-Level Legislation
Maine Maryland New York Oregon Tennessee Washington	California Hawaii Rhode Island	Florida Georgia New Jersey Vermont

Using the information from Tables 2.1 and 2.2 and the descriptive paragraphs above, Table 2.3 was developed. The subset of concern in this thesis is that of mandated local-level growth management legislation (the shaded box). Of the thirteen states surveyed, six states have mandated local-level legislation: Florida, Maine, Rhode Island, Tennessee, Oregon, and Washington. For the purpose of this thesis, only four states were selected from the shaded subset for further analysis, Florida, Oregon, Tennessee, and Washington. Rhode Island is not being used as a case study because its legislation was developed in a similar time frame as Florida's and because of the scattered location of the various statutes of its growth management legislation. Maine has only a limited amount of land that falls under this state's growth management legislation because a great deal of the land is privately owned by timber companies. In this way, it does not provide a comprehensive and model-worthy example.

Table 2.3 Comparison of Four Variables in Growth Management Legislation

	Mandated	Enabling
Local-Level	Tennessee Florida Maine Oregon Rhode Island Washington	Georgia Vermont New Jersey New York Maryland
State-Level	Vermont Hawaii California Florida Rhode Island Georgia New Jersey	

The four states that have been selected encompass a variety of approaches to public participation and offer several gradations in the level of public participation. These four states also cover the expanse of time that has passed since the modern conception of growth management legislation in the 1970s. Oregon was one of the first states to adopt statewide growth management legislation in 1973. Florida followed in 1985. Five years later, Washington passed its legislation. Most recently, Tennessee passed growth management legislation during the last legislative session (1998). These four states offer an opportunity to trace the temporal changes in growth management legislation. Below is a brief summary of the growth management legislation for each of the states being considered.

Oregon¹¹

Oregon was one of the first to pass growth management legislation in 1973, the Land Conservation and Development Act (SB 100, Oregon Statutes 197). Oregon's growth management legislation is state-sponsored with mandated state-level review. It is a bottom-up approach. Oregon's planning program is a partnership between the state and the locality; the state requires the local plan and it sets the standards for such planning. However, the state does not write comprehensive plans. Implementation of the statewide goals and funding are monitored by the Land Conservation and Development Commission (LCDC) – an unsalaried seven member volunteer commission, appointed by the governor and confirmed by the senate with a four year appointment. The LCDC is the administrative arm of the Department of Land Conservation and Development (DLCD), a state agency.

The identifying feature of Oregon's growth management legislation is its nineteen statewide planning goals. The state goals were developed by an independent process involving a complex publication and hearing process and were later adopted by the LCDC. The 19 goals are mandatory, but they are complemented by guidelines that are not mandatory.

¹¹ Information from this section is taken from the following sources:

- A) Statutory Summary for the State of Oregon. May 1996. American Planning Association, Growing SmartSM.
- B) Scott A. Bollens. Autumn 1992. State Growth Management: Intergovernmental Frameworks and Policy Objectives. *Journal of the American Planning Association* 58:4.
- C) Oregon's Statewide Planning Goals and Guidelines. 1996. Salem, OR: Department of Land Conservation and Development. Internet:
<<http://darkwing.uoregon.edu/~pppm/landuse/INTRO.html>>.

Of Oregon's nineteen goals, only the first two will be outlined below because they contain the most relevant information with regard to public participation. According to the legislation, the first goal of Oregon's growth management process is citizen involvement. The citizen involvement program must incorporate the following six components: citizen involvement, communication, citizen influence, technical information, feedback mechanisms, and financial support. Each component has guidelines. Advisory committees are organized to assure widespread citizen participation throughout the planning process. The state Citizen Involvement Advisory Committee (CIAC) monitors public participation in all aspects of planning. A Committee for Citizen Involvement (CCI) is located in every city and county and encourages active public participation. Governing bodies submit programs to the local advisory committee to ensure public participation, but their role is purely advisory. Structure of the individual citizen involvement program is up to each locality. Public hearings and public notice are required to promote citizen participation. Further guidelines and recommendations are found in *Putting People into Planning* (1992), a state publication to assist localities in public involvement.¹²

Goal two is land-use planning. All land use plans and implementation ordinances must be adopted by the governing body after a public hearing and are reviewed by and revised on a periodic cycle in accordance with changing public circumstances and policies.

Opportunities for public review and comment by citizens and affected government

¹² Mitch Rohse and Kim Ross. July 1992. *Putting People into Planning: A Primer on Public Participation in Planning*. Salem, OR: Citizen Involvement Advisory Committee. Internet: <<http://darkwing.uoregon.edu/~pppm/landuse/docs/toc.htm>>.

agencies are offered during preparation, review, and revision of the ordinances. The Land Use Board of Appeals (LUBA) is a special court that reviews appeals to the land use decisions. It is made up of three members, known as referees. Copies of all plans are available to the public and all affected government agencies.

All exceptions to the goals require a public hearing with public notice. The guidelines associated with the various goals recommend additional opportunities for public review and comment by citizens and affected government agencies. Sufficient time should be allotted for the collection of factual information, incorporation of citizen needs and desires, and the development of broad citizen support. A 30-day notice of a public hearing for any proposed change is required. This period of time is to allow for public comment on any changes to the plan or implementation ordinances. If development occurs at a rate that differs from the plan, the plan and implementation measures can be revised, but major revisions cannot occur more frequently than every two years. Citizens can challenge plan amendments for their consistency with the statewide goals.

Financial assistance is available via the state planning assistance grants for plan preparation and implementation. A land use application must be completed in 120 days. This is important because it limits the depth and time frame of the planning process that involves the citizens; however, the applicant can request additional time. Noncompliance results in loss of eligibility for certain state grants.

Florida¹³

Florida has had a long tradition within the field of growth management. A brief history is provided in Table 2.4 which illustrates the enduring presence of growth management within the state. Florida's growth management is a state-sponsored policy. Florida has had growth management legislation since 1972. In 1984-85, Florida passed the Omnibus Growth Management Act which is comprised of three separate pieces of legislation: Local Government Comprehensive Planning and Development Regulation (163.3161-.3215), State Comprehensive Plan (187.201), and State and Regional Planning Act (186.0001-.911). Florida's growth management policies are based on Oregon's growth management legislation written nearly two decades earlier.

Table 2.4 History of Related Growth Management Legislation in Florida

1972:	Florida Environmental Land and Water Management Act
1972:	Development of Regional Impact
1975:	Local Government Comprehensive Planning and Land Development Regulation Act
1984:	State and Regional Planning Act
1985:	Florida Quality Developments
1985:	Revised growth management act
1985:	State Comprehensive Plan
1990:	Preservation 2000

¹³ Information from this section is taken from the following sources:

- A) Statutory Summary for the State of Florida. May 1996. American Planning Association, Growing SmartSM.
- B) Stephanie G. Kruer. 1999. *Florida Land Use Policy in the 1990s: What Works, What Doesn't Work*. State of Florida: Department of Community Affairs. Internet: <http://www.dca.state.fl.us/florida_land_use_policy_in_the_1.htm>.
- C) Scott A. Bollens. Autumn 1992. State Growth Management: Intergovernmental Frameworks and Policy Objectives. *Journal of the American Planning Association* 58:4.
- D) Florida Statutes (163.3161-.3215). 1985. Internet: <<http://www.house.state.fl.us/citizen/documents/statutes/1998/ch0163/>>.

The identifying feature of Florida's growth management legislation is its statewide comprehensive plan. It has 24 program areas; plans, policies, and activities are coordinated at all three levels of government. The state comprehensive plan does not contain a state land-use map. The state legislature must pass the comprehensive plan, and this plan is reviewed biennially by the governor.

Consistency at all levels of the government's statutes is a main tenet of Florida's growth management legislation. Each local government must prepare a comprehensive plan, which the state land planning agency reviews. Primary responsibility for land use planning lies in the hands of the local governments through the implementation of comprehensive plans. If the local level does not prepare a plan for itself, the regional planning agency will adopt one for them. Negotiation between Department of Community Affairs (DCA) staff personnel and local officials is used to reach a compliance agreement on a local plan. A joint legislative committee on growth management oversees and reviews all growth management legislation and its implementation; it also proposes revisions.

The growth management portion of the state comprehensive plan sets forth 15 aspects that must be considered. The strength of Florida's growth management is its statutory requirement with regard to public facilities – they must be provided in a timely basis to accommodate the impacts of development. A plan of services is mandatory for developable land.

Financial assistance is available via state planning grants to local governments during plan preparation. Optional visioning and workshops are an opportunity for public participation at the local level. However, public hearings are mandated before any amendment to the local growth management legislation is made.

The DCA holds the final approval stamp. Noncompliance results in loss of certain grants and the state authority may seize the plan preparation. To date, each of Florida's 466 jurisdictions have completed the comprehensive planning process required under the growth management act.

Washington¹⁴

Washington's growth management is state-sponsored but there is no specific state planning agency. The Growth Management Act (GMA) is not centralized at the state level, but rather with local government control and regional diversity. The identifying feature of Washington's growth management legislation is that its goals are contained within the GMA. The GMA requires growing counties to prepare comprehensive plans that address the 13 statewide goals.

¹⁴ Information from this section is taken from the following sources:

- A) Statutory Summary for the State of Washington. May 1996. American Planning Association, Growing SmartSM.
- B) Scott A. Bollens. Autumn 1992. State Growth Management: Intergovernmental Frameworks and Policy Objectives. *Journal of the American Planning Association* 58:4.
- C) Growth Management Act. 1998. Brochure. State of Washington.
- D) William Fulton. March 1999. Ring Around the Region. *Planning* 65:3, p 18-21.
- E) *Towards Managing Growth in Washington: A Guide to Community Visioning*. October 1991. Olympia, WA: Washington State Department of Community Development, Growth Management Division.
- F) *A "Bottom Up" Primer: A Guide to Citizen Participation*. October 1991. Olympia, WA: Washington State Department of Community Development, Growth Management Division.

The GMA was first passed in 1990 (Sub. House Bill 2929) and then amended in 1991 (ReSHB 1025). In the first version of the GMA, there was no state agency that approves or certifies locally adopted plans or development regulations and there was no state authority to declare a plan not in compliance with the goals. Therefore, in 1991 the GMA was amended to include regional Growth Management Hearings Boards to hear and determine allegations of non-compliance. State review by a growth management hearings board only occurs when a petition is filed. Growth Management Hearings Boards are quasi-judicial. The governor appoints three people to each board; one attorney and one former local elected official also serves on each board. There are three independent boards (East, Central, and West) that hear and determine allegations of non-compliance. The hearings boards are required to issue a final decision within 180 days of the filing of the petition, and they can reverse a decision made by a local government. However, local government action is presumed valid upon adoption; the petitioner has the burden of proof to overcome this presumption.

Financial assistance is provided via state planning assistance grants during plan preparation. No financial assistance is provided during implementation. Noncompliance results in a loss of eligibility for certain state revenues, but only the governor can decide whether or not these sanctions are imposed. The necessity of compliance with the mandatory nature of the growth management legislation depends on the population of a given county or municipality and the local rate of growth. As of 1997, 29 of 39 counties have growth management comprehensive plans.

Tennessee¹⁵

This 1998 growth policy legislation mandates the use of county-level coordinating committees, except for counties with metropolitan governments. Local governments are responsible for plan development and implementation. They work cooperatively to determine their futures and to avoid the problems associated with continuing annexations. Three distinct areas must be identified: urban growth boundaries, planned growth areas, and rural areas. The level and type of development depends on the identification of the area.

An eleven to twenty-one member coordinating committee is created to represent the major social, political, and economic interests of each county. Table 2.5 illustrates the organizational framework of a coordinating committee. The cities and county prepare a proposal for themselves. Then, the coordinating committee conducts public hearings and submits the draft version of their plan to both city and county governments. The coordinating committee may revise the plan upon objections from local governments. For situations without resolution, a dispute resolution panel is an option within the legislation.

The growth management legislation also requires the establishment of a county-level Joint Economic and Community Development Board to foster communication between

¹⁵ Information from this section is taken from the following sources:

A) *Growth Policy, Annexation, and Incorporation Under Public Chapter 1101 of 1998: A Guide for Community Leaders*. September 1998. Knoxville, TN: University of Tennessee Institute for Public Service and the Tennessee Advisory Commission on Intergovernmental Relations.

all sectors of the community. The Board must be established by an interlocal agreement, with the Board's purpose being to foster communication among government entities, industry, and private citizens. The Board is composed of representatives of the local governments, private citizens, industry, and business, with membership determined by the interlocal agreement. The Board must include the county executive, the mayors or city managers of the larger municipalities in the county, and one landowner. With smaller municipalities, the terms are rotated. All terms are staggered except for those of the elected officials, whose terms correspond to their elected office. No term can exceed four years.

Annexation policies vary pre- and post- plan adoption under the growth management legislation. In both cases, citizens may challenge annexation. However, the burden of proof changes in the two different circumstances. Before approval of a growth plan, burden of proof is on the county to prove that the annexation is unreasonable. After the approval of the growth plan, burden of proof shifts to the plaintiff. When a city annexes territory the county is held harmless for the loss of tax revenue for fifteen years.

B) *Implementation of Tennessee's Growth Policy Act: A Staff Information Report on the History of Public Chapter 1101 and the Early Stages of its Implementation.* March 1999. Knoxville, TN: Tennessee Advisory Commission on Intergovernmental Relations.

Table 2.5 Organization of Tennessee's Coordinating Committees

Member	Appointed/Confirmed by
1. county executive or designee	1. confirmed by the county legislative body
2. mayor of each municipality or designee	2. confirmed by the municipal governing body
3. one representative of the municipally owned utility system serving the largest number of customers in the county	3. appointed by the governing board of the utility
4. one representative of the non-municipally owned utility system serving the largest number of customers in the county	4. appointed by the governing board of the utility
5. one representative of the county's soil conservation district	5. appointed by the board of directors of the soil conservation district
6. one representative of an education agency having the largest student enrollment in the county	6. appointed by the local education agency's board
7. one representative of the largest chamber of commerce	7. appointed after consultation with any other chamber of commerce within the county
8. two representatives	8. appointed by the county executive to ensure broad representation of environmental, construction, and homeowner interests
9. two representatives	9. appointed by the mayor of the largest municipality to ensure broad representation of environmental, construction, and homeowner interests

Within the growth management legislation is a mandatory plan of services. Citizens can challenge the reasonableness of the plan of services after the approval of the growth plan, if their petition is filed within 60 days of the adoption of the plan of services. Progress reports must be filed by the city until the plan of services is fully implemented. Any amendment to the plan of services requires a public hearing with at least a fifteen-day notice. Any property owner can challenge the legality of an amendment to the plan of services within 30 days following the adoption of the amendment.

Once adopted, the plan may not be amended for three years. The amendment process is the same as the initial adoption process. Prior to finalization of the recommended growth plan, the coordinating committee must hold at least two public hearings, with a fifteen-day notice. Noncompliance results in loss of certain state monies.¹⁶

Summary

This chapter accomplished several things. First, it introduced the topic of growth management and highlighted some of the local and regional consequences of rapid growth and sprawl. Second, the definitional history of the term *growth management* was traced and a working definition was operationalized. Third, using the operationalized definition thirteen states were identified as having growth management legislation. These states' legislative approach was conceptually framed under four headings that relate to the implementation of public participation with growth management legislation –

¹⁶ See Appendix (Table A) for a diagram of Tennessee's planning process under their new growth management legislation.

mandated or enabling and local-level or state-level. Lastly, four states (Florida, Oregon, Tennessee, and Washington) were identified as case studies for a comparison of each state's growth management legislation and their legislation was briefly examined.

CHAPTER THREE

PUBLIC PARTICIPATION

The values and purposes of citizen participation have been recognized for centuries.

Although the terminology has been adapted to suit the time period, the underlying ideals have remained intact. The Roman Empire had a concept of citizenship. Within Roman law, the term *cives* represented the highest level of political and social status. The most distinctive characteristic of this status was that it conferred certain rights, such as jury duty and holding office. By 212 AD, these rights were conferred to all inhabitants of the Roman Empire – creating the concept of universal rights of citizenship. Two essential values of citizenship – rights and obligations – were acknowledged. “Citizens were granted *rights* by the state; but in return for those rights, citizens were required to accept *obligations* to the state.” As a result, Western civilizations have also used rights and obligations as the basis of their concept of citizenship.¹

In the mid-1800s, the Frenchman Alexis de Tocqueville was the first to examine the term *civil society*. His two volume study, *Democracy in America*, is a classic. Civil society is a dimension of democracy – more pronounced in the United States than in any other country. It is a complex collection of “voluntary organizations, professional associations, trade unions, religious institutions, advocacy groups and other organized expressions of voluntary human activity that give voice to important social concerns or

¹ Stuart Langton, ed. 1978. *Citizen Participation in America: Essays on the State of the Art*. Lexington, MA: Lexington Books, p 19.

seek to meet human needs which neither commercial firms nor government agencies can adequately address.”²

De Tocqueville believed widespread citizen participation in grassroots organizations and nongovernmental organizations satisfied the public’s need for a sense of community and belonging. Sentiment and emotion guide human behavior as much as reason.

De Tocqueville understood that for a social system to survive in the long term it must not only engage its members’ minds but also their hearts. He believed these voluntary associations and organizations were the fabric of democracy.

Not only does public participation exist within the ideological framework of democracy, but other ideologies also consider the role of public citizen participation. Kasperson and Breitbach (1974) examine the orientation of three traditions – elitist, Marxist, and citizen theorist. The elitists fear excess participation but value the importance of citizen participation. Elitists are concerned that decision making can become “overheated” when participants are not able or not fully informed, thus resulting in poor overall policy quality. Elitists favor participation via an electorate and via those citizen sectors that are fully informed. Marxists argue that any participation not aimed at building socialism is a fraud – calling for participation that is related to class objectives and egalitarianism.

² *Civil Society in the United States: Introduction*. Center for Civil Society International. Seattle, WA. Internet: <<http://solar.rtd.utk.edu/~ccsi/csusa/csintro.htm>>. Information taken from Alexis de Tocqueville. 1945. *Democracy in America*. Volume 1. New York, NY: Vintage Books.

Contemporary Marxists cite the phrase, “local action, not citizen participation” as an attempt to emphasize the values of the ideology of *participationism*. Citizen theorists view participation as a crucial element of the citizens’ lifelong educative experience. Within long-term outlook, these theorists desire equality through a larger society in which full citizen participation exists. The ideological lens through which one views participation directly affects ones’ orientation and evaluation of the overall planning and visioning process.³

Citizen participation also exists as an engagement in the workings of government units as highlighted above. The modern concept of the term *citizen participation* has had a relatively brief history in the United States; Langton (1978) describes three developments that have been associated with public participation. The first development was the rapid growth of the public interest movement – emphasizing openness, access, and accountability in the government. The contemporary roots of citizen participation in public decision making in the United States go back to 1946 and the Administrative Procedure Act.⁴ The second development was the activism of the 1960s. This period was characterized by demands for power and a voice for the poor and minorities. The civil rights movement emphasized maximum participation. The third development has

³ Roger E. Kasperson and Myrna Brietbach. 1974. *Participation, Decentralization, and Advocacy Planning*. Washington, DC: Association of American Geographers.

⁴ Mary R. English, Amy K. Gibson, David L. Feldman, and Bruce E. Tonn. September 1993. *Stakeholder Involvement: Open Processes For Reaching Decisions about the Future Uses of Contaminated Sites*. Waste Management Research and Education Institute. Knoxville, TN: University of Tennessee, p 3.

received growing amounts of attention; it is the movement to involve citizens in the planning and decision making that occurs in government agencies.⁵

As illustrated above, pressures to expand the role of the public in the planning process are rooted in both philosophical and historic considerations. Philosophically speaking, there exists a general view of the United States as a democratic society. With this belief lies ones' right to be informed and consulted as well as presented with opportunities to express ones' views on important matters. Even within a representative government, such as that of the United States, elected representatives serve as a channel of communication to exercise one's rights. Historically, Americans have been provided with opportunities to participate in the activities of their government units and social institutions. With the increasing numbers of non-profit organizations dedicated to social causes, one's opportunities are seemingly endless. A critical concern within decision and policy making is the pragmatic identification of preferences and circumstances; social institutions serve to highlight those topics of interest to the public.⁶

Having established the context with which this analysis of citizen participation will be examined, it is important to operationalize a definition of the term. After exploring the etymological roots of both *participation* and *citizen*, Langton (1978) defines citizen participation as "purposeful activities in which citizens take part in relation to

⁵ Langton p 14.

⁶ W. R. Derrick Sewell and J. T. Coppock, eds. 1977. *Public Participation in Planning*. New York, NY: John Wiley and Sons, p 1-6.

government.”⁷ However, this definition excludes those activities that relate to social institutions. Langton does not discredit participation in social institutions as citizen participation but rather differentiates between the two types of participation as they relate to his definition above.

In the past, definitions of citizen participation have been malleable. Spiegel and Mitterthal (1968) acknowledged the endless ramifications of defining citizen participation. They wrote, “Every effort to reduce its protean-like substance to a definable, systematic and comprehensible body of thought is resisted by inherent dilemmas – contradictions between myth and reality and even different sets of observable social phenomena. Citizen participation virtually defies generalizations and delights in reducing abstractions to dust.” Citizen participation means different things to different people; confusion and ambiguity are common. Even though the topic is laden with perplexity and puzzlement it remains an area of fascination and attraction to many groups of people – including grassroots organizations, legislators, and planners.⁸

Even though the complexity of defining citizen participation is obvious, it is necessary to operationalize a definition for the purpose of this thesis. Borrowing from the ideals of citizen participation outlined above, the following definition will be used. *Citizen*

⁷ Langton p 17.

⁸ Hans Spiegel and Stephen Mitterthal. 1968. The Many Faces of Citizen Participation: A Bibliographic Overview. *Citizen Participation in Urban Development*. Volume 1. Washington, DC: National Training Laboratories, p 3-7.

participation is the direct and indirect engagement in civic and social units of one's society. To have effective and meaningful decision and policy making, there must be an understanding of the validity and necessity of public opinion and reflection within the process. It is necessary to consider both direct and indirect engagement for several reasons. Direct engagement includes those activities where the citizens have "a chair at the decision making table," where their ideas and comments are immediately discussed and incorporated into the policy making process. Indirect participation includes those activities where citizen opinions are solicited in a roundabout manner as in a town meeting. Both civic and social engagement are included because the roles of nongovernmental agencies are increasingly important. These groups not only serve to activate the public but also can serve in advisory positions for governmental units. It is also necessary to assert the validity and necessity of seeking public opinion; this is an underlying value within the ideology of public participation. Public reflection is an important part of the process because it provides a check-and-balance and also a forum for feedback. The word process was used to assert the necessity of returning to the decision and policy making process as a means to update and refresh the contents of the public's opinion. This also serves as a technique to continue citizen involvement in other areas after the final phases of policy and decision making have been completed.

Public Participation Program Questions

Before the next section's discussion of mechanisms, it is necessary to gain an understanding of the realities of a public participation program. The following questions will be addressed in this section: What are the negatives and positives of using public participation? Who should participate and how much participation is desirable and possible? What are the criteria for representation? For any public participation program to become meaningful, the questions above must be answered before the program is fully and effectively implemented.

What are the negatives and positives of using public participation?

As with any other public program, positives and negatives will exist. Langton (1978) asserts that the criticism surfaces in three general areas. First and foremost are the criticisms relating to inefficiency and cost. The most common complaint is that public involvement programs are too time-consuming – both in personnel/administrative time and in overall length. Often both the participants and the administrators wish the process to be faster and more efficient; the trade-off for increased speed is the chance that valuable public input will be missed. The most common technique to combat this problem is the use of deadlines and stratified timetables. Another common complaint is the increased cost of public participation programs. This issue can be combated using in-kind contributions from local participants and agencies. A third complaint is that the

ordinary citizen will not understand the complex steps inherent to public participation programs and consequently must be led patiently through each exercise. An effective technique to solve this complaint is to use a public education program in conjunction with or prior to the official start of the public process – of course, again there are cost considerations.⁹

The second area of criticism is that public participation programs do not increase the participants' sense of political obligation or support, but rather result in higher levels of discontent and instability. A common worry is that public participation programs overburden the current systems; when the government units cannot effectively respond, participants are left feeling dejected and dissatisfied. The hypothesis that increased participation leads to increased satisfaction may not prove true.¹⁰

The third, and last, area of criticism is that public participation programs have taken the power out of the hands of the elected officials, undermining the values of America's democratic traditions. A widespread grant of power to the people can act as a judicial veto of approved government actions and policies. Additionally, putting this level of power in the hands of an unelected and small group of citizens can be dangerous – as it does not reflect the opinions of the majority. In such a case, government decisions tend to reflect the lowest common denominator – the minimum acceptable alternative for all

⁹ Langton p 48-9.

¹⁰ Langton p 49.

stakeholders – instead of reflecting the policy decisions of the knowledgeable electorate, thus eroding the representative nature of our democracy.¹¹

These negatives notwithstanding, there are important positive characteristics of public participation programs. Opportunities for active democratic participation are an example of one such positive characteristic. Jones (1990) explains this in simple terms in his book *Neighborhood Planning: A Guide for Citizens and Planners*: “Democratic participation is important for three key reasons.

1. The greater the participation of residents in the making of the plan, the more likely it is that the plan will accurately reflect their needs and concerns.
2. The greater the participation, the greater is the sense of ownership that people have about the plan, which can translate into a greater determination on their part to see that the plan gets implemented.
3. The greater the participation, the harder it is for others, such as public officials, to ignore the plan.”¹²

Who should participate and how much participation is desirable and possible?

The second question that must be addressed before any public participation program is undertaken is who should participate and how much participation is desirable? These two questions are grouped together because they are so closely related. The first part of the question – who should participate – is a complex issue. As Jones observes, “Ideally the process of decision making should take into account the views of all those who have a

¹¹ Langton p 49.

¹² Bernie Jones. 1990. *Neighborhood Planning: A Guide for Citizens and Planners*. Chicago, IL: Planners Press, p 12.

legitimate interest in the matter at issue."¹³ In some situations, it is difficult to identify all those who have an interest in the matter. Typically, those groups or individuals that have made their views known through the obvious channels (contacting government officials, letters to media, and attendance at public meetings and hearings) are placed on the list of those with a legitimate interest in the matter. However, minorities and poor may be left out of this pool of people and groups for a variety of reasons; for example, they may be unable to attend meetings because they have to work or cannot afford childcare. Special consideration must therefore be taken to organize hearings at convenient times and/or to offer free childcare. Additionally, it is important to realize the demographic group that is most likely to participate – the better paid, better educated, and more politically aware. Even though participation in interest groups (as a whole) is often demographically varied, the leadership is usually provided by those in the middle and upper classes. Another concern is the different level of organization within interest groups. Whether or not an interest group is well organized or not often affects the weight their interests have; this is a nearly unavoidable political decision. The dilemma is the decision of who has a legitimate interest. Once the public participation program administrators have determined who has a legitimate interest, it is important to consider how much participation is desirable and possible. Within this issue lies the desire to find an limited array of individuals whose participation will lead to higher levels of social satisfaction; as

¹³ Sewell and Coppock p 7.

cited above, higher levels of participation do not ensure a higher level of social satisfaction. Tough decisions must be made at this point.¹⁴

What are your criteria for representation?

According to *Stakeholder Involvement: Open Processes for Reaching Decisions about the Future Uses of Contaminated Sites* (English, Gibson, Feldman, and Tonn 1993), at least four types of representation (See Table 3.1) exist in public policy making. The first two are traditional forms of representation in our American political system. However, the last two forms are gaining increasing levels of respectability and acceptance among popular public participation program administrators.¹⁵

Table 3.1 Types of Representation

Type of Representation	Method for Placement	Example/s
formal political	election	a county commissioner
ascriptive	appointment	a lawyer or expert
descriptive	characteristic	a representative of a demographic group
substantive	perspective	an environmentalist or a developer

Meaningful representation and participation requires that participants be committed to the entire process from start to finish and competent in the position they are representing.

These attributes cannot always be found when a technique such as random sampling is used. But if the program administrators rely on substantive representation, many

¹⁴ Sewell and Coppock p 7-9.

¹⁵ English, Gibson, Feldman, and Tonn p 33.

opinions may be underrepresented. Additionally, it may be desirable to have participants who represent the broader, public interest in lieu of specific interests. In essence, the administrators of the participation program must decide what type or combination of types they feel will best represent the stakeholders, while realizing that their decision is inherently value-based.

Participation Mechanisms

This section will discuss the various forms of public participation and their respective characteristics. Many authors have written lists of criteria to assist program administrators in choosing the method/s for involving citizens. Below is a list of factors from a 1993 publication on stakeholder involvement.

- Practical criteria: time investment, duration, cost, setting, complexity, prerequisite knowledge, method of participant selection, inclusiveness, amendability, adaptability, resiliency, durability, generalizability
- Ethical criteria: representativeness, impartiality, accountability, confidentiality, transparency, recognition of promises, replicability

While some of the criteria above seem obvious, others are not immediately apparent and require further consideration. Nevertheless, it is important to remember four caveats for the process of choosing mechanism/s. First, the line between practical and ethical criteria is not clearly established. Second, different mechanisms often have different purposes. Third, no one mechanism needs to (or will) meet all the criteria; however, the total

process should. Fourth, the criteria above only address how a mechanism should be carried out, not its outcome.¹⁶

Below are descriptions of several public participation mechanisms.¹⁷ They have been selected for discussion because they are the mechanisms that can be found within the growth management legislation of the four states being considered: Florida, Oregon, Tennessee, and Washington. The mechanisms discussed below are public hearings, public information/elicitation programs, advisory committees, task forces, citizen review boards, and mediations.

Public Hearing

Public hearings tend to be regarded as insufficient by public participation program administrators. A public hearing has two main purposes. First, it is often the minimum legal requirement for public participation. Second, it is an opportunity to establish an official permanent record. Under a formal interpretation of public hearings, there is no opportunity for a question and answer session between elected officials and citizens. However, informal public hearings and meetings offer a wider array of opportunities for this level of interaction. In general, a public hearing is used to obtain public input. However, it is a poor technique because 1) it is often a confrontational setting; 2) lay persons can be overwhelmed by the official-looking set-up and rules, leaving them feeling inadequate; and 3) the staging of a public hearing is intimidating with the officials

¹⁶ English, Gibson, Feldman, and Tonn p 45-8.

¹⁷ A table is provided in the Appendix (Table B). It illustrates the various qualities of each of the public participation mechanisms discussed in this chapter.

sitting in a ring in the center and the citizens required to use a microphone to ask a question. It can also polarize the issues due to the confrontational staging. In order to avoid the three problems above, it is important to make every effort to accommodate and alert all interest groups of the issue slated for discussion prior to scheduling a public hearing. If one follows this advice there should be no surprises for any participant. The public hearing will then function as a legal and formal ratification of an agreement that has already been negotiated informally between the interest groups.¹⁸

Ideally, a public hearing will satisfy the following functions:

- Identify impacted groups
- Solicit impacted groups
- Facilitate participation
- Answer citizen questions
- Disseminate information
- Plan programs and policy reviews.¹⁹

Public Information/Elicitation Program

Public information/elicitatation programs can take many forms: legal notices, paid advertisements, formal news releases or conferences, civic bulletin notices, workshops, mailed or hand-delivered notices, features articles, documentary movies, letters to the editor, agency/project reports, visioning processes, and radio and television coverage.

Some programs are mandatory pillars of planning statutes; for example, legal notices of a meeting and its agenda must be run in the local papers for a specified length of time prior

¹⁸ *Citizen Participation Handbook for Public Officials and Other Professionals Serving the Public*. 1978. 3rd ed. Laramie, WY: Institute for Participatory Planning, p V-3.

¹⁹ Langton p 117.

to the meeting date. However, it is important to remember that different types of public information/elicitation programs will reach different groups within the population. A legal notice is the very minimum required by law, but it does not guarantee effective communication.

Obvious advantages exist with regard to a public information/elicitation program. The public is more apt to believe the truth when they feel that the agencies have presented all the information and have an open mind to all sides of the issue. The public will also be less likely to believe rumors if they feel well informed. However, negatives also exist. Public statements must be consistent with an agency's actions or the public will lose trust and respect. Public statements can be used against the agency so it necessary to be politically correct and honest.²⁰

Ideally, a public information/elicitation program satisfies the following functions:

- Clarify planning process
- Disseminate information
- Resolve conflict
- Change attitudes toward government
- Facilitate advocacy
- Identify impacted groups
- Facilitate participation
- Generate new ideas and attitudes
- Plan programs and policy reviews
- Promote interaction between interest groups
- Develop support/minimize opposition
- Solicit impacted groups
- Identify attitudes and opinions.²¹

²⁰ *Citizen Participation Handbook for Public Officials and Other Professionals Serving the Public* p V-7.

²¹ Langton p 117.

Advisory Committee

Citizen advisory committees are generally appointed to examine an issue or set of issues.

Once opinions are formulated the committee advises a decision maker or group of decision makers based on its own values. The two key features of an advisory committee are the way the members are selected and the role the committee plays in the overall planning process. Usually, members (usually ranging from 5 to 30) are appointed by an initiating agency from a pool of individuals with specific qualifications and/or interests. If not using an initiating agency; a neutral outside party, disinterested citizens, a panel of distinguished persons, or a steering committee made up of stakeholders can be substituted. Additional participants can be added if the representation appears to be lacking in a particular area. When the group is kept small, an intense group interaction can occur; but when outsiders are brought into the group, they may be regarded with suspicion. It is important to appoint members that care enough about the project to put forth the effort and time it will require.

Advisory committees often consider a variety of issues in an effort to provide information and advice – technical or otherwise – to the decision making group. The initiating committee guides the advisory committee's timetable and commitment arrangements. Most often, a chairperson is appointed to be responsible for the committee's activities. The recommendations may be arrived at through an informal process of consensus or a voting procedure. It is important to remember that an advisory committee does not

decide; they advise those who are deciding. Decision making responsibilities should not be delegated to an advisory committee.²²

Ideally, an advisory committee will satisfy the following functions:

- Identify attitudes and opinions
- Facilitate participation
- Clarify planning process
- Answer citizen questions
- Disseminate information
- Generate new ideas and alternatives
- Resolve conflict
- Plan programs and policy reviews
- Change attitudes toward government
- Develop support/minimize opposition.²³

Task Force

A task force is a small group of appointed persons with the purpose of examining a specific issue. The task force members are selected with regard to their particular qualifications or special interests, and representativeness and replicability may thus become an issue. Technical issues are a common assignment for task forces; with this in mind, task forces can be thought of as a combination of an advisory committee and a technical advisory committee and may be subject to discrimination against those participants who lack sophisticated analytical skills or prior specialized knowledge. The chair of the task force, either appointed by an initiating committee or elected by fellow task force members, is charged with guiding group interaction and reporting outcomes.

²² The information from this section is from the following sources:

A) *Citizen Participation Handbook for Public Officials and Other Professionals Serving the Public* p V-4.

B) English, Gibson, Feldman, and Tonn p 50.

²³ Langton p 116.

These outcomes are typically achieved by consensus. After the task force has accomplished its objective it is usually disbanded, unlike an advisory committee which often remains in existence throughout the entire process.²⁴

Ideally, a task force will satisfy the following functions:

- Solicit impacted groups
- Generate new ideas and alternatives
- Plan programs and policy reviews
- Change attitudes toward government
- Develop support/minimize opposition.²⁵

Citizen Review Board

Citizen review board members are appointed either for their specific perspective or are randomly selected, and they are convened to consider a value-laden issue. (Citizen juries are similar to these boards, however they are more restrictive.) Random selection of members can help ensure impartiality but may hinder representativeness. Their goal is to resolve the issue in a fair and impartial way. The nature of the issue, usually a narrow set of choices concerning a central issue, determines the selection of members and the formality of the process. These review boards can function as a jury and can analyze technical issues as long as their members thoroughly understand the terminology and methodology. Often a chairperson is elected, and this person is responsible for the implementation of the review process. The decisions of a review board can vary in their binding ability; some decisions are only advisory and others are binding. In the case of

²⁴ English, Gibson, Feldman, and Tonn p 52.

²⁵ Langton p 117.

binding decisions, it is often necessary to secure a unanimous vote (or at least a two-thirds majority). Outcomes are usually accepted as fair and replicable.²⁶

Ideally, a citizen review board will satisfy the following functions:

- Facilitate participation
- Plan programs and policy reviews
- Develop support/minimize opposition.²⁷

Mediation

This mechanism can only be carried out with the use of a neutral, trained mediator. The mediation may involve only two parties or may include as many as a dozen or more.

Mediation requires extensive preparatory time and commitment by all parties, including the mediator. The process can cover one single issue or a variety of related issues; it can be technical or broad. The goal is to reach an agreement acceptable to all involved parties. However, involving all parties may seem a daunting task and can result in a loss of representativeness.

Participants must be able to accept the procedural ground rules that are established by the mediator and must make a commitment to accepting the outcome, regardless of whether there is complete agreement. The agreement is reached through consensus and compromise and not with the use of voting. Although the mediated agreement is not a legal contract, it often becomes the basis for the construction of one. The overall process

²⁶ English, Gibson, Feldman, and Tonn p 55.

²⁷ Langton p 116.

can occur in one meeting or it can stretch over a number of meetings spanning several months.²⁸

Ideally, mediation will satisfy the following functions:

- Identify attitudes and opinions
- Generate new ideas and alternatives
- Promote interaction between interest groups
- Resolve conflict.²⁹

Summary

Chapter Three was an introduction to the topic of public participation. This chapter served to accomplish several things. First, the conceptional framework of public participation was examined. Second, a definition of citizen participation was specified. Third, the questions that arise during the creation of a public participation program and the relative criteria used to evaluate a program were discussed. Following this section was an inventory of the public participation mechanisms used by the four case study states, and each mechanism description was closed with a listing of the main functions of that mechanism. The next chapter will unite the concepts of the second and third chapters, growth management and public participation, and examine each state's growth management legislative approach and application within the context of the mechanisms of public participation each employs.

²⁸ The information in this section is from the following sources.

A) *Citizen Participation Handbook for Public Officials and Other Professionals Serving the Public* p V-29.

B) English, Gibson, Feldman, and Tonn p 70.

²⁹ Langton p 116.

CHAPTER FOUR

PUBLIC PARTICIPATION IN MANDATED LOCAL-LEVEL GROWTH MANAGEMENT

Chapter Two discussed growth management legislation and examined the four case study states: Florida, Oregon, Tennessee, and Washington. In the case of Florida, growth management has been an active planning technique for nearly three decades. Oregon has had actual legislation since 1973. Only recently, Tennessee wrote its version of growth management legislation. Washington has tried several versions of growth management and in 1991 passed a version that is still in force. Not only do the years of experience range from more than thirty years to just one year, but these states also display a wide array of approaches to and interpretations of growth management. Using the definitions and ideas of several academics quoted in the second chapter, the operationalized definition of growth management is the interlinking of many systems (political, environmental, economic, and social) to create a synergistic approach to planning and policy making.

The same array of approaches and interpretations was realized as mechanisms for public participation were examined in Chapter Three. The participation of the public (or citizen) is conceptualized as the input of residents into the policy making of local government units. Six different mechanisms were discussed and compared. They are public hearing, public information/elicitation program, advisory committee, task force, citizen review board, and mediation. From this inventory, it became apparent that the employment of

each mechanism can result in a form of public participation. The level of participation may vary as well as the participants, but each mechanism can provide opportunities for the assertion of public opinion. This assertion of public opinion (citizen participation) is operationalized in Chapter Three in the following definition: the direct or indirect engagement in civic and social units of one's society. This definition is specified as long as there is an understanding of the validity and necessity of public opinion and reflection within the process of creating effective and meaningful decision and policy making.

The two chapters briefly discussed above analyze public participation within the legislative provisions found in mandated local-level growth management. However, it is important to bear in mind that the legislation only requires activities to satisfy a level of minimum compliance at the local level. In some cases the legislation recommends activities, such as an optional visioning program to elicit public opinion, to move beyond the mandated minimum. However, these recommendations are only encouragement for action and are not mandated. These recommendations are enabling; they show recognition that some things are hard to enforce at the local level but nonetheless are recommended. In many states, extensive public participation programs are usually found within enabling legislation. This may be because many consider it difficult to legislate the content of these programs. Mandating programs whose criteria are not quantifiable is difficult because enforcement and regulation are challenging.

The conceptual framework for the fourth chapter will be established in two ways. The first is description within this chapter and the second are charts found within each state's section. On the vertical axis of the charts are two time periods: pre-approval and post-

approval of the legislative plans. This organizational method was used because of the temporal variance in the periods of writing and implementation for each of the four states. For example, Florida and Oregon have had final plans at the local level for more than a decade. So, the majority of their activities and current amending are aimed at the post-approval side of the dynamics. In contrast, Tennessee's local-level plans have not been ratified. Thus, Tennessee has not begun amending its growth management legislation yet. Growth management is not mandatory for all counties in Washington, but the majority of the localities have plans as a result of their growth management legislation, and increasingly more localities are taking steps in the same direction. On the horizontal axis of the charts are the mechanisms for public participation discussed in the second chapter. Each state's public participation program will be discussed mechanism-by-mechanism, using the information on the table discussed above. The tables correspond with the description of each state.

Oregon

Prior to any local growth management plan formation, the Land Conservation and Development Commission (LCDC), adopted nineteen statewide planning goals. These were adopted after a complex publication and hearing process. Goal one and two are public participation and land use, respectively. The placement of these goals represents their relative importance within Oregon's legislative statutes. Oregon has a comprehensive approach to public participation within their local-level growth management legislation. All levels of government and the general public share ownership of the public participation programs. Opportunities for public review and

Table 4.1 Oregon

Pre-Approval	Public Hearing	Public Information/Elicitation Programs	Advisory Committee	Task Force	Citizen Review Board	Mediation	Other
	The Land Conservation and Development Commission (LCDC) adopted the nineteen statewide planning goals after a complex publication and hearing process. All land use plans and implementation ordinances must be adopted by the governing body after a public hearing and shall be reviewed by and revised on a periodic cycle in accordance with changing public circumstances and policies. All exceptions to the goals require a public hearing with public notice.	<i>Putting People into Planning</i> (1992) is a state publication to assist localities in public involvement.	Advisory committees are organized to assure widespread citizen participation throughout the planning process. State Citizen Involvement Advisory Committee (CIAC) monitors the public participation in all aspects of planning. The Committee for Citizen Involvement (CCI) is located in every city and county and encourages active public participation. Governing bodies shall submit programs to the advisory committee to ensure public participation, however their role is solely advisory.				The LCDC an unsalaried seven member volunteer commission, appointed by the governor and confirmed by the senate with a four-year appointment. Opportunities for public review and comment by citizens and affected government agencies will be offered during preparation, review, and revision of the ordinances. Must complete a land use application in 120 days, important because it limits the depth and time frame of the planning process that involves the citizens; the applicant can request additional time. Financial assistance via state planning grants is available during plan preparation.

Post-Approval	A 30-day notice for a public hearing for a proposed change for comment on any changes to the plan or implementation ordinances is required.	Copies of all plans should be available to the public and all affected government agencies.				Land Use Board of Appeals (LUBA) is a special court that reviews appeals to the land use decisions. It is made up of three members, known as referees.	Opportunities for public review and comment by citizens and affected government agencies will be offered during preparation, review, and revision of the ordinances. Financial assistance via state planning grants is available during implementation.
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comment by citizens and affected government agencies are required during preparation, review, and revision of all ordinances.

Public Hearing

According to the legislation, public notice is required for all public hearings. In the pre-approval stage, public hearings are required in three circumstances: prior to adoption of any land use plan, prior to adoption of any implementation ordinances, and prior to any exceptions to the nineteen statewide planning goals. Post-approval, any changes to the plan or implementation ordinances require a public hearing with a thirty-day public notice. Thirty days is a generous amount of time to organize stakeholders and interests. Early notice allows for a hearing where multiple issues can be discussed because the interest groups are allowed plenty of time to organize their information and clarify their stances on a variety of issues. A public hearing should accomplish several functions (listed above in the section on the State of Florida and also in Chapter Three). With the thirty-day time frame, these functions are more readily attained.

Public Information/Elicitation Program

In 1992, the State of Oregon published a guide (*Putting People into Planning*) to assist localities in the implementation of Goal 1: Public Participation. This publication guides local governments through the various parts of a public participation program – from start to finish. As a guide intended to assist localities in obtaining public opinion, it is well written, easy to use, and an effective form of communication. The public participation program outlined in this guide provides opportunities for the local government to get to know all the affected interests, identify all the problems, and articulate and clarify the

issues. A major drawback of the public participation program outlined in this guide is the high staff time requirement. This can be a major hindrance for a small municipality with already overburdened staff. However, financial assistance from the state is provided to the localities during plan preparation and implementation; in this way, the costs of running a program can be partially borne by the state and in doing this free up local money.

In addition to the discussed guide, copies of all plans are available to the public and affected government agencies. The importance of the availability of the above publications should not be underestimated. When the public has easy access to government plans it fosters the feeling that they are well informed. In addition to this, public access holds the local government more accountable for its actions because average citizens are aware of the law.

Advisory Committee

Oregon's advisory committees are mandated on two levels. The first is the State Citizen Involvement Advisory Committee (CIAC). This committee monitors public participation in all aspects of planning. It is at the state level but monitors all levels of government. The second is the Committee for Citizen Involvement (CCI); this committee is located in every municipality and county. Its role is to encourage active public participation. All governing bodies must submit their plans to these advisory committees to ensure adequate public participation throughout the entire planning process; however the role of these committees is strictly advisory.

Members of these committees are appointed and membership is kept small. Because these positions are appointed, adequate representation of the major stakeholder groups can become an issue. If a particular interest group feels its point of view is being unfairly represented within the membership of the committee, it may lose confidence in the process and the function of these advisory committees. Additionally, because these positions are elected they are left open to political undercurrents. This can be dangerous in a democratic society. Another aspect of advisory committees is the high time commitment that is required of the participants; several evenings a week may have to be donated to the appointed position. Lastly, advisory committees are supposed to function to identify attitudes and opinions. However, if the membership is not representative or the appointees do not actively seek out the public's opinion this will not be effectively accomplished. A related issue is whether or not the appointees are representing their personal opinions or the opinions they were appointed to represent. If these two viewpoints are at odds, representation is further hindered. Another area of concern is that each CIAC group may have different evaluation criteria. This can result in fluctuations in the level of participation deemed adequate within each county and municipality.

The main functions of an advisory committee, beyond the identification of attitudes and opinions mentioned in the paragraph above, are facilitating participation, clarifying the planning process, answering citizen questions, disseminating information, generating new ideas and alternatives, resolving conflict, changing attitudes toward government, developing support/minimize opposition, and planning program and policy review. The function of Oregon's advisory committees is mainly the last one – plan program and

policy review (of the localities' public participation programs). However, Oregon's committees do also function in the other mentioned mediums.

Other Mechanisms

The Land Conservation and Development Commission (LCDC) is a state commission that oversees the implementation of growth management within the State of Oregon. It is a volunteer organization; because of this only certain groups of people can and will be attracted to the role. First, some strong candidates not be able to accept an unsalaried position because they need an income. Second, the position can attract people that are only trying to further their professional resumes and do not need the money. Because the nature of the position, the appointments have the potential of becoming politically motivated. One check and balance during the appointment process is confirmation by the senate. Even though this is another level of politics, the senate can also serve as a watchdog.

Another legislative mandate within Oregon's growth management is the time limit to complete a growth management plan application. Local governments are only given four months to do an entire application. This time period is not long, especially when a substantial public participation program is mandated. Using citizen participation during plan preparation usually requires more time than if a plan is prepared without extensive public participation.

Summary

A tenet of Oregon's public participation is that local governments are periodically required to revise their plan. This translates into opportunities for additional public input and the chance to adapt the policies in response to changing social, economic, political conditions. Oregon's growth management legislation encompasses a multitude of dimensions within public participation. Technical assistance is provided via the state public participation publication. Social and organizational assistance is provided through the use of various advisory committees at all levels of government. And financial assistance is available during both plan preparation and implementation. Oregon sets a benchmark for effective policy making using public participation in a proactive manner.

Florida

Florida's growth management is state-sponsored; however, the ownership of the public participation program is shared between the local and state governments. This shared quality is largely due to the overall importance of the statewide comprehensive plan (which includes growth management legislation) within every level of the planning process throughout the state.

Public Hearing

Florida's legislation mandates two public hearings to be held prior to the approval of any comprehensive plan or plan amendment. This is commonly mandated in state legislation. Both meetings must be publicly advertised, seven and five days in advance respectively. The first meeting is intended to transmit the information and the second to adopt the proposal.

Table 4.2 Florida

	Public Hearing	Public Information/ Elicitation Programs	Advisory Committee	Task Force	Citizen Review Board	Mediation	Other
Pre- Approval	The local governing body must hold two advertised public hearings on the proposed comprehensive plan or plan amendment. The first hearing (transmittal stage) shall be held at least seven days after the first advertisement is published. The second hearing (adoption stage) shall be held at least five days after the second advertisement is published.	Each local government is encouraged to articulate a vision for the future physical appearance and qualities of its community. The vision should be developed through a collaborative planning process with public participation. The vision should be adopted by the governing body of the jurisdiction. A local vision must be consistent with the state vision. The state land planning agency serves as a clearinghouse for creating a community vision; however, there is no minimum criteria for evaluating a local vision.				Negotiation between Department of Community Affairs (DCA) staff person and local officials is used to reach a compliance agreement on a local plan to ensure concurrency. A local government choosing to undertake a publicly financed capital improvements plan can elect to use public participation procedures in decision and dispute resolution. Prior to a hearing, the state will provide the opportunity to mediate or otherwise resolve a dispute. But the hearing cannot be delayed for more than 90 days.	A joint legislative committee on growth management oversaw and reviewed all growth management legislation and its implementation; it also proposed revisions. Financial assistance via state planning grants is available during plan preparation.

Post-Approval	Public hearings are mandated before any amendment to the growth management legislation. The affected person has 30 days after a public hearing to file a petition with a final hearing within 60 days.					If the local government denies a request for amendment, the local government must offer mediation or alternative dispute resolution. The costs of which will be equally borne by the participants. Mediation will be completed within 120 days.	A joint legislative committee on growth management oversaw and reviewed all growth management legislation and its implementation; it also proposed revisions. A summary of the local government's public participation program is a necessary part of the local government's evaluation of its plan.
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The purpose of a public hearing is twofold. First, it is a minimum legal requirement for public participation. Second, it establishes an official permanent record. Even though these public hearings meet Florida's requirements, they do not allow for enough time for interest groups to organize. Seven and five days are a short time frame. Once people find out about the meeting, they must call others and organize a meeting amongst their interested party of people. Seven days is not a substantial amount of time to formulate an effective stance on the issue/s being discussed, especially when the purpose of the first meeting is to transmit the information. Stakeholders cannot formulate meaningful questions when they have not been provided with sufficient time to prepare their concerns – both in data and in personal feelings. In the second meeting, the adoption stage, five days is nowhere near enough time to fully consider alternatives (by the citizens and the policy makers). Experts need to be contacted and cost-benefit analysis may need to be conducted. However limited within the realm of public participation opportunities this format may be, it does allow for policies to be adopted in a timely manner. This is also a necessary component of effective policy making. The question that needs to be posed, "To what degree is the public's opinion being lost for the sake of timeliness?"

Post-approval of the plan offers more time for the formulation of public opinion. The affected person has thirty days after a public hearing to file a petition with regard to an amendment, and a final hearing is to be conducted within sixty days. This time frame is more reasonable and takes into account the expanse of time needed to realize the consequences of a particular plan's adoption. However, economic consequences are not

always apparent in a month's time. Even considering this condition, the time frame for petition and reply by both parties is reasonable.

A public hearing is supposed to accomplish the following things: identify impacted groups, solicit impacted groups, facilitate participation, answer citizen questions, disseminate information, and plan program and policy review. The Florida public participation approach, with regard to public hearings, generally satisfies all of these functions with the exception of the first one. However, there is room for growth within the arena of citizen participation. These functions could be more fully met if the legislation was amended to increase the time frame from advertisement to the date of the meetings -- both the first and second.

Public Information/Elicitation Program

Each local government is encouraged to articulate a local vision for the future physical appearance and qualities of the locality during plan preparation. This vision is to be developed through a collaborative process with public involvement and then adopted by the local government. This local vision must be consistent with the state vision, and the state planning agency acts as a clearinghouse for the execution of the local vision. However, there are no minimum criteria for the evaluation of the local vision or its consistency with a state vision.

Visioning processes are an important tool for public involvement. However, there is no watchdog for its use and seemingly no incentives or funding to undertake a visioning

process. A visioning process can achieve a myriad of goals and function in a variety of ways by clarifying the planning process, resolving conflict, changing attitudes toward government, generating new ideas and attitudes, and promoting interaction between interest groups. However, the public's involvement in a visioning process is self-selected and the commitment is moderate. Also, the staff time required to carry out a visioning process is high. Without any local incentive to partake in a visioning process or any punishment for not undertaking one, the reality of this legislative recommendation is limited. Even though it is enabling legislation, without any incentives, many localities in Florida will not reap the benefits of a public information/elicitation program.

Mediation

Prior to a hearing, the state is obligated to provide the opportunity for mediation and dispute resolution between the locality and the state or between the locality and a citizen. However, a public hearing cannot be delayed longer than ninety days. This time limit ensures that the process will not take too much time, but it can also limit citizen input. There are also other negative aspects of mediations. All participants require a high level of commitment as the resolution process can last for up to three months. Additionally, this approach limits the ability of the government to get to know all the affected interests and identify all the problems associated with the issue at hand if planning staffs are dedicating a great deal of time to one specific petitioner and issue. However, all participants are provided a full and complete opportunity to articulate and clarify the issue being deliberated.

During the amendment process (post-approval), the local government must also provide an opportunity for mediation or an alternative form of dispute resolution. This mediation is to be completed within 120 days. Several problems arise as a result of the time constraint. First, 120 days is a third of a year. If a petitioner desires dispute resolution, the reason for the petition may overcome the petitioner's desire for mediation; for example, if the petitioner is upset with something that causes severe economic consequence to his livelihood, 120 days may be too long to bear this burden while awaiting the mediator's decision. As a result the petitioner may opt to leave or change locations (or otherwise) instead of risking the result and consequences of a drawn-out mediation process. Secondly, the costs of the process are equally borne by the participants; this financial and opportunity cost may prove to be greater than the probable benefit of a favorable decision from a mediation process. Lawyer fees may be an incurred cost as well as lost wages from work and other opportunity costs.

Other Mechanisms

Financial assistance is provided to localities during plan preparation. This assistance is most commonly distributed in the form of state planning assistance grants. However, there is no monetary assistance during the implementation of local plans. This is a double-sided issue. The assistance can provide the necessary money to undertake the recommended visioning processes; however, it does not necessarily have to be used on public participation programs. On the other side of the issue, because there is no assistance during implementation, the opportunities to monitor the relative success or failure of the plan are severely limited. Public participation is ineffectively

recommended as a result; there is not an established mechanism to gather feedback or any way to fund new or innovative approaches to this collection of public opinion.

Even though the localities are not required to gather public feedback on the plan, the local government is mandated to evaluate its program for public participation when evaluating its overall plan. However, no established techniques or criteria is discussed or mandated in the legislation. Once again, an opportunity for public participation is located in the enabling legislation – leaving its implementation optional.

Summary

Overall, the State of Florida has a superficial mandated local-level public participation program. A watchdog mechanism for the implementation and evaluation of the local public participation programs does not exist. This legislation only provides recommendations and opportunities for local programs and does not mandate anything beyond public hearings and dispute resolution. The level of commitment and effectiveness is extremely limited by the factors mentioned above.

Washington

Washington's growth management legislation is often compared to that of Oregon. However, there are differences. Washington's most unique characteristic is its three Growth Management Hearings Boards. Even though this characteristic appears to be regional in its approach, the ownership of the legislative mandates is found at the local government level.

Table 4.3 Washington

	Public Hearing	Public Information/ Elicitation Program	Advisory Committee	Task Force	Citizen Review Board	Mediation	Other
Pre- Approval		State publications are available to assist local governments in organizing a visioning process. They are titled, <i>A Bottom Up Primer: A Guide to Citizen Participation and Towards Managing Growth in Washington: A Guide to Community Visioning</i> .					Financial assistance via state planning grants is available during plan preparation.

Post-Approval					Growth Management Hearings Boards to hear and determine allegations of non-compliance. State review by a growth management hearings board only when a petition is filed. Growth Management Hearings Boards are quasi-judicial. The governor appoints three people to each board, one attorney and one former local elected official serves on each board also. There are three boards throughout Washington serving the petitions in their respective regions: East, West, and central. The petitioner has 60 days to file a petition with the hearings board. The hearings boards are required to issue a final decision within 180 days of the filing of the petition and they can reverse a decision made by a local government. However, local government action is presumed valid upon adoption; the petitioner has the burden of proof.		If a project is proposed that neglects the plan's guidelines, citizens can challenge the project plan in court. No financial assistance is available during implementation.
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Public Information/Elicitation Program

Washington's public information/elicitation programs are not mandated. However, the state has published several guides to assist local governments in the organization of a visioning program. These guides offer step-by-step instructions and examples of forms used during the actual visioning process. The guides describe the purpose of a visioning process and how it fits into a larger growth policy writing or amendment process. They are informative and easy to use. Copies are free to localities, and financial assistance is provided during all aspects of plan preparation including for a visioning program. But it is important to remember that the visioning programs are only enabled in the legislation.

Even if a locality decides to implement a visioning program, participants are self-selected and there is no guarantee of broad representation. Additionally, those citizens who choose to participate are saddled with a moderate time commitment. However, most citizens will feel the time investment to be worthwhile because they are actively participating in the functions of this mechanism. Participants are identifying interests and problems and then articulating and clarifying them. A negative side of this mechanism is the high staff-time requirement. Many hours are required to prepare the paperwork and administration of a worthwhile public information/elicitation program.

Citizen Review Board

The state of Washington is divided into three regions (East, Central, and West), each with its own hearings board. Because the hearings boards are in different geographic regions they can realistically and effectively deal with the divergent values and priorities of the distinctly separate regions of the state. The boards are quasi-judicial and only meet when a petition is filed. The three positions on each of the boards are appointed by the governor and include one attorney and one former local elected official.

A petition can be filed when a citizen makes an allegation of non-compliance with the statewide planning goals. The petitioner has sixty days to file a petition with the board. Two months is a reasonable amount of time for a petitioner to realize a situation of non-compliance. Seemingly, the petitioner will not have to wait for a specific amount of time to pass in order to monitor a situation of non-compliance. However, the hearings board has 180 days to issue its final decision. This is nearly half a year. A petitioner's business could already be foreclosed on during the decision making period. The long waiting period may result in less people petitioning simply because the personal risk is too high.

Not only is the time period lengthy, but local government action is also presumed valid upon adoption of the plan. The petitioner has the burden of proof to overcome this presumption. The petitioner may need to hire a lawyer because s/he has the burden of proof. This could be costly and deter people from petitioning.

Summary

With regard to public participation, Washington's growth management legislation does not mandate much; the minimum level of compliance is low. The local government must act on its own accord to take public participation to the next level. Washington has good intentions but it is not operationalized within a mandated form of legislation. No state enforcement agency exists. Overall, the State of Washington has an enabling approach to public participation within growth management at the local level.

Tennessee

The drafting of Tennessee's growth policy legislation is largely a result of continuous annexation struggles at the local level. Partially in response to uncontrolled and ill-managed annexation as well as the incorporation of very small towns to avoid annexation, ownership of the new legislation is placed at the local government level. Even though Tennessee's approach to growth management is modeled after the legislation in Oregon and Washington, its concept of growth management is limited to boundaries. The resultant legislation is virtually the drawing of lines on maps; each coordinating committee must determine where urban growth, planned growth, and limited growth will occur within its counties and municipalities.

Task Force

A coordinating committee is established in every county and is responsible for getting public input (via public hearings) before drafting the plan and also before the plan is written in its final form for approval. The public input comes from a variety of sources

Table 4.4 Tennessee

	Public Hearing	Public Information/Elicitation Program	Advisory Committee	Task Force	Citizen Review Board	Mediation	Other
Pre-Approval	Counties and municipalities hold two public hearings with 15-day notice and then submit their plans to the coordinating committee. The coordinating committee conducts public hearings and submits the plan to both city and county governments after the draft form of the plan has been developed. Prior to finalization of the recommended growth plan the coordinating committee must hold at least two public hearings, with a fifteen-day notice.			An eleven to twenty-one member coordinating committee is created to represent the major social, political, and economic interests of the county. The coordinating committee may revise the plan upon objections from local governments.	The Joint Economic and Community Development Board must be established by an interlocal agreement, with the board's purpose being to foster communication among government entities, industry, and private citizens. The board is composed of representatives of the local governments, private citizens, industry, and business with membership determined by the interlocal agreement, but must include the county executive, the mayor or city manager of the larger municipalities in the county, and one landowner.	For situations without resolution, a dispute resolution panel is an option within the legislation. The three-member panel is appointed by the Secretary of State from the ranks of administrative law judges with formal mediation and dispute resolution training. If cities and counties can agree to it, only one judge is used. If there is an impasse in the resolution, the plan is approved. Costs incurred during the process are paid by the county and municipality.	

Post-Approval	Any amendment to the plan of services requires a public hearing giving at least a fifteen-day notice.					For situations without resolution, a dispute resolution panel is an option within the legislation.	After the approval of the growth plan, the burden of proof is on the plaintiff to prove that the annexation is unreasonable. Citizen can challenge the reasonableness of the plan of services after the approval of the growth plan, filed within 60 days of the adoption of the plan of services. Any property owner can challenge the legality of an amendment to the plan of services within 30 days following the adoption of the amendment.
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and in various forms. First, the members of each coordinating committee are selected in several ways. Some, such as the county executive and city mayors, are elected. Others are appointed to represent specific viewpoints, such as those held by real estate developers or conservationists. Others are appointed by default; for example, a representative of the largest public and private utilities must also be placed in the coordinating committee. Proper representational balance between the county and the city is a goal of the organizational framework of the coordinating committees.

The coordinating committee functions as a task force in numerous ways. First, the coordinating committee is designed to get to know all affected interests. This is purportedly the aim of its organizational framework. Second, these committees are charged with the goal of identifying all major problems and also articulating and clarifying the issues because many stakeholders are present for discussion as members of the committee. Third, solutions are generated because the coordinating committee is responsible for writing the plan for the county and its municipalities. Although the staff time requirement is moderate due to the level of administrative organization required by such an all-encompassing committee, the committee's plans and proposals are more comprehensive with respect to the multiple interest groups' needs.

Public Hearing

A second source of public input is a public hearing. Public hearings are required at several points in the pre-approval stage. The county and each of its municipalities are mandated to hold at least two public meetings with a fifteen-day notice for each meeting.

The purpose of these hearings is to formulate recommendations, with respect to their jurisdiction, to present to the coordinating committee. The coordinating committee, prior to submitting its draft plan to the city and county governments, requires another hearing. A third set of hearings is mandated prior to the finalization of the recommended growth plan. At this time, at least two hearings are required with a fifteen-day notice. The requirement of sets of two hearings accommodates those citizens who want to participate but have other commitments. Fifteen days is a reasonable amount of time to allow for the development of opinions within interest groups and stakeholders. However, fifteen days might not be enough time for people to organize and collect the data often required in discussions regarding the placement of boundaries on a map. Any amendment to the growth plan (post-approval) has the same notice mandates, but only requires one hearing.

The multitude of required hearings (being held by several different levels of government and in some cases, simultaneously) can bog the system down and cause unnecessary time delays. This is largely due to the moderate staff time required to simultaneously organize, record, and monitor several public meetings at multiple levels of government. The opportunity to articulate and clarify the issues is important within the overlapping jurisdictional levels that occur in Tennessee's legislation, and this is achieved with the use of public hearings. However, the ability to get to know all affected interest groups and identify the problems is limited within the framework of a public hearing. The scope of the issues and the potential for technical jargon can be confusing for lay citizens in attendance at a hearing. Additionally, a decision is not usually generated at a hearing, and this can result in feelings of dissatisfaction and non-resolution among citizen groups.

Citizen Review Board

The legislation mandates the creation of a county-level Joint Economic and Community Development Board to be established by an interlocal agreement. The purpose of this Board is to foster communication among government entities, industry, and private citizens. The Board is composed of representatives of the groups involved and must include the county executive, the mayors or city managers of the larger municipalities, and one landowner. No term can exceed four years. The board is required to meet four times throughout the year, and the executive committee must meet eight times during the year. Even though this is mandated, the legislation does not mention any penalties for noncompliance.

A citizen review board can be a powerful entity at the local level. Its ability to get to know all affected interests, identify the problems, generate solutions, and articulate and clarify the issues are high. Term limits are included in the legislation, and this prevents any one interest from becoming too powerful. Tennessee's county-level Joint Economic and Community Development Boards have the potential to impact economic and community development because many stakeholder groups are represented and their role conforms to the needs of the county as determined in the interlocal agreement.

Mediation

For situations during plan preparation and approval that are without resolution, a dispute resolution panel is mandated within the legislation. A three-member panel is appointed by the Secretary of State from the ranks of administrative judges. These judges have

formal mediation and dispute resolution training. If there is an impasse in the dispute resolution process the plan is approved. The costs of dispute resolution are paid by the municipalities involved in the process. However, the judges mediating the dispute resolution may not be familiar with the physical area being disputed and as a result may not provide the most well-rounded decision.

Some aspects of dispute resolution are worth further consideration. The time commitment required of the participants is high. This may occur at an untimely phase of the overall planning process. At a time when other municipalities in the county are progressing forward with the formulation of their growth policy, one municipality's mediation process may hold back the overall county-wide policy making. More important for public participation is the mediation process' lack of ability to get to know all affected interests. Because only elected officials will be involved in the mediation process, specific citizen interests may be passed over. The ability to generate solutions and clarify the issues is the strong point of mediation.

Other Mechanisms

After approval of the growth plan, a citizen can challenge the reasonableness of an annexation ordinance. However, the burden of proof rests on the citizen. For the citizen, the cost of employing a lawyer (if they desire representation) can be a deterrent to petitioning the annexation. A second area is the plan of services. A petitioner can challenge the reasonableness of a city or county's plan of services within sixty days of the adoption of the plan. However, two months may not be enough time to realize the

negative effects, especially if the effects are economic or if the petitioner's business is seasonal. However, it is a reasonable amount of time for the average petition. A third area is the legality of an amendment to the plan of services. The petitioner has thirty days following the adoption of the amendment to file a petition. Thirty days is not enough time to organize and collect enough data to present a well-rounded case. However, thirty days is a reasonable amount of time because it allows the process to continue moving along so that all non-petitioners can benefit from the services afforded them in the approved plan.

Summary

With regard to public participation, Tennessee's growth management legislation is reactive. The contestable nature of public participation is a characteristic that runs throughout the legislation. However, few proactive opportunities for public participation are provided within the legislation, with the exception of the gamut of public hearings that are required throughout the entire approval and amendment process. Public visioning programs are not even mentioned in the legislation. For a state that has had the benefit of experimenting with aspects of nearly thirteen other states' growth management legislation, Tennessee falls short with regard to public participation.

Conclusion

Several conclusions can be drawn from the four states outlined above.

- First, financial assistance can encourage and provide opportunities for localities to act on the recommendations (enabling legislation) for stronger and more substantial public participation programs.

- Second, public hearings can be used to effectively create policy; however, the civil society must already be organized. Without an organized civil society, public hearings are not enough to capture the true needs, desires, and opinions of the populace.
- Third, ownership of the plan is essential. The higher the level of government ownership in the planning process, the fewer opportunities are available for public participation. However, when the ownership is brought to the level of the citizen, taking it a step beyond the local government, true participation is felt by the populace. Once public ownership is cultivated the success of the project becomes a shared community goal and all related decisions are viewed through the lens of that project, thereby continuously strengthening it.
- Fourth, benchmarks and models are helpful guides for the future but the lessons are not always heeded. Oregon was the first to have growth management and established a benchmark for public participation. Yet no other state has come close to replicating Oregon's achievements in the arena of public participation.
- Fifth, the approach needs to be realistic. A small, local community with a limited budget and time cannot expect to undertake an extensive public participation program while simultaneously trying to write a growth plan. Every community needs to balance working within its boundaries and being visionary.
- Sixth, certain mechanisms work better in certain stages of the planning process. Effective policy making sets in place the mechanisms that elicit the right type of information at the proper stages of the process.
- Seventh, combining several mechanisms creates a well-rounded approach to public participation. Certain stakeholder groups respond better to some mechanisms instead of others. Using several overlapping mechanisms enables a community to tap into all interest groups.
- Eighth, it is important to establish criteria for evaluation of one's public participation program. This creates opportunities for gathering feedback and improving one's program for the future. It also is a favorable conclusion to the overall process, leaving the public feeling their final input is desired and stressing the locality's commitment to improving the past process.
- Ninth, representativeness is a challenging task in every locality. Using a neutral party is the safest approach to choosing participants, if self-selection, appointment, or election is not feasible in the locality. It is also important to realize that the stakeholder groups can change during the overall process; one group who's opinions needed to be considered with regard to one issue may be unnecessary in another issue.

- Tenth, mechanisms are intended to achieve various results: consensus, decision, information, or advice. The natural outcome of a mechanism should be stressed; it should not be manipulated to provide more than it was designed to do. Participants must understand their role and the outcome they are expected to provide.
- And last, it is important to celebrate the conclusion of the planning process with a community-wide festival or celebration. Even if the process did not go as well as had been hoped, important opinions have been realized and the community is sharing a common vision of their future.

Can a state mandate public participation or are the ideals of public participation better accomplished and preserved when it is left as enabling legislation? Because public participation requires the understanding of the validity and necessity of public opinion and reflection within the process of creating effective and meaningful decision and policy making, the answer must be yes; public participation can be effectively mandated. Even though the quality of the participation is difficult to quantify, the intrinsic value of public participation is nearly impossible to deny. The interaction of neighbors who have never met as they share a vision for the future of their community strengthens not only the community but also the local government's ability to respond to change. Even if consensus is not achieved and some interest groups' needs are not fulfilled, at least the opportunity for their opinions to be heard was made available. One can only guarantee these events if public participation is mandated.

CHAPTER FIVE

CONCLUSION

This research has inventoried the mechanisms of public participation within the growth management legislation of four states in the United States. This inventory was important research because it explored the array of approaches to soliciting public opinion and examined the positive and negative characteristics of each within the legislation it was mandated under. This information is useful to other states that are currently creating or amending their growth management legislation. Using public participation is an ethical principle of planning. This final chapter will serve to highlight two important points. First, it will summarize the findings of this inventory. Second, it will suggest future areas of research.

Summary of Conclusions

After inventorying the information in the first four chapters, an attempt was made to organize the findings into several specific points. Although eleven points were detailed in Chapter Four, this summary will only provide highlights of these points. First, financial assistance can provide opportunities for more substantial public participation programs. Second, public hearings can be an effective tool if the civil society is already organized. Third, local level ownership of the plan and the process is essential. Fourth, benchmarks and models are helpful for other states creating their own policy or amending the version they currently have. Fifth, the approach must be realistic. Sixth, certain

mechanisms are better in certain stages of the process. Seventh, the combination of several mechanisms provides for a richer public participation experience. Eighth, evaluation criteria are necessary for gathering feedback, from the local government officials and the general public, on the process. Ninth, goals for representativeness need to be recognized before a mechanism is implemented. Tenth, mechanisms should not be manipulated to achieve results they were not designed to provide. Eleventh and lastly, celebration at the end of the process is as important as any other aspect of the overall process. Using these eleven guidelines, it is possible to effectively mandate public participation.

However simple the guidelines above may appear, designing an effective and meaningful public participation program is a serious and complicated series of tasks. The most important consideration is the stakeholders. Due to the nature of planning, determining which groups should or should not be included is a difficult task. Planning implies the future, and the future is uncertain. This makes the task of total stakeholder inclusion impossible. It is important to be representative, but it is inherently impossible. So, if a public participation program's goal is complete representation it is already fatally flawed. However, once this flaw is accepted, it is easier to move on with the planning process.

Not only is representativeness an issue that must be dealt with, emulating another state can also present problems. Growth management legislation, and planning legislation in general, is not created in a vacuum. Therefore, it cannot be plucked from one state and sewn into the statutes of another. This creates a problem, however, because one of the

ways to evaluate a public participation program is by its replicability. But because the overall circumstances are varied in every state, sometimes drastically, the ability to model other successful states is undermined. This may present a possible explanation with regard to Oregon. Oregon has achieved wide praise and acclaim for its growth management, with public participation, planning process. Even though its statutes were written nearly three decades ago, no other state has come close to reproducing Oregon's mechanisms for public participation within its growth management legislation. Having set a high benchmark may be part of the problem, but the larger issue relates to the idea that planning is not created in a vacuum. Policy makers realize that legislation arises via the circumstances with which it was deemed necessary.

Although the circumstances may change, the legislative mandates for public participation should not be terse. Two mandated public meetings or hearings do not provide satisfactory mediums or opportunities for public input. The life of the average citizen is already extremely busy. With the rise of single family households and double income families, parents do not have enough time for themselves and their children. Out of necessity, community is often a distant third on the priority list. Even though policy makers are constantly pressured to streamline processes and cut costs, limiting public participation is not the answer to creating effective policy. All levels of government must realize the importance of public input, and resultantly, they must provide numerous and varied opportunities to express one's opinion as it relates to civic issues. The status quo of decades past no longer yields the same results. Times and communities are changing, and policy and decision makers must also transform their approach.

Areas of Future Research

Because the subjects of growth management and public participation have seldom been jointly analyzed, several areas of research remain. One such area is the study of other states not considered in this thesis. It would be interesting to compare several states within the same geographic region or within the same period of the planning process. A second area is a case study of several states still in their formative period of the development of their growth management legislation. Tracing a few states from start to finish would provide interesting opportunities to trace their decision making process with regard to the inclusion of public participation mechanisms. A historical approach is a third area. By tracing the specific political and economic situations within each state during the creation of the growth management legislation would provide insight into their legislative development process. A fourth and final area for future research would be to follow specific communities or counties as they implement the legislation at the local level, detailing the stumbling blocks and peaks within the process.

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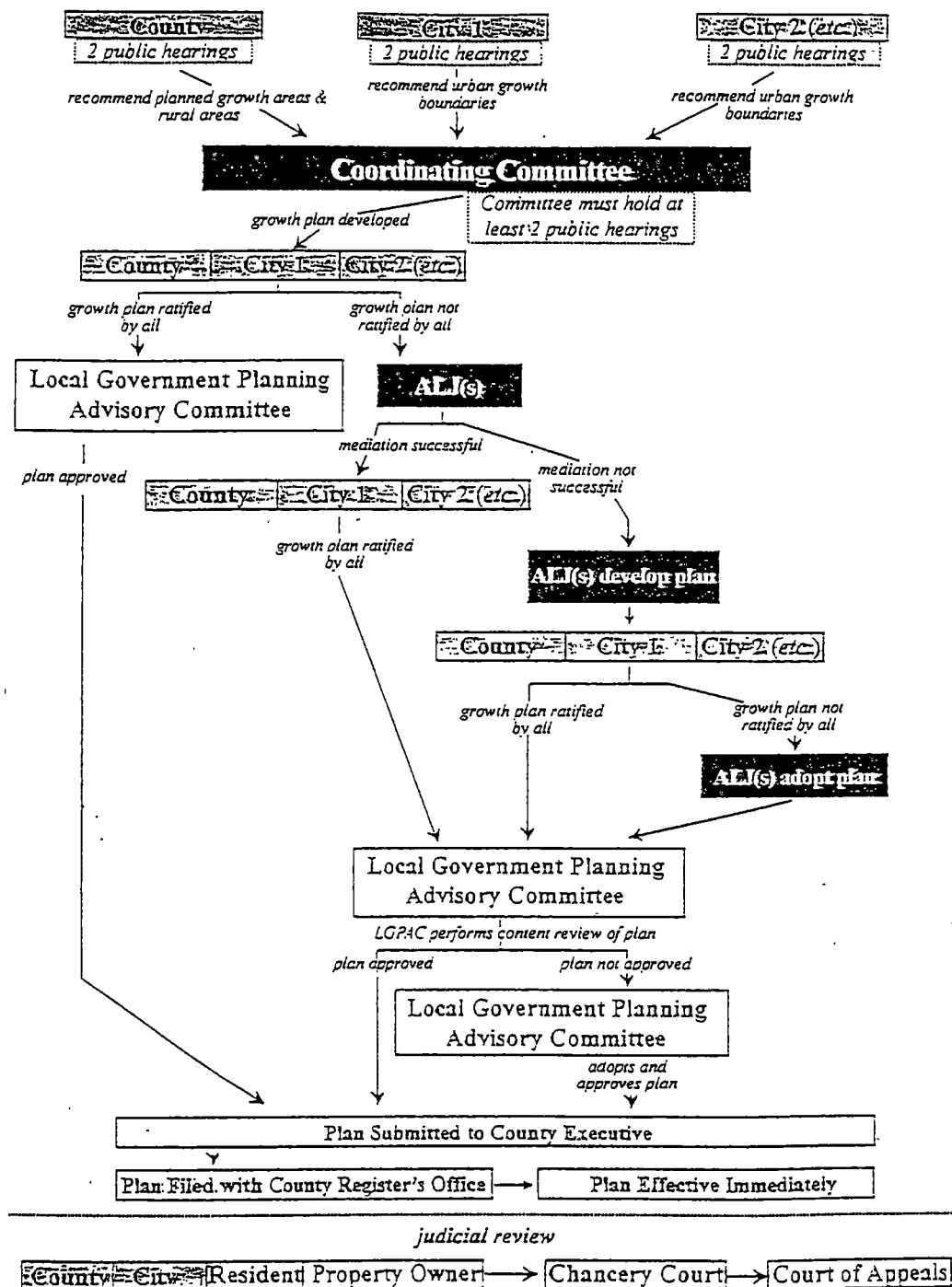
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APPENDIX

**Table A Flow Chart of Growth Plan Development
under Public Chapter 1101**



Source: Growth Policy, Annexation, and Incorporation Under Public Chapter 1101 of 1998: A Guide for Community Leaders. September 1998. Knoxville, TN: The University of Tennessee Institute for Public Service and the Tennessee Advisory Commission on Intergovernmental Relations

Table B Comparison of Mechanisms for Public Participation

Mechanism	Participant Selection	Participant Commitment	Scope of the Issue	Use of the Outcome	Decision Approach	Ability to Get to Know All Affected Interests	Ability to Identify the Problems	Ability to Generate Solutions	Ability to Articulate and Clarify the Issues	Staff Time Requirement
Public Hearing	Self-Selection	Low	Multiple	Information Advice	NA	Low	Low	None	High	Moderate
Public Information/ Elicitation Program	Self-Selection/ required for participation	Moderate	Multiple	Information Advice	Varies	High	High	Low	High	High
Advisory Committee	Appointment	High	Multiple	Information Advice	Consensus	Low	Low	Low	Low	Moderate
Task Force	Appointment	High	Single	Information Advice	Consensus	High	High	High	High	Moderate
Citizen Review Board	Appointment	Moderate	Single	Advice Decisions	Vote or Consensus	High	High	High	High	Low
Mediation	3 rd party Appointment/ Appointment	High	Single	Information Advice Decisions	Compromise or Consensus	Low	Low	High	High	High

Source: English, Gibson, Feldman, and Tonn p 50 and Langton 116-17.

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