
The Wirth Chair in Environmental and Community Development Policy



UNIVERSITY OF COLORADO AT DENVER & HEALTH SCIENCES CENTER

The Graduate School of Public Affairs

Growth: Problems and Opportunities

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A Leadership Forum Summary Report

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GROWTH: PROBLEMS & OPPORTUNITIES

A PUBLIC LEADERSHIP FORUM

Glenwood Springs, Colorado, May 19, 2000

Co-Sponsored by The Wirth Chair and The Denver Post¹

REGIONAL GROWTH FORUMS IN COLORADO

Colorado's citizens, in survey after survey, have shown a strong concern for how the state is growing. They have mixed views about what they see. Growth has meant better jobs, higher income, and an improved quality of life for many. It also has meant increased congestion, more pollution, and a loss of community identity to many.

The citizens of the State appear to be in favor of a stronger state, regional and local government role with respect to growth management. The legislature, despite the repetitive and intense nature of citizen views, has not been able to craft and enact meaningful growth legislation.

Last Spring, The Denver Post (the Post) and the University of Colorado's Wirth Chair in Environmental and Community Development Policy (the Wirth Chair) initiated a set of Regional Growth Forums in all parts of the State. Both institutions felt that citizens should have the opportunity to honestly and directly air their views about the problems and the opportunities associated with growth in Colorado and in their respective regions. Both institutions also felt that there was a need for citizens to honestly and directly articulate their perspectives on growth management policies and programs.

¹ For information concerning this report and/or the Regional Growth Forums, contact Marshall Kaplan, Executive Director of the Wirth Chair at the address and phone/fax listed at the top of the page.

To date, three Regional Forums have been held by the Post and the Wirth Chair. The first occurred in Grand Junction; the second in Colorado Springs and the third in Glenwood Springs. Additional Forums will be held in Northern, Southwest and Eastern Colorado. The Forums will end with a Statewide Town Meeting in Denver in October. Hopefully, the Forums will reflect an evolving consensus on key growth management issues and strategies in the state. Hopefully, the Forums will prove informative to citizens as they vote on growth management initiatives in November and to the legislature as it considers growth management alternatives beginning again in January.

The Denver Post and the Wirth Chair have provided brief summaries of the proceedings of each Forum. This memo describes the discussions at the Glenwood Springs Forum on May 19, 2000.

GLENWOOD SPRINGS REGIONAL GROWTH FORUM—HOTEL COLORADO

Over fifty citizens from the State's intermountain region—public officials, business, non-profit group and community leaders—attended the Glenwood Springs meeting. The daylong session was divided essentially into three segments. The first permitted participants to define the growth related problems and opportunities facing the intermountain region; the second granted time for participants to discuss a growth initiative likely to be on the ballot in November; and the third focused participant attention on possible administrative and legislative options to present to the Governor and the Legislature.

GROWTH RELATED PROBLEMS

Participants expressed the following:

“We don't need a lot of statistics to describe the major problems and some of the opportunities we face in the intermountain area with respect to growth. The intermountain area is diverse.”

“Some parts of the area, particularly along the I-70 corridor are growing rapidly and are feeling extraordinary growth pressures. Other parts of the region, indeed, even in the I-70 Corridor, are not growing at all and could benefit from economic development and related population growth.”

“There are vast income and fiscal disparities between tourist communities and contiguous communities servicing them. Similarly, there are vast income and fiscal disparities between tourist communities and emerging mini regional centers in the area like Glenwood Springs as well as small agricultural and mining communities sometimes distant from the I-70 Corridor.”

“The intermountain area is unique. It reflects the historical growth of Colorado. We have families who have been here for generations. They were among the first settlers of the State. Their current members may still be in agriculture and mining. Some children of current members are making choices to move elsewhere because of what they perceive to be the absence of economic opportunity.”

“We have had an influx of newcomers, at various times, who seek among other things, wealth, privacy, open space, fresh air, the mountains, new life styles, freedom, etc.” “We have a significant number of retirees...second home buyers who live in the area part time...citizens of foreign countries who have bought condos to ski in the winter or who have traveled here both legally and illegally to work during summer and winter in the service industry.” “Walk through Vail or Eagle in the wintertime and you will likely find Spanish seems to be the dominant language. This is not bad or good. It is just a fact.”

Sometimes there is a cultural divide between the newcomers and existing residents, particularly older residents who have been in the intermountain area for some time. “The newer people often look down on us and we sometimes don’t understand them. For some citizens of the area, the advent of newer residents illustrate the negatives of growth. To them, rapid population growth in some areas means “people who are not like us.”

The advent of significant numbers of second home buyers has two effects, seemingly at opposite ends of the growth policy continuum. “Second home buyers have a real fiscal stake in the area but they, generally, are not able to vote and affect the selection of community leadership and/or public policy. To some, this illustrates taxation without representation. Conversely, second homebuyers often do not live in the area for sustained periods of time in any one year. Yet, sometimes they are very influential with political and business leaders. They may have an inordinate amount of political power as compared to local residents.”

“It is clear that we have to wrestle with issues concerning the local community versus the regional community. It seems difficult for us to balance the rights of cities and counties with the concerns of the region. For example, we have growth moratoriums initiated by individual communities without knowledge of the impact on the region. Similarly, we have encouraged development in some communities without acknowledging its impact on other communities and the region as a whole. We should ask ourselves whether counties and cities have outlived their historic boundaries.” If historic boundaries impede regional solutions, are they still viable? We may need to create new communities with different boundaries; boundaries which may not depend as much on spatial definition.

“While agricultural land lost to development may not impact the economy of the state in a major way, it does impact on the intermountain area’s economy. Rapid loss of agricultural land will help make our area even more dependent on the tourist/recreation economy than it is. It will also affect our quality of life. Some of us like the ability to purchase homegrown food at farmers markets. It will be tough to do, if we have to rely on outside produce.”

“Rapid unplanned growth also means increased pollution, congestion, increased prices, lack of good infrastructure, loss of strategic agricultural land, reduced water quality and stream flow, over use of very valued recreation areas, loss of valued mountain and meadow views, etc.”

“We are ambivalent about growth. Leaders express concern, but many have fostered significant over zoning; zoning likely to accommodate more growth than even the most intense growth advocate projects for the next decade.”

“We have conflicts in the area between the business community and environmentalists ...between homebuilder/developers and growth management advocates. They are reflected particularly in the tourist areas and in the areas next to or near the tourist areas.”

“We all probably agree that the Aspen to Glenwood Springs road is unsafe and very congested at times...We all probably agree that the I-70 Corridor cannot handle the traffic it has to bear particularly on weekends and during the height of the recreation season(s). We know that air pollution is both visible and in some areas increasing rather dramatically. We all can agree in general with the statement that fiscal disparities related to reliance on the sales tax has made it difficult for some communities to fund infrastructure and services to respond to growth and growth needs. We can all acknowledge the fact that some non-growing communities in the area do not have the financial wherewithal to meet their needs and/or to foster revitalization.”

“What is difficult for us to do is to agree on specifics concerning smart growth or growth management. While developers and environmentalists, often, are on the same page with respect to reducing many of the problems caused by growth, they, many-times, are not on the same page with respect to how much we should grow, where we should grow and how we should grow in the intermountain area.”

Lack of affordable housing in the area, particularly in or near the recreation-based communities like Aspen, Keystone, Vail, and Breckenridge, is a real problem. It has forced employees in the ski and service industry to travel great distances to work and between work and home. “The gap between the wages and salaries of projected jobs and housing prices and rents is growing.”

“The absence of affordable housing may threaten the economic future of the area.” Presently it causes workers to live great distance from their jobs. It extends their workday significantly. It affects family life. It also adds to auto pollution. It results in many difficulties for the communities providing affordable housing to workers. These communities do not have the resources to readily meet service demands for roads, water, storm drainage. “They are desperately short of social services like child care facilities and health facilities, etc. They don’t have the transportation capacity to match daily travel needs.”

“The lack of affordable housing may seem a benefit to some people if it limits growth. But the area is paying a terrible social and environmental price. The absence of affordable housing will ultimately hurt the general economy. It could lead to a reduction in the area’s quality of life. It’s a tough one for us to resolve fairly.”

Most participants felt that regional governance was weak in the intermountain area. “Regional government reflects good people but their formal responsibilities are marginal.”² The business community “at times seems to be encouraging stronger regional governance. They have been able to coalesce around positions related to the need for balancing growth and environmental initiatives...increased social services...tax base reform...affordable housing...and improved transportation.” “Our governing institutions in the intermountain area may not be up to the task of managing growth in an efficient and equitable manner. We have a proliferation of special districts...local government boundaries and responsibilities may make it difficult to solve problems which do not recognize boundaries. Regional government is often ineffective...state government does not play a major comprehensive growth management role.”³

BALLOT INITIATIVE ON GROWTH

The participants spent considerable time discussing the proposed ballot initiatives. One initiative would provide new funds for the acquisition of open space; the other initiative would require larger jurisdictions to set citizen approved urban growth boundaries. Most of the participant’s attention focused on the growth boundary initiative.⁴

The proposed initiative⁵, if passed by the voters, would add an amendment to the constitution. The amendment would require jurisdictions of a certain size to establish growth areas on a growth area map. Basic infrastructure services would be required within growth areas. Growth or development would be permitted within growth areas.⁶ With some exceptions, growth would not be allowed outside of growth areas. Voters in the affected jurisdictions would be required to approve the initial boundaries by formal election and to

² Many, but clearly not all, participants in Glenwood Springs felt that local governments were making progress in working together, sometimes informally, often through IGAs.

³ Participants realized that the state plays a major role in affecting growth (e.g., transportation facilities) but the State’s role is often not directly linked to growth management. State roles often have unintended or unanticipated growth consequences.

⁴ The initiative is titled The Responsible Growth Initiative. It would become Article XXV111 of the Constitution.

⁵ The initiative was presented by photographer John Fielder and by planner Bill Lamont. Copies of the initiative were made available during the meeting. They were not available to participants prior to the meeting.

⁶ The initiative, if enacted, will require that growth areas are served by a central water and sewer system and roads which can be constructed with applicable borrowing, taxing and spending limitations within ten years following voter approval.

approve any future changes or amendments to growth boundaries (by a formal vote at a regular election).⁷

Participants agreed that the initiative proposal was a response to the inaction on the part of the legislature. “The legislative session did not enact any major piece of growth legislation. They appeared incapable of reaching consensus concerning possible smart growth legislation.” The legislature did not read their constituents very well. Various interests at various times during the session were able to block action on key elements of the Governor’s proposals and on more comprehensive proposals by individuals like Senator Sullivant. What “we ended up with were some minor bills that were enacted that will not have any real impact on citizen defined growth problems.” “The legislature was irresponsible. Colorado is in danger of losing what we love in the State. The legislature was not a good steward of our environment and natural resources. The reasons for the initiative are understandable.”

Given the relatively recent origin of the initiative’s final language, participants in Glenwood Springs did not have time to study the full proposal. Their views were premised on presentations by proponents.

Many critical issues were raised and questions asked about the initiative. They prompted an extensive dialogue.

Is it good government or good governance to seek a formal amendment to the Constitution? Will adding an amendment to the constitution blur the line between what should go in the Constitution and what should be subject to statute? Will adding an amendment to the Constitution make it tougher on communities to respond to economic and social changes likely to affect Colorado and this region in the years ahead? Why is growth any more a subject of constitutional import than say child care, health care, elementary and secondary education?

According to the initiative’s proponents, “We would have preferred the legislature to act without going to an initiative. We were aware of the arguments that favor statutes over constitutional amendments for specific public policy priorities like smart growth. But we felt that in this instance the problems resulting from growth were and are critical. We felt we had no other choice but to seek a constitutional amendment through the initiative process. We believe that the legislature has not and will not respond to the state’s needs.” Further, “the

⁷The language in the initiative reads as follows: “The governing body of each local government proposing a growth area shall refer each proposed growth area map to a popular vote at a regular election...the proposing local government shall provide growth impact disclosures that describe the impacts of development allowed by the proposed growth area map.”

legislature would likely try to change any referred statute.” Equally as important, “home rule cities would likely contest a referred statute given their home rule status. Statutes would not legally bind home rule cities.”

Several participants in Glenwood Springs were not convinced of the wisdom of an amendment to the Constitution. “Issues like growth are better not cast in cement. We do not know the range of unintended impacts likely to result from a constitutional amendment. If it is enacted, it will clearly be more difficult to govern flexibly and to respond to unanticipated state and regional problems.” “Why muck up the Constitution with non constitutional policy amendments that reflect problems that are defined and policies that are in favor, at perhaps one point in time, in the state’s history.” “The legislative counsel apparently indicated that home rule cities would be required to respond to the Sullivant bill and variations on its diverse themes including growth boundaries or areas. It is not certain that statutes would not bind home rule cities.” “While the legislature’s track record is uneven with respect to recent referred statutes, an overwhelming citizen vote would certainly make it hesitant to amend or change the will of the people.”

To require a vote of the people to create and amend urban growth boundaries will weaken democratic government and ultimately effective home rule. “How can we hold our leaders responsible if they can excuse themselves from leadership by claiming they are bound by the amendment and their hands are tied?” The growth amendment will really affect and limit local action on a range of critical decisions including capital budgets, social services, etc. “Will not a required frequent vote of the people also open city and county halls to special sometimes extreme interests on both sides of the growth continuum?” Put another way, will not growth advocates argue and try to convince cities to define extensive growth boundaries and will not “no-growth” advocates try to convince cities to minimize growth boundaries?

How does the initiative intend to resolve growth related conflicts between jurisdictions and between governments and private citizens as well as businesses? Doesn't the absence of any mention in the initiative of the state or region's role weaken an already weak state and regional role with respect to growth management? Will the initiative weaken home rule?

The supporters of the amendment acknowledged that many issues could not be resolved through an initiative. “In designing the initiative, we were governed by the single issue rule in Colorado. If we tried to add conflict resolution approaches to the initiative or if we included possible state and regional roles we would have been sidetracked by the legal review and the challenge to the initiative would have been intense. As it is, we will probably secure a court challenge. But the way the initiative is now crafted, we believe, will secure a positive court finding. The initiative is basically limited to the growth boundary subject.”

“We know we will have to go back to the legislature to fill in the missing pieces. We are committed to doing this. At this juncture, unless the legislature acts, the way the initiative is written will require conflicts to be resolved either on a voluntary basis, through jurisdictions themselves or through groups like the COG and the courts.” “The initiative may force regional cooperation. It may require a higher level of regional cooperation to resolve conflicts than before. This may be one of its positive effects.” “Extensive additions or amendments to formally strengthen state and regional roles with respect to growth and growth conflicts will have to be determined by the legislature. Even if we could have included them in the initiative, they likely would not have been accepted readily by the electorate. Colorado’s political culture resists strong state and regional governance.”

Initiative skeptics among participants agreed with the proponents concerning the constraints caused by the single issue rule. But they were worried about the lack of real consideration to issues related to conflict resolution. “It is likely that the courts will be more involved than they are now in making judgments concerning inter-jurisdictional disputes. This means increasing delays and costs. It also will place judges with little experience in a critical growth management role.”

Recent surveys indicate that the public may be willing to consider expanding state and regional roles with respect to growth and conflict resolution. Cities and counties cannot respond to many significant growth problems, particularly problems that don’t acknowledge borders (e.g., air pollution, water pollution, etc.). “We need a stronger state and regional role, yet in many respects the initiative, in not encompassing regional and state governance, will weaken such roles.” Given the reliance on citizen votes concerning growth boundaries and the relationship boundaries have to other key city or county functions like services and capital budgeting, “the initiative will weaken the ability of cities to develop a planned response to many city social, economic and indeed environmental problems. It will weaken home rule.”

How does the initiative intend to respond to problems it is likely to cause with respect to housing affordability? Will not the limitations on growth and the availability of land cause land prices to go up and as result housing costs go up even faster than they are at the present time? If a community decides to set its growth boundaries in a restricted manner, will it force workers to find affordable housing in other communities thus increasing sprawl?

Initiative supporters admitted that one of the unintended consequences or impacts of the initiative could be the rationing of land and the resultant increase in land and housing prices. “We understand that affordability difficulties could be increased because of the initiative. But, again, the single issue requirements prevented us from mandating through the initiative state actions that could respond to affordability issues.” “We will make housing

affordability one of our key agenda items to go back to the legislature if the initiative passes in November.” “We also realize that the initiative will do nothing to require cities and counties to link jobs to housing.” Hopefully, when citizens realize that the dissonance between jobs and work force housing generates sprawl, congestion and pollution, initiation of growth boundaries will be matched by local and state policies to coordinate job and housing development.

“We had to make some choices. Colorado is being hurt by how we are growing. State and local communities are not taking responsibility for the quality of our environment...the quality of our community...our wonderful natural resources. The growth initiative may not be perfect, but it is necessary.”

Maybe it is, maybe it isn't argued some individuals in Glenwood Springs. “We need to examine probable negative impacts of the initiative related to affordable housing and the absence of coordinated jobs-housing development. If we can foresee that the initiative will have harmful social and even environmental impacts, we ought to consider alternative approaches. Yes, the legislature was not responsive. But this does not mean that if we can get up a political head of steam before the next session and if we can build strong political coalitions, the legislature will be irresponsible next time. Maybe the initiative will scare our leaders into leading.”

“Sure if the initiative loses, the opposite result could occur; that is, the legislators could argue, see the people have spoken and they don't want growth controls. This is a risk.” It is difficult for the proponents of the initiative, however, to argue logically that they “will go back to the legislature to cure the problems with the initiative and argue simultaneously that we are forced to go the initiative route because the legislature has not acted appropriately.”

WHERE DO WE GO FROM HERE?

Clearly, most of the participants in Glenwood Springs were not prepared to either endorse or to oppose the initiative. Based on the discussions, the reasons for the initiative seemed understood by participants. The major questions and issues likely to be raised during the initiative campaign by Coloradans were subject to intense review.

Participants were asked what they would propose as a legislative agenda if the initiative was approved by voters and what they would propose as a legislative agenda concerning growth if the initiative was defeated by the voters. Surprisingly both agendas were relatively similar.

General consensus was reached that whether the initiative is enacted or not, the legislature should be asked to consider:

- 1) POLICIES AND PROGRAMS TO EXPAND AFFORDABLE HOUSING OPTIONS: Lack of affordable housing is a problem throughout the state. The Governor's proposals that were enacted by the legislature will be helpful, but they are

likely to produce only a marginal amount of affordable housing units. The Legislature should develop far more ambitious and comprehensive proposals that require jurisdictions to link jobs and affordable housing development and that provide a range of state assistance through the tax code, through expanded grants and loans, through infrastructure development for affordable housing.

- 2) POLICIES AND PROGRAMS TO EXPAND THE EFFECTIVENESS OF STATE AND REGIONAL GOVERNANCE: Real home rule means granting communities the ability to influence growth. At the present time, absence of effective comprehensive state and regional smart growth roles weakens each community's ability to respond to growth issues, particularly issues that transcend local boundaries. A stronger state and regional growth management role was viewed positively by participants. "More effective state and regional involvement in growth management would in effect strengthen home rule. It would allow communities and citizens to reduce the negative impacts, for example, of air pollution, congestion, water pollution, etc. It would permit a more strategic approach to open space and farm land preservation. It would allow states and regional governments to help direct growth, to some extent, to areas which need or want growth.

Many options were discussed including: consideration of a more aggressive state role with respect to water planning and development; possible initiation of state overrides of local actions that significantly impact carefully defined statewide interests; adding business and community representatives to regional governing entities such as COGs; permitting regional governing groups to review and perhaps approve local plans for consistency with regional policies, particularly concerning air quality, transportation, water, affordable housing, open space, agricultural land; encouraging and facilitating intergovernmental agreements.

Participants wanted to allow different regions more flexibility with respect to defining and structuring the roles and responsibilities of regional governing groups. "Right now we essentially have only one model-the COG model." COGs are weak and generally govern by consensus of their government members. They cannot take on tough issues. Some regions, like the intermountain area, may want to rethink their regional governance and develop different models to fit their needs.

- 3) POLICIES AND PROGRAMS THAT FACILITATE CONFLICT RESOLUTION: "We clearly need to develop effective conflict resolution mechanisms with respect to land use." Oregon and several other states have initiated approaches that despite problems seem to work better than Colorado's reliance on voluntary negotiations and the courts. "We should look at creating a pool of mediators

- identified as qualified by state or regional groups. We should consider a possible Land Use Board of Appeals either at the State or Regional level. We should evaluate the benefits and costs of permitting regional governments to step in to help resolve conflicts and to mandate resolution of conflicts if local governments cannot resolve conflicts themselves.”
- 4) POLICIES AND PROGRAMS TO REDUCE FISCAL DISPARITIES: Participants expressed disappointment that Speaker Russell George’s tax sharing legislation was not enacted by the legislature. They generally expressed a desire that the legislature develop legislation that would provide increased flexibility to develop tax base sharing programs on an inter-jurisdictional and metropolitan basis. They also urged at least consideration of a statewide tax base sharing initiative. “Reliance by governments on the sales tax forces harmful competition for commercial tax base and skews land use and infrastructure development decisions.” “If the economy turns south, reliance on the sales tax will negate smart growth policies and programs now on the books.” Reliance on the sales tax also places many communities not in growth areas at a disadvantage, particularly communities that must provide services to employees working in growth areas. “We have to find away to reduce competition between and among municipalities for the sales tax and for tax base. We also have to find away to lessen the resource disparities between jurisdictions.”
- 5) POLICIES AND PROGRAMS CONCERNING DEVELOPMENT: Homebuilders, particularly in the Denver metropolitan area, accepted the need for urban growth areas linked to comprehensive planning. Their acceptance of stronger planning efforts at the local level and urban growth areas, however, was related to their desire for a presumption of buildability within growth boundaries. “We should have at least the presumption that we can build in jurisdictionally defined growth areas if our plans fit local plans.” A presumption is not a guarantee. But it likely will shift the burden of proof with respect to denial of permits to jurisdictions and may generate expedited reviews. To participants in Glenwood Springs, this seems like a fair arrangement—one at least worthy of consideration by the legislature.
- 6) POLICIES AND PROGRAMS CONCERNING TRANSPORTATION: Lack of efficient accessible transportation facilities is becoming a major problem in the intermountain area. It shows up as congestion, as extended journeys to work, as air pollution. It also shows up in individual resource deficient communities as potholes, as faulty drainage systems, as delays and difficulties in accessing major thoroughfares and as over reliance on the automobile. The legislature should require a comprehensive intermountain area transportation study. It should involve state and regional as well as local government officials. It also should involve community leaders. The study would encompass strategies to

link growth and development objectives to alternate transportation modes including transit, air, bus, train, monorail, autos, bikes and walking. Study proposals would be explicitly related to alternate but integrated funding sources—federal, state, local, private, foundation, etc.

If the initiative is not approved by the voters, participants in Glenwood Springs, in addition to the recommendations above favored asking the legislature to require more effective comprehensive jurisdictional planning and the creation of urban growth areas within locally developed comprehensive plans.

Right now, comprehensive plans are primarily advisory and, many times, carry little weight. Often they are not effective smart growth tools and mute a community's ability to influence its future. "We will need to assure better comprehensive planning at the jurisdictional level. Plans need to be tied to budgets and an area's regulatory framework." "We also will need to do a better job than we have in requiring "concurrency;" that is, the assured relationship between availability of services and development. This is the reason why communities should define urban growth areas within which infrastructure must be available simultaneous with growth and outside of which growth will be limited by the jurisdiction."