

# Grassroots Consensus Building and Collaborative Planning

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## I. INTRODUCTION

More than one thousand Los Angeles residents made history on February 5, 2000 at the first Los Angeles Neighborhood Convention, as perhaps the most ambitious neighborhood collaborative planning effort got underway.<sup>1</sup> The convention capped months of organizational planning following a June 1999 election in which a new city charter mandating the creation of neighborhood councils was adopted.<sup>2</sup> While persons who attended the convention appeared

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The author is honored to participate in this tribute to Dan Mandelker. From the time I first met him thirty years ago when I was a young lawyer with the Legal Services Program in St. Louis and needed a briefing on housing and community development programs, he has encouraged me and supported my efforts.

In 1982 he invited me to join his successful casebook on State and Local Government Law as a co-author. That invitation gave me the confidence to pursue legal writing in a serious manner. We have collaborated on three editions of the book, as well as other projects. The legacy of his fifty year career, reflected in the number of former students who are leaders in the land use and development fields and in the hundreds of articles and books he has published, truly is remarkable.

1. Monte Morin, *First Meeting Held on Local Empowerment*, LOS ANGELES TIMES, Feb. 6, 2000, at B3.

2. Article IX, Office of Neighborhood Empowerment and Neighborhood Councils, Draft Unified Los Angeles City Charter, January 27, 1999, approved June 6, 1999 (copy on file with author). Todd S. Prudum, *Los Angeles Reinvents Itself: Adopting New City Charter*, L.A. TIMES, June 10, 1999, at A20.

The organizational effort to include the neighborhood councils provision in the new Los Angeles City Charter is analyzed in Mary Weiss Creith, *Neighborhood Councils: Implications for Public Participation in the City of Los Angeles* (March 16, 1999) (Senior Project) (copy on file with the author). Ms. Creith, a student in the Department of Urban and Regional Planning, California State Polytechnic University Pomona at the time she wrote this paper, traces the history of the neighborhood planning movement in Los Angeles, compares it to efforts in other cities, and concludes that neighborhood councils would encourage greater public participation

more interested in street cleaning, storm drainage, and sidewalks than in local government theory,<sup>3</sup> the meeting was a significant milestone for the collaborative planning movement. As the first public step in implementing the new Los Angeles City charter provisions concerning neighborhood development, it inaugurates perhaps the largest test of neighborhood collaborative planning to date.

One of the identifiable forces shaping the effort to redefine American cities at the beginning of the new millennium is the neighborhood collaborative planning movement. In some ways an updated version of the advocacy planning movement of the 1960s, neighborhood collaborative planning blends computer-based neighborhood indicator systems technology<sup>4</sup> and alternative dispute resolution consensus-building techniques<sup>5</sup> with traditional planning theories and processes. The result is an effort to engage a broader segment of the community in a participatory democratic process<sup>6</sup> than has been possible through "more traditional, city-sponsored, staff-developed neighborhood plans."<sup>7</sup>

The interest in neighborhood collaborative planning stems in part from a quarter century of federal governmental efforts to decentralize domestic social programs, beginning with the Community Development Block Grant program<sup>8</sup> and continuing through the current Empowerment Zone,<sup>9</sup> HOPE VI,<sup>10</sup> and Temporary Aid to Needy Families (TANF)<sup>11</sup> programs. It is also driven by the natural

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in the affairs of the city.

3. Monte Morin, *supra* note 1.

4. G. Thomas Kingsley, *Neighborhood Indicators: Taking Advantage of the New Potential*, available at <[http://www.planning.org/plnginfo/1998casey.html\\*papers](http://www.planning.org/plnginfo/1998casey.html*papers)> (paper written for an October, 1998 symposium sponsored by the Neighborhood Collaborative Planning Project of the American Planning Association).

5. Judith E. Innes, *Planning Through Consensus Building: A New View of the Comprehensive Planning Ideal*, 62 J. AM. PLAN. ASS'N 460 (1996).

6. Howell S. Baum, *Ethical Behavior Is Extraordinary Behavior; It's the Same as All Other Behavior: A Case Study in Community Planning*, 64 J. AM. PLAN. ASS'N 411, 420 (1998).

7. Michelle Gregory, *Anatomy of a Neighborhood Plan: An Analysis of Current Practice, Modernizing State Planning Statutes: The Growing Smart Working Papers*. 2 APA 193 (1998).

8. 42 U.S.C. § 5301 (1994).

9. Revenue Reconciliation Act of 1993, Pub. L. No. 103-66, § 13301.

10. 42 U.S.C. § 1437 l note (1994).

11. Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L.

desire of persons everywhere to take control of the environment in which they live.<sup>12</sup>

In addition, neighborhood collaborative planning is a factor in efforts to articulate a legal alternative to the city/suburb dichotomy that would include rather than exclude persons who are “different.”<sup>13</sup>

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No. 104-193, 110 Stat. 2105 (1996) (adding Block Grants for Temporary Assistance for Needy Families, §§ 101-115, striking §§ 401-417 of Part A of Title IV of the Social Security Act, 42 U.S.C. §§ 601-617 (1994) and adding new sections §§ 401-417, 419, 1108).

12. A major issue in the debate over Los Angeles City charter reform was the question of empowerment. Organizers of an effort in the San Fernando Valley to secede from Los Angeles City proposed neighborhood councils with elected representatives that would have some decision-making authority. Supporters of the appointed advisory council approach argued that focusing more attention on standards of inclusivity in the appointment process would be more empowering in the long run. A compromise was struck so that only one proposal would be on the ballot, but the secessionist movement continues. Creith, *supra* note 2, at 20-24 (citing Molly Selvin, *Interview: Erwin Chemerinsky* [Elected City Charter Reform Commission Chair] and *George Kieffer* [Appointed City Charter Reform Commission Chair], L.A. TIMES, Jan. 17, 1999, at M3 (Chemerinsky, “There’s a real cry in this city for empowerment”); Steven P. Erie & Kevin F. McCarthy, *City Charter: A Remake That Won’t Repeat The Success of Its Original*, L.A. TIMES, Nov. 29, 1998, at M1; Daniel P. Garcia, *Commentary, Promoting a False Promise*, L.A. TIMES, Oct. 23, 1998, at B9; Bill Boyarsky, *Giving Political Power Back to the Neighborhoods*, L.A. TIMES, Jan. 26, 1998, at B1).

13. GERALD E. FRUG, CITY MAKING: BUILDING COMMUNITIES WITHOUT BUILDING WALLS (1999). Frug proposes redefining cities as “situated subjects” within a region or as “postmodern subjects” in which legal boundaries would give way to collaborations by people with similar interests throughout a region. In the situated subject model, new regional legislatures would be created that would promote interlocal collaboration in land use decisions and delivery of public services. Neighborhoods would be important in this model because representatives from the neighborhoods would serve on the regional legislatures. *Id.* at 73-91. In the “postmodern subject” models, neighborhoods identified by place would be de-emphasized in place of coalitions of people uniting around common problems. In both models, “[d]ecentralization would be designed to foster public freedom and community building rather than mimic state or national power on the local level.” *Id.* at 111.

The Congress of the New Urbanism (CNU), an organization “committed to addressing the social and economic implications of design decisions” states in its Charter that: “The neighborhood, the district, and the corridor are the essential elements of development and redevelopment in the metropolis. They form identifiable areas that encourage citizens to take responsibility for their maintenance and evolution.” CONGRESS OF THE NEW URBANISM, CHARTER OF THE NEW URBANISM (Michael Leccese & Kathleen McCormick, eds.) 1, 73 (2000). CNU’s places the neighborhood, the district, and the corridor in the “middle scale” between the region, “the largest scale,” and the block, the street, and the building, “the smallest scale” of its Charter. *Id.* at 13, 71, 121. Neighborhood collaborative planning will be an essential ingredient in implementation of CNU’s vision for the middle scale.

But not all observers are optimistic about the potential for meaningful change in the “sprawling” nature of most major metropolitan areas. *See, e.g.*, William W. Buzbee, *Urban Sprawl, Federalism, and the Problem of Institutional Complexity*, 68 FORDHAM L. REV. 57 (1999) (containing an exhaustive review of the economic, political, and social forces influencing urban sprawl and concluding that “[s]ustained and effective anti-sprawl measures,

The effort at redefining urban life to respond to its alienating features has for the most part been a centralized movement led by public and private leadership. This approach tends to devise programs based on political principles and fiscal priorities of the decision makers. Neighborhood collaborative planning attempts to balance this approach with a decentralized, participatory process designed to encourage decision making based on a broader community perspective.

This article will review briefly some of the legal mechanisms being used to foster neighborhood collaborative planning. Two strategies for achieving the goals developed through these mechanisms will be examined: (1) the confrontation model and (2) the consensus building approach.<sup>14</sup> The importance of developing capacity by neighborhood organizations will be stressed and the role of lawyers in both models, as well as in capacity building, will be examined. Neighborhood collaborative planning can be a useful way for residents to take part in governmental decision making, particularly in large cities where distance and complexity of the governmental process may make it difficult for ordinary citizens to participate. Neighborhood collaborative planning is not a panacea for the ills of local government, neither can it be considered a substitute for a vibrant local government. It can, though, be a useful technique for giving residents a feeling that they have a stake in the outcome of decisions that may be made about their community, as well as a way to participate in the decision-making process. In addition, it can be an effective technique for information transfer, both up from the neighborhood to city officials, and down from city officials to the neighborhood.

## II. NEIGHBORHOOD COLLABORATIVE PLANNING DEFINED

For over thirty years neighborhood planning and development activities have played important roles in repeated efforts to combat poverty and decay in the American city. The current neighborhood collaborative planning movement has roots in three programs and

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however, have been and are likely to remain a rarity”).

14. See *infra* notes 73-89 and accompanying text.

activities of the 1960s: 1) the federal Community Action Program (CAP) of the Kennedy-Johnson War on Poverty,<sup>15</sup> 2) the Community Development Corporation (CDC) movement initiated in 1967 by the Bedford Stuyvesant Restoration Corporation of New York,<sup>16</sup> and 3) the advocacy planning movement that was incorporated into the Federal model cities program.<sup>17</sup> A common denominator of these three programs and activities was the effort to involve directly the residents of low income communities in decisions affecting their neighborhoods. However, because the Federal programs providing the money for local planning and development efforts were top-down designed programs, and the officials in charge of these programs, as well as local elected officials, had little experience in collaborative decision-making with low income residents, the CAP agencies and the model cities program soon foundered on unrealistic expectations and insufficient resources.<sup>18</sup>

The ideal of resident participation in decisions affecting their neighborhoods, however, did not die. The CDC movement grew in fits and starts during the 1970s, 1980s, and 1990s. Neighborhood planning was reborn with the major decentralization of Federal programs begun in the Reagan Administration and carried forward in the Bush and Clinton Administrations, culminating in the Empowerment Zone, Hope VI, and TANF programs.<sup>19</sup> For

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15. See DANIEL P. MOYNIHAN, *MAXIMUM FEASIBLE MISUNDERSTANDING* (1969) for a critical history of the CAP program.

16. See DAVID RUSK, *INSIDE GAME OUTSIDE GAME: WINNING STRATEGIES FOR SAVING URBAN AMERICA* 17-36 (1999) (reporting that while the CDC movement has grown to more than two thousand not-for-profit corporations across the country, the community served by the "grandfather" of all CDCs "is poorer today than when Restoration began"). See also Avis C. Vidal, *Can Community Development Re-Invent Itself?*, 63 J. AM. PLAN. ASS'N 429 (1997).

17. The Demonstration Cities and Metropolitan Development Act of 1966, Pub. L. 89-754, 80 Stat. 1255 (1966). Model Cities was a short-lived program of the Johnson Administration that was superseded by the Community Development Block Grant (CDBG) program created in 1974 and codified at 42 U.S.C. § 5301ff (1994).

18. The author was an attorney for the St. Louis Model City Agency when its first year program application was prepared. A major part of the application process was a weekend "neighborhood charette" in which neighborhood planners encouraged residents of the five St. Louis model city neighborhoods to propose programs. Residents participated enthusiastically in the charette. When the financial people put numbers to the proposals suggested by the residents, however, the total proposed budget exceeded the program Model Cities appropriations for the entire country. Obviously the grant application had to be scaled back drastically.

19. The heart of the decentralization effort is the Temporary Assistance to Needy Families

decentralization to succeed state and local governments needed to be retrained, and neighborhood organizations needed to be cultivated and strengthened. Neighborhood planning advocates found city officials increasingly receptive to their ideas as cities groped with the Federal decentralization movement.

Seattle's Neighborhood Planning Office defines neighborhood collaborative planning as "an experiment in participatory democracy and growth management planning built upon the city's tradition of progressive politics and strong citizen activism." Such planning offers citizens opportunities to "work collaboratively on the future of their communities . . . to explore . . . strategies . . . that may strengthen communities rather than diminish them to affect certain aspects of governance..and to learn about the complex nature of policy and strategic issues for their neighborhoods and the costs and benefits of choosing different alternatives to achieve potential outcomes."<sup>20</sup>

Michelle Gregory, Neighborhood Services Coordinator and Public Information Officer for Milwaukie, Oregon and a former APA research associate, defines neighborhood collaborative planning as "planning in which multiple city departments, community

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(TANF) program, enacted in 1996 to replace the controversial entitlement grants of the Aid to Families with Needy Children (AFDC) program with block grants to states to implement "welfare to work" programs. Personal Responsibility and Work Opportunity Reconciliation Act of 1996, §§ 101-103, 42 U.S.C. §§ 601-609 (1994). The decentralization policy grew out of a major effort begun in the Reagan Administration to "privatize" domestic social programs. *See, e.g.,* PRESIDENT'S COMMISSION ON PRIVATIZATION, *PRIVATIZATION: TOWARD MORE EFFECTIVE GOVERNMENT* (1988); Peter W. Salsich, Jr., *Solutions to the Affordable Housing Crisis: Perspectives on Privatization*, 28 JOHN MARSHALL L. REV. 263, 275-88 (1995). *See also* U.S. DEP'T OF HOUSING & URB. DEV., *EMPOWERMENT, A NEW COVENANT WITH AMERICA'S COMMUNITIES: PRESIDENT CLINTON'S NATIONAL URBAN POLICY REPORT* (1995); U.S. DEP'T OF HOUSING & URB. DEV., *BEYOND SHELTER: BUILDING COMMUNITIES OF OPPORTUNITY (THE UNITED STATES REPORT FOR HABITAT II) 18-22* (1996) (describing the Clinton Administration's program of tax credits and other federal incentives for business development in inner cities under the popular names of empowerment zones and enterprise zones). For a caution that economic development programs will not materially improve the lives of low-income inner city residents unless the structural realities of inner city life are addressed, see Audrey G. McFarlane, *Race, Space, and Place: The Geography of Economic Development*, 36 SAN DIEGO L. REV. 295 (1999).

20. Robert Scully, *Neighborhood Planning: Revitalization of Seattle's Neighborhood's Through Citizen-Based Planning 1-2* (1998) (unpublished paper, copy on file with author). *See also* MARK L. HINSHAW, *CITISTATE SEATTLE: SHAPING A MODERN METROPOLIS* (1999); Clair Enlow, *Seattle: Small Is Still Beautiful, Planning*, 65 APA 4 (1999).

organizations, citizens, local stakeholders, and service providers . . . coordinate[] their efforts to deliver a wide range of quality services at the neighborhood level and to provide a more responsive, interactive environment for residents to express their concerns and needs.”<sup>21</sup>

As noted above, neighborhood collaborative planning has several elements. Consensus-building, perhaps its key element:

is a method of group deliberation that brings together for face-to-face discussion a significant range of individuals chosen because they represent those with differing stakes in a problem. Facilitators, training for participants, and carefully designed procedures are intended to ensure that the mode of discourse is one where all are heard and all concepts are taken seriously.<sup>22</sup>

### III. NEIGHBORHOOD COLLABORATIVE PLANNING ISSUES<sup>23</sup>

Neighborhood planning raises several issues:

- 1) whether and to what extent neighboring residents have legitimate interests in decisions affecting the use and development of private property;
- 2) the credentials of groups purporting to represent such community interests;
- 3) the ability of nongovernmental organizations to implement plans developed for a particular neighborhood;
- 4) the appropriate accountability for use of public funds by nongovernmental organizations; and
- 5) the extent to which nongovernmental organizations should be delegated traditional governmental functions.

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21. Gregory, *supra* note 7, at 193.

22. Innes, *supra* note 5, at 461.

23. An earlier version of this section appeared in Peter W. Salsich, Jr., *Implementing Local and Neighborhood Plans Through Neighborhood-Based Organizations*, modernizing state planning statutes: the growing smart working papers, 2 APA 227 (1998) (reprinted with permission).

Traditional participation by neighborhood organizations, while a "fact of life," has been "highly informal and disorganized."<sup>24</sup> Dr. Henry Schmandt has identified five models of citizen participation: 1) exchange model (communication, ideally both ways), 2) bureaucratic model (delegation of program authority), 3) modified bureaucratic model (responsibilities flow both to delegating agencies and to neighborhood residents), 4) development model (responsible for development activities and service delivery), and 5) governmental model (legal powers delegated to governmental sub-units).<sup>25</sup> Such participation may be narrowly focused on excluding perceived threats to the neighborhood, the extreme of which is the "not-in-my-backyard" (NIMBY) syndrome. It also may be part of a broader effort to improve or revitalize the neighborhood. Neighborhood development corporations, organized as nonprofit legal entities under state law, provide a formal structure for citizen participation in neighborhood planning and development, but citizen members of such organizations must assume legal responsibility for business and service functions<sup>26</sup>

#### IV. ESTABLISHING NEIGHBORHOOD PLANNING AND IMPLEMENTATION JURISDICTION

Use of nongovernmental, neighborhood-based organizations to prepare and implement neighborhood plans is an example of "privatization" of a governmental activity. Local governments have had considerable experience in collaborating with, and delegating public functions to, other governmental entities and private business organizations. Cooperative ventures between cities and other local governments are commonly authorized by state constitutions and laws.<sup>27</sup> Likewise, an increasing number of states are authorizing governments to enter into agreements with developers that establish

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24. ALI Model Land Development Code, § 2-307 note (1974).

25. Henry J. Schmandt, *Decentralization: A Structural Imperative*, in NEIGHBORHOOD CONTROL IN THE 1970S 17-26 (George Frederickson ed., 1973).

26. *Id.* at 24.

27. *See, e.g.*, Ill. CONST. art. VII, § 10(a); MINN. STAT. ANN. § 471.59(1)(1994); N.Y. CONST. art. IX, § 1(c)(1994); OKLA. STAT. ANN. tit. 74, § 1004(a).



the rules by which development proposals will be evaluated.<sup>28</sup>

Nongovernmental, neighborhood-based organizations do not fit neatly into either category of collaboration because of their traditional informality of organization and uneven track record. Some state and local governments, drawing on the experiences of successful neighborhood planning and development organizations, have established standards for defining jurisdictions and delegating functions to neighborhood organizations.

### *Atlanta*

The Atlanta City Code directs the department of budget and planning to designate Neighborhood Planning Units (N.P.U.s), defined as geographic areas composed of one or more contiguous neighborhoods that are based on criteria established by the department and approved by the city council. N.P.U.s may comprise as many, or as few, neighborhoods as practicable and may cross council district boundaries. In designating N.P.U.s the department must consider existing citizen organization boundaries and must establish a process for neighborhood boundary change. A neighborhood planning committee is established within each N.P.U. with authority to “recommend an action, a policy or a comprehensive plan...on any matter affecting the livability of the neighborhood.” Voting membership is open to all residents over eighteen and all organizations owning property or having a place of business or profession within the N.P.U.<sup>29</sup>

### *Connecticut*

Connecticut authorizes municipalities to establish, by resolution of their legislative bodies, neighborhood revitalization zones in which neighborhood groups may develop a “collaborative process for federal, state and local governments to revitalize neighborhoods. . . .”

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28. See, e.g., CAL. GOV'T CODE, §§ 65864-65869.5; FLA. STAT. ANN. §§ 163-3220-3242; Judith Wegner, *Moving Toward the Bargaining Table: Contract Zoning, Development Agreements, and the Theoretical Foundations of Government Land Use Deals*, 65 N.C.L. 957, 994-1003 (1987).

29. Atlanta City Code, §§ 6-3011-6-3019.

Neighborhoods eligible for this process must be ones in which “there is a significant number of deteriorated property and property that has been foreclosed, is abandoned, blighted or is substandard or poses a hazard to public safety.” Cities adopting such resolutions facilitate the neighborhood planning process by making available pertinent information, modifying municipal procedures, and establishing a process for determining neighborhood revitalization zone boundaries.<sup>30</sup>

Following the passage of a neighborhood revitalization planning resolution, a neighborhood revitalization planning committee is organized to develop both a short and a long-term plan for the neighborhood. Membership must “reflect the composition of the neighborhood,” with residents making up a majority of the committee. A municipal official may be appointed as a voting member by the mayor or chief executive official. The plan must be designed to promote the following legislatively-articulated goals: “self-reliance in the neighborhood and home ownership, property management, sustainable economic development, effective relations between landlords and tenants, coordinated and comprehensive delivery of services to the neighborhood and creative leveraging of financial resources and . . . neighborhood capacity for self-empowerment.”<sup>31</sup>

Two interesting features of the Connecticut legislation are authorizations for waivers of state and local environmental, health, and safety codes “that unreasonably jeopardize implementation of the plan,” and the appointment of receivers to collect rents and bring to code compliance deteriorated property in neighborhood revitalization areas.<sup>32</sup> Waivers may be granted by officials responsible for state or local code enforcement following receipt of a request for a waiver approved by majority vote of a neighborhood revitalization zone committee at a public meeting and a public hearing conducted by the responsible code enforcement official. Waivers may be granted upon a showing that the provision sought to be waived “jeopardizes implementation of the neighborhood revitalization plan,” that

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30. CONN. GEN. STAT. ANN. § 7-600 (1995).

31. *Id.* § 7-601(a), (b).

32. *Id.* §§ 7-605, 7-606.

“requirements for alternate measures to replace the standard to be waived” can be implemented, and that a waiver will “not create a substantial threat to the environment, public health, safety or welfare of the residents and occupants of the neighborhood.”<sup>33</sup> Receivers may be judicially appointed upon petition by a municipality containing a neighborhood revitalization zone, and following a public hearing called within three to ten days after issuance of a show cause order at which the need for a receiver, the conditions of the property and the cost to bring the property into code compliance are considered.<sup>34</sup>

### *District of Columbia*

The District of Columbia code authorizes the creation of Advisory Neighborhood Commissions (ANCs) following receipt of a petition signed by five percent of the registered voters in a previously designated neighborhood commission area. Commission members are chosen in nonpartisan elections that are administered by the D.C. Board of Elections and Ethics. ANCs have authority to employ staff and receive and expend public funds for public purposes within the area. They are organized to give advice on matters of public policy, including planning, streets, recreation, social services programs, health, safety, and sanitation in the neighborhood commission area. The statute requires the D.C. government to allot funds to the ANCs from District general revenues, with the amount of the funds allocated based on the population ratio of the neighborhood of the District. The District Council is required to establish procedures and guidelines for handling funds and accounts and for employing people—efforts that are to replicate the regular budgetary and auditing procedures and the employee merit system of the District as far as practicable.<sup>35</sup>

The District of Columbia code also provides for Neighborhood Planning Councils (NPCs), two per election ward with jurisdictional boundaries drawn by the mayor after each decennial census to be approximately equal in population. NPC elections are held in even

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33. *Id.* § 7-605.

34. *Id.* § 7-606.

35. D.C. CODE §§ 1-251-270.

numbered years on a date set by the mayor through rule making. NPCs have the authority to participate in the “development, implementation, and evaluation of programs for children and youth.”<sup>36</sup>

### *Los Angeles*

On June 6, 1999 voters in Los Angeles approved a new city charter.<sup>37</sup> Article IX of the new charter established an Office of Neighborhood Empowerment, with responsibilities to plan and assist in the creation of a “citywide system of neighborhood councils.”<sup>38</sup> The Neighborhood Convention discussed above was the first public step in this process.<sup>39</sup> The plan must include proposed regulations in draft ordinance form to implement the plan. A system for determining neighborhood council boundaries is to be included in the regulations. Neighborhood boundaries shall be maintained “to the maximum extent feasible” and community planning district boundaries may be considered “where appropriate.”<sup>40</sup> All areas of the city are to be given “an equal opportunity to form neighborhood councils.”<sup>41</sup> The procedure and criteria for recognition and certification of neighborhood councils are to be established by regulations, including a requirement that neighborhood councils adopt “fair and open procedures for the conduct of their business.”<sup>42</sup>

Following receipt of the plan, the city council has six months to consider the regulations and adopt ordinances to implement the regulations as drafted or as modified by the council. The proposed regulations become binding on city officials if the council fails to act within the six month period.<sup>43</sup>

Neighborhood councils have the right to give advice to city

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36. *Id.* §§ 1-2601-1-2611.

37. Todd S. Purdum, *Los Angeles Reinvents Itself, Adopting New City Charter*, L.A. TIMES, June 10, 1999, at A20.

38. Draft Unified Los Angeles City Charter, art. IX, § 901 (1999) (copy on file with author).

39. *See supra* note 1.

40. Draft Unified Los Angeles City Charter § 903(b), (c).

41. *Id.* at § 903(d).

42. *Id.* at § 903(e), (f).

43. *Id.* at § 904.

officials concerning “local matters” under procedures to be established by the regulations and to present an annual list of budget priorities to the mayor and council.<sup>44</sup> Local matters “include decisions that may potentially impact a neighborhood or area residents,” as defined by the regulations.<sup>45</sup> The city council may grant “decision-making authority” by ordinance to neighborhood councils for specified local matters.<sup>46</sup>

Neighborhood councils seeking recognition from the city must submit a plan and by-laws providing “at a minimum:” (1) officership is open to all residents, workers, and property owners of the neighborhood (stakeholders), (2) assurance that officers “will reflect the diverse interests” of the neighborhood, (3) a system for regular communication with stakeholders, (4) a system for financial accountability of its funds, and (5) guarantees that all meetings will be open and that all stakeholders will be permitted to “participate in the conduct of business, deliberation and decision-making.”<sup>47</sup> Evaluation of the charter provision, the regulations, and the “efficacy of the system of neighborhood councils” must be conducted within five years after implementation of the plan. In the meantime, the “powers, duties or functions” of the Office of Neighborhood Empowerment may not be transferred to other agencies.<sup>48</sup>

### *Minnesota*

Minnesota statutes authorize first-class cities (Minneapolis and St. Paul) to establish neighborhood revitalization programs (NRPs) and to expend funds generated by tax increment financing for those programs.<sup>49</sup> Neighborhood planning workshops organized by city officials are responsible for preparing neighborhood action plans. These workshops must be conducted in such a way that available resources, information, and technical assistance are presented to interested persons in the neighborhood.

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44. *Id.* at § 908.

45. *Id.* at § 906.

46. Draft Unified Los Angeles City Charter § 907.

47. *Id.* at § 905.

48. *Id.* at §§ 910, 911.

49. MINN. STAT. ANN. § 469.1831 (West 1994).

NRP cities must establish a policy board made up of representatives of governmental agencies within the city, such as the city council, county board, school board, citywide library and park board, mayor or his designate, and representatives from the city's house of representatives and state senate delegations. The policy board may also include representatives of citywide community organizations, neighborhood organizations, business owners, labor, and neighborhood residents, when invited by the governmental members of the policy board.

The policy board is delegated the authority to enter into contracts and expend funds, and is authorized to enter into agreements with governmental agencies and with nongovernmental organizations represented on the policy board for services required to implement the NRP plan. Plans prepared by neighborhood planning workshops are submitted to the policy board, which has jurisdiction to review, modify, and approve those plans. The policy board forwards its recommendations for final action to the governing bodies of the governments represented on the policy board. Final approval is given by the governing bodies that have programmatic jurisdiction over specific aspects of the plan.

### *Minneapolis*

In Minneapolis involvement in the neighborhood revitalization program has grown from six of the city's eighty-one neighborhoods in February 1991 to seventy-nine in January 1995. In 1992 the NRP expended almost \$2.9 million in Minneapolis neighborhoods. That amount increased to \$9.1 million in 1994. By February 1995 ten neighborhood plans were approved and were being implemented, and sixty-nine of the remaining seventy-one neighborhoods were developing their plans.<sup>50</sup>

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50. CITY OF MINNEAPOLIS, NEIGHBORHOOD REVITALIZATION PROGRAM, BUILDING COMMUNITY BY BUILDING PARTNERSHIPS 1, 19 (1995). By late 1999 the Minneapolis program was moving into a second phase in which planners will seek to align city wide priorities and neighborhood strategies. One commentator has observed that "this shift will test the city's commitment to granting power to neighborhoods in planning decisions. Either the city's efforts to direct the plans with a heavier hand will limit the autonomy of the neighborhoods in the process, or the city will take its cues from the neighborhoods on overall plans and direction."

*Saint Paul*

The City of St. Paul established a citywide citizen participation process by resolution of the city council in October 1975. Seventeen citizen participation districts were established. District lines were drawn by neighborhood rather than population by a task force of neighborhood residents. Districts receive funds from the city through contracts. The range of funding is between thirty-three thousand and forty-three thousand per year, with a total of \$658,718 allocated for the city in 1995. Sources of funds include community development block grants (CDBG), city general funds, and transfers from other funds. Membership of the district neighborhood council is fifteen, although each district determines the number by its council bylaws. District councils plan and advise on physical, economic, and social development of its area as well as on citywide issues, and they receive formal notification of pending city actions that will affect individual council areas.<sup>51</sup>

*Missouri*

The welfare reform movement, begun in the states and adopted by Congress in a new block grant program in 1996<sup>52</sup> has triggered renewed interest in neighborhood collaborative planning. For example, the Missouri legislature has enacted a program to encourage the “development and use of community-based systems of support” to alleviate poverty and improve the quality of life for residents in the community.<sup>53</sup> Community is defined as “an area of similar and like interests for developing an infrastructure that supports a self-sufficiency pact (required by the state and national welfare reform legislation), while reducing the need for welfare except as a transitional benefit.” A community can include “a group of blocks or

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Winton Pitcoff, *Planning Power*, XXI(6) SHELTERFORCE 23, (1999).

51. CITY OF ST. PAUL NEIGHBORHOOD AND HOUSING DIVISION, PROFILES: CITY OF ST. PAUL CITIZEN PARTICIPATION PLANNING DISTRICTS 2 (1994).

52. Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, 110 Stat. 2105 (1996) (adding Block Grants for Temporary Assistance for Needy Families, §§ 101-115 and striking §§ 401-417 of Part A of Title IV of the Social Security Act, 42 U.S.C. §§ 601-617 (1994) and adding new §§ 401-417, 419).

53. MO. ANN. STAT. § 208.335 (West 1996).

a self-defined neighborhood.”<sup>54</sup>

The Department of Social Services has statutory responsibility for developing, in collaboration with the Department of Economic Development, Department of Labor and Industrial Relations, Department of Health, Department of Mental Health, and other agencies, “a comprehensive methodology to focus a blend of federal, state and local resources on communities to address issues of poverty specific to the community.”<sup>55</sup> As a result of this legislation, a number of regional Community Partnerships have been established. The St. Louis partnership, Area Resources for Community and Human Services (ARCHS), describes itself as a “local collaborative partnership” with seven state agencies and the private sector. The Missouri Community Partnerships program has established the following outcomes: “parents working, children and their families safe in their communities, children and families healthy, children ready to go to school, succeeding in school, graduating and entering the work force as productive citizens.”<sup>56</sup>

#### *The St. Louis Sustainable Neighborhoods Initiative*

In December, 1998 ARCHS participated in a joint announcement with St. Louis 2004, a non-profit citizens and civic organization, presenting the Sustainable Neighborhood Initiative and identifying the first nine sustainable neighborhood clusters in the St. Louis metropolitan area. The Sustainable Neighborhoods Initiative is one of eleven projects in the five-year St. Louis 2004 Action Plan, designed to commemorate the 100<sup>th</sup> anniversary of the 1904 St. Louis World Fair. ARCHS and a second non-profit organization, the Regional Housing and Community Development Alliance (RHCD), are coordinating the planning and implementation processes, including the use of \$751 million in investments and loan commitments made by eighteen St. Louis area banks and financial institutions for new

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54. *Id.* § 208.335.2 (1).

55. *Id.* § 208.335.3.

56. ARCHS, NEWS & COMMUNITY INFORMATION NEWSLETTER Dec. 1998. A corresponding regional collaborative in the Kansas City, Missouri area is the Kansas City Local Investment Commission (LINC). LINC, COMMISSIONER REPORT 3 (1997) (copy on file with author), available at <[www.kclinc.org/generalinfo/vision.html](http://www.kclinc.org/generalinfo/vision.html)>.



and rehabilitated housing, new business development, and job creation in the neighborhoods, along with state and federal funds for social services coming through the Missouri Community Partnership program and foundation grants.<sup>57</sup>

The first step in the Sustainable Neighborhoods process is the formation of Neighborhood Leadership Teams to guide planning efforts in each of the sustainable neighborhoods. In neighborhoods where planning already is underway, ARCHS and RHCDA have pledged to work with existing neighborhood leadership groups to build on existing plans and plans being developed.<sup>58</sup> Town hall meetings were held in 1999 to give residents an opportunity to work with the Neighborhood Leadership Teams in creating a single comprehensive plan for each neighborhood, containing both short and long-term goals.<sup>59</sup>

Nine neighborhoods were selected for the first round of sustainable neighborhood activity. Neighborhood leadership teams, currently ad hoc unincorporated organizations, have been established in eight of the nine neighborhoods. The ninth neighborhood has encountered delays in part as a result of differences of opinion with the Alderwoman for the neighborhood. Working with the neighborhood leadership team is a Service Coordination Team which is to be organized by the social service agencies who provide services to the neighborhoods.

In addition to the neighborhood entities, the Joint Operations and Oversight Committee, a joint venture of ARCHS and RHCDA, serves as the single point of decision making. This Joint Operations Committee has four co-chairs, two each from ARCHS and RHCDA. This organization has two basic functions, coordinate activities at the neighborhood level and coordinate the transfer of resources from the cooperating funding agencies. The funders have established a Resources Committee that is to meet quarterly. It also is an ad hoc, unincorporated organization.<sup>60</sup>

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57. ARCHS, *supra* note 56.

58. St. Louis 2004, Neighborhoods, *Financial Institutions, Community Organizations and Government Link Up to Revive St. Louis Area Neighborhoods* (Dec. 16, 1998), available at <[http://www.stlouis2004.org/newsreleases/archive/NR\\_12-16-98.html](http://www.stlouis2004.org/newsreleases/archive/NR_12-16-98.html)>.

59. *Id.*

60. St. Louis 2004, Sustainable Neighborhoods Initiative, Case Statement,

Five basic principals are guiding the sustainable neighborhood operations:

- 1) Housing, economic development, and human services must be accomplished in an integrated fashion.
- 2) Neighborhood residents must drive the planning and development effort.<sup>61</sup>
- 3) Neighborhoods need incentives to get involved; the implementation money, which will be established at the beginning of the effort, will provide that incentive.
- 4) The effort must be carried out on a limited, yet comprehensive basis, in order to show the entire region that sustainability is possible. The decision to start with nine neighborhoods was a compromise between two positions: start slow with one or two, or make a major impact by including another half dozen or so neighborhoods.
- 5) Rigorous evaluation is a necessary ingredient to a successful effort.<sup>62</sup>

### *Model Land Development Code*

The Model Land Development Code, approved in 1976 by the American Law Institute, an organization of lawyers, judges, and academics that compiles restatements of common law principles and recommends model legislation, authorizes “qualified neighborhood organizations” to participate in the land use planning and control process if the proposed neighborhood organization has articulated boundaries for its area of operation, represents more than half of the adults residing within the boundaries as evidenced by membership rosters, has at least fifty members, with full participating membership open to at least all registered voters within the boundaries, and at least fifty percent of the area within the boundaries was developed for

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Implementation Model and Proposed Organization. Letter from Jerry Altman, Regional Housing and Community Development Alliance, May 12, 1999 (copy on file with author).

61. *Id.*

62. *Id.*

residential use. Qualified neighborhood organizations may participate in administrative hearings, request and receive notices of pending land use activities, and bring judicial proceedings concerning land development and enforcement orders.<sup>63</sup>

### *Seattle, Washington*

The Washington Growth Management Act enacted in 1990 gave an indirect boost to neighborhood collaborative planning through its local comprehensive planning requirement.<sup>64</sup> In 1994, as part of the process of developing a comprehensive plan for the City of Seattle, a neighborhood planning process was proposed by citizens to support planning in the neighborhoods identified in the 1994 comprehensive plan as those expected to grow in the next twenty years.<sup>65</sup> During the next four years, thirty-seven separate neighborhood planning groups received funding from the city to complete neighborhood plans by the end of 1998. Each neighborhood planning committee was organized and led by residents of the respective neighborhoods. Contracts detailing scope of work, timelines, and budgets were negotiated, and funds provided by the city enabled the groups to retain their own consultants and administrative assistants.<sup>66</sup> By the end of 1998, ten neighborhood plans had been formally approved by city council ordinance and twenty-eight others were under review.

## V. IMPLEMENTING AGREEMENTS

Agreements between governmental units to implement regional plans and monitor the results of those plans offer a possible model for neighborhood planning.<sup>67</sup> Oregon statutes require counties and cities

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63. MODEL LAND DEVELOPMENT CODE, § 2-307 (1975).

64. WASH. REV. CODE ANN. § 36.70A.050 (1991).

65. Scully et al., *supra* note 20, at 2.

66. A generally favorable review of the Seattle experience identified some weaknesses in the process (some residents feeling left out, others believing the city ignored their plans) and cautioned that funding options to implement the neighborhood plans should be explored "during the (planning) process to move the collective daydreaming a few steps closer to reality." Karen Caruso, *Seattle Neighborhood Planning: Citizen Empowerment or Collective Daydreaming?* XXI(6) SHELTERFORCE 22,30 (1999).

67. AMERICAN PLANNING ASSOCIATION, 1997 REGIONAL AND INTERSTATE PLANNING, THE GROWING SMART<sup>SM</sup> LEGISLATIVE GUIDEBOOK PHASE II INTERIM EDITION CHAPTER 7, at

to enter into cooperative agreements with each special district that provides an urban service within an urban growth boundary. Agreements must describe the responsibilities of the respective governments for comprehensive planning, periodic review of land use regulations, and provision of urban services.<sup>68</sup> A similar approach might be taken with nongovernmental neighborhood associations organized and recognized under procedures similar to those recommended by the Model Land Development Code or contained in the Atlanta code, District of Columbia code, and the Minnesota statutes profiled above.

An implementing agreement should describe:

- 1) how the municipality will involve the neighborhood association or other participating nongovernmental organization in all phases of planning, including plan preparation, plan amendments, periodic review, and amendments to land use regulations;
- 2) the specific responsibilities of the neighborhood association in both the planning and implementation phases, including whether the neighborhood association will be responsible for writing all or a portion of the plan, and whether the neighborhood association will be expected to carry out all or a portion of the plan;
- 3) the relationship of neighborhood plans to citywide comprehensive plans; and
- 4) whether the neighborhood association will have a decision-making role in both the planning and implementation phases, or whether its role will be advisory.<sup>69</sup>

The implementing agreement also should establish rights and responsibilities with respect to expenditure of public funds, retention of staff and advisors, reporting requirements, and coordination with other interested parties.

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7-98-7-109.

68. ORS §§ 195.020, 195.060.

69. ORS § 195.020.

## VI. PARTICIPATION ISSUES

Neighborhood collaborative planning has become an extremely popular part of the local planning scene in the last few years. It is likely to continue and probably grow in popularity in the next few years. There are, though, some specific issues associated with participation in neighborhood collaborative planning that should be considered, over and above the obvious questions associated with the planning process. Three specific issues worth considering are ethical issues of inclusion, legal issues of voting, and participation alternatives.

### *A. Ethical Issue of Inclusion*

Neighborhood Collaborative Planning is by nature a bottom up program that assumes a wide range of interested persons coming together to discuss and develop a plan for achieving common goals. Community participation is endorsed by the planning profession as an ethical principle.<sup>70</sup> The ethical question that is raised in the collaborative planning context is what to do about the persons in the neighborhood who may not necessarily have the same views as the people who generally can be expected to come to meetings? How much effort should be spent in reaching all members of the community?

Howell Baum, a professor in the University of Maryland's Urban Studies and Planning program, highlighted the ethical dilemma in an article in the *Journal of the American Planning Association*.<sup>71</sup> In his article Professor Baum examined the community participation experience for the Southeast Baltimore area. Based on three years of field research with a community organization, including attendance at approximately thirty meetings and conducting over fifty interviews, Professor Baum came to the disturbing conclusion that despite the effort a major segment of the population, low income minority

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70. AMERICAN INSTITUTE OF CERTIFIED PLANNERS, AICP CODE OF ETHICS AND PROFESSIONAL CONDUCT (1991); Howell S. Baum, *Ethical Behavior is Extraordinary Behavior: It's The Same As All Other Behavior*, 64 J. AM. PLAN. ASS'N 411, 412 (1998).

71. Baum, *supra* note 70.

renters were not involved in the planning process.

Some may suggest that low income renters have no business being involved in the neighborhood planning and development process, because they do not have a sufficient stake in the neighborhood or because their lack of participation is evidence of a lazy and indifferent attitude about neighborhood matters. However, the opposite conclusion may be more accurate. Low income renters have to balance a host of pressures, including the pressure of survival without ending up on the streets. They have to be extremely industrious. For example, the National Low Income Housing Coalition reports that a person employed in a minimum wage job would have to work eighty-six hours per week in order to afford the national medium rent for a two bedroom apartment.<sup>72</sup>

Professor Baum suggested that planning leaders pay particular attention to supporting participants with a vision and by contributing realism about community conditions and possibilities. "Leaders can help by discussing difficult issues themselves and showing that nothing terrible results. They can encourage others to talk about their hopes and fears by explaining the inevitably disappointed consequences of avoiding what matters."<sup>73</sup>

### *B. Voting Power*

Closely related to the question of inclusion is the issue of who gets to vote on decisions that are made to implement the plans that are prepared? A recent case in the United States Court of Appeals for the Second Circuit illustrates the problem. A popular form of community planning, although not necessarily collaborative, is the establishment of Business Improvement Districts (BIDs) and Neighborhood Improvement Districts (NIDs). Most of the statutes that authorize the establishment of BIDs and NIDs base their authorization on actions taken by property owners to create the district and to agree to perform certain functions to carry out the

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72. National Low Income Housing Coalition, *Out of Reach: The Gap Between Housing Costs and Income of Poor People in the United States*, <[www.nlihc.org/oor99/](http://www.nlihc.org/oor99/)> (1999). See also Low Income Housing Group Reports Many Tenants Can't Afford to Pay Rent, 26 HOUS. & DEV. RPTR. /296, (1999).

73. Baum, *supra* note 70, at 418.

goals of the district. In *Kessler v. Grand Central District Management Association, Inc.*, the question was whether or not tenant shareholders in a cooperative apartment building in mid-town Manhattan were entitled to vote in the election of the Board of Directors for the Grand Central Business Improvement District.<sup>74</sup> The court concluded that they were not entitled to vote because the statute authorizing the creation of the Grand Central BID recognized it as a “special, limited-purpose entity” that disproportionately affects one class of constituents and that the system for electing board members is thus not subject to the requirement of “one person, one vote.” The tenant shareholders argued unsuccessfully that the management of the business improvement district entailed the exercise of general government powers sufficient to require the board to comply with the one person-one vote requirement.

The case raises the question of what is the appropriate level of power sharing in a neighborhood collaborative planning effort. The concept of neighborhood collaborative planning as a bottom-up approach assumes that a wide range of people will have a voice in the process. Decisions regarding implementation could trigger conflicts between landowners who pay property taxes and tenants who do not. This is particularly true in low income areas where efforts may be underway to revitalize the neighborhood. The tenants have a stake in the process as well as the landowners, but traditional notions of limited purpose governmental structure as illustrated by *Grand Center* often do not provide a voting power for those non-owner residents.

### *C. Participation Alternatives*

Two basic alternatives for neighborhood participation in the planning process are generally considered: an advocacy/confrontation model and a collaborative/consensus-building model.

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74. *Kessler*, 158 3d F. 92 (2d Cir. 1998).

### 1. Advocacy/Confrontation Model

Saul Alinsky popularized the advocacy model of community organization in the 1950s and 1960s in Chicago.<sup>75</sup> Under this particular model, community organizers serve as activists to unite residents around some provocative issue and confront the existing governmental and business structure with demands for a change. In this approach attorneys serve as legal advocates of their client, a community organization. This model responds to specific problems. The rent strike in 1968 by tenants of the St. Louis Housing Authority that led to the enactment of the Brooke Amendment providing expanded federal financial assistance to local housing authorities, is a good example of the confrontation approach.<sup>76</sup> In this rent strike lawyers represented groups of tenants from several of the large public housing projects in St. Louis. In a strike lasting over six months, the tenants contested dramatic increases in rent, which made it extremely difficult for very low income tenants to pay for both housing and other necessary services such as food, clothing, and healthcare.

The extensive strike gained national attention.<sup>77</sup> As a result, Congress enacted legislation adding a new subsidy to public housing designed to provide authorities an operating subsidy so that rents would not have to cover all of the operating costs of the agency.<sup>78</sup> The rent strike illustrates two key points about the confrontation model. The model can be very effective in highlighting a specific problem and effectuating a change in practice or procedure to resolve

75. See, e.g., SAUL D. ALINSKY, *RULES FOR RADICALS* (1989); SAUL D. ALINSKY, REVELLE FOR RADICALS (1969). See also ROBERT BAILEY, JR., *RADICALS IN URBAN POLITICS: THE ALINSKY APPROACH* (1974); BERNARD DOERING, *THE PHILOSOPHER AND THE PROVOCATEUR: THE CORRESPONDENCE OF JACQUES MARITAIN AND SAUL ALINSKY* (1994); JOAN E. LANCOURT, *CONFRONT OR CONCEDE: THE ALINSKY CITIZEN-ACTION ORGANIZATIONS* (1979). For an excellent biography of Saul Alinsky, see SANFORD D. HORWITT, *LET THEM CALL ME REBEL: SAUL ALINSKY—HIS LIFE AND LEGACY* (1989).

76. For a discussion of the St. Louis public housing rent strike, see Richard Baron, *Community Organization: Antidote for Neighborhood Succession and Focus for Neighborhood Improvement*, 21 ST. LOUIS U. L.J. 634, 643-62 (1978).

77. Baron, *supra* note 76, at 646-50.

78. 42 U.S.C. § 1437a(a)(1) (the Brooke amendment); 42 U.S.C. § 1437g (originally twenty-five percent of tenant income, now thirty percent) (operating subsidy) (1994 & Supp. IV 1998). The Brooke Amendment is discussed in DANIEL R. MANDELKER, *HOUSING SUBSIDIES IN THE UNITED STATES AND ENGLAND* 84-85, 88-91 (1973).



that problem. However, this approach tends not to take into serious account the long term effects of the sought-after change, and may neglect long term capacity-building of the organization it represents during the confrontation. For example, during the confrontation with the St. Louis Housing Authority, attorneys for the public housing tenants concentrated their efforts on forcing the housing authority to roll back a major rent increase. It became apparent that the housing authority did not have the resources to make up the difference. The author, one of the attorneys for the tenants, recalls being in a meeting with numerous officials from a variety of public agencies, in which the executive director of the authority proposed that some other agency, or even the tenants, take over operation of the authority. No one in the room uttered a sound as no one was willing to take on that responsibility. It was only after settlement of the rent strike, occasioned by the intervention of a coalition of civic and religious leaders, that serious efforts at building a more collaborative relationship between the tenants and the authority began.<sup>79</sup>

## 2. Collaborative/Consensus Building Approach

Community organizers who operate in a collaborative/ consensus-building model consider themselves facilitators rather than advocates. Their primary focus is on helping a neighborhood organization obtain the capacity to function effectively in a decision-making process. In this situation the lawyers representing a neighborhood group are more concerned about helping that group develop a capacity that enables them to participate in the decision making process and the implementation of a particular decision.<sup>80</sup>

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79. Baron, *supra* note 76, at 641-54.

80. See JOHN P. KRETZMANN & JOHN L. MCKNIGHT, *BUILDING COMMUNITIES FROM THE INSIDE OUT: A PATH TOWARD FINDING AND MOBILIZING A COMMUNITY'S ASSETS* (1993) for an imaginative and thorough discussion of the use of a collaborative approach to neighborhood revitalization. See also Leo F. Estrada, *Neighborhood Needs Assessment Using Residents as Researchers*, *Modernizing State Planning Statutes: The Growing Smart<sup>sm</sup> Working Papers*, 2 APA 219 (1988); Michelle Gregory, *Anatomy of a Neighborhood Plan: An Analysis of Current Practice*, *Modernizing State Planning Statutes: The Growing Smart<sup>sm</sup> Working Papers*, 2 APA 193 (1988); Tovah Redwood, *The Challenge to Planners: Collaborate or Bust*, *Modernizing State Planning Statutes: The Growing Smart<sup>sm</sup> Working Papers*, 2 APA 215 (1988).

An example of the collaborative approach is the work of the CORO Midwest Center, which provides training assistance to potential leaders of neighborhood organizations. Through CORO's efforts, neighborhood leaders are assisted in developing the confidence and the skills necessary to enable them to participate effectively in public/private negotiations and to take leadership roles in the establishment of public/private partnerships for both development or management of neighborhood projects.<sup>81</sup>

Donald Owens, former Community Development Director for CORO Midwest Center, stresses the importance of a consensus-building approach as a technique for persuading interest groups "to come to and stay at the table." He likens collaborative community building to the work of a symphony musician who must learn jazz. "When you work within a community, you have to learn to improvise."<sup>82</sup> Mr. Owens cites an experience with the Village of Washington Park, Illinois, a small, impoverished community adjacent to the City of East St. Louis, Illinois.<sup>83</sup> CORO Midwest was invited to

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81. Coro is a non-profit educational institute dedicated to leadership training. Founded in San Francisco in 1942, it has regional centers in Los Angeles, St. Louis, Kansas City, New York, and Pittsburgh. The Coro Midwestern Center (St. Louis) offers four programs:

1) The Fellows Program in Public Affairs, a full-time nine-month program with rotating field assignments, from which three hundred persons have graduated since 1972;

2) The Neighborhood Leaders Program, a community development and capacity building program featuring consensus building, asset mapping, and other community leadership activities, which has worked in seventeen urban communities in the St. Louis Metropolitan area since 1992;

3) The Women In Leadership Program, a part-time four-month program for women with at least three years of management or entrepreneurial experience, from which over seven hundred women have graduated since 1980; and

4) Contract Training Programs, a collaborative effort with other organizations such as the Lutheran Partners in Urban Ministry, the Wyman Center, and the George Warren Brown School of Social Work at Washington University

About CORO (visited May 17, 2000) <[http://coro.org/about\\_/about\\_coro.html](http://coro.org/about_/about_coro.html)>.

82. Roundtable presentation of Donald Owens, Community Development Director, CORO Midwest Center, at Saint Louis University Public Policy Studies Annual Retreat, Sept. 25, 1999 (the author was a participant).

83. As of the 1990 Census, the population of Washington Park was 7,437 persons living in 2,217 households. Forty-four percent were under the age of 18. In 1989 the median family income in Washington Park was \$11,944. During the same period the median family income of St. Clair County was \$31,939. Over fifty-seven percent of the population had incomes below

join a coalition of agencies, including the U.S. Attorney's Office for the Southern District of Illinois, the Illinois State Police, and city officials, to assist the village in preparing a community revitalization plan and applications for state and federal community development funds.

One of the major issues was identifying what the capacity of the Village to engage in community development may be. Two fairly traditional programs were used to attempt to answer the capacity question. The first one, the "Weed and Seed" program of the Department of Justice, was sponsored by the U.S. Attorney's office.<sup>84</sup> This program funds local efforts to eliminate drug trafficking by "weeding out the traffickers" and "seeding" the community with activities that can serve as alternatives to drug use. The second one was a vacant lot clean-up program. In this effort the sponsoring organizations brought in dozens of trash trucks and hauled out hundreds of loads of trash. Some vacant lots were so overgrown that residents reported not having been able to see their neighbors for years. One of the positive side-effects of this program was the identification of numerous potential sites for affordable housing. As vacant lots were cleaned it became apparent they could serve as affordable housing sites.

At this point in the process organizers attempted to establish an umbrella organization that could speak for the different neighborhood groups. Individual groups, however, were unwilling to give up their autonomy. As a result the organizers, primarily the CORO Midwest Center and the US Attorney's office, began a youth mapping program

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the federal poverty line. Forty percent of the households in Washington Park received public assistance. In 1990 there were 2,598 housing units in the Village, of which fifteen percent were vacant. Most of the housing is of modest size and a substantial portion of it is limited quality wood-framed construction with wood-shingling or tar-paper siding. Over thirty-five percent of the housing units existing at that time were constructed before 1949. Since that date, the community has undertaken a substantial demolition program to remove burnt-out structures. Within the past three years, twenty new homes have been constructed and sold in one subdivision attracting moderate income families. *Id.*

84. The Weed and Seed program began in 1991 with small Department of Justice pilot projects in Kansas City, Missouri, and Trenton, New Jersey. Over the years it has expanded through annual appropriations to more than thirty three million dollars in Fiscal 2000 for grants to local communities. PUB. LAW NO. 106-113, 113 Stat. 1537-14 (1999); SUZANNE CAVANAGH & DAVID TEASLEY, CONGRESSIONAL RESEARCH SERVICE COMMUNITY ANTI-CRIME WEED AND SEED PROGRAM: CURRENT DEVELOPMENTS, (1996).

in which they employ young people to map the community for assets. They found that all of the factions in the community were willing to put aside their differences to work with young people. As a result of this mapping activity, a greater level of consensus emerged with respect to the development of a community plan than existed prior to the youth asset mapping process.<sup>85</sup>

### 3. Using Both Models In Neighborhood Planning

While the temptation is to think of the two models as mutually exclusive, the reality of neighborhood planning is that both models, confrontation and consensus-building, likely will be necessary for an effective community development program. The timing of the use of the two models is critical. One of the lessons of the confrontation models of the 1960s is that confrontation before consensus building is not likely to produce lasting improvements. Again the experience in public housing is a guide. Following the confrontation of the rent strikes of the late 1960s there was a move to transfer control over a variety of management activities to public housing tenant organizations. With few exceptions, though, these organizations did not have the capacity to fully accept the business responsibilities of housing management. As a result over the next ten to twenty years, a number of organizations collapsed and disappointment often was the order of the day.<sup>86</sup>

Because of these experiences organizers and funders have been paying more attention to consensus building. Leading this effort are three national community development financial intermediaries: the Enterprise Foundation, the Local Initiatives Support Corporation (LISC) and the Neighborhood Reinvestment Corporation (NRC), all

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85. Owens, *supra* note 80.

86. Robert Babione, a resident of Forest Park Southeast, told participants in a community meeting sponsored by Adequate Housing for Missourians (AHM) that the several resident organizations had agreed to support the SL2004 plan but have left open the possibility of seeing modifications to the plan in the future. *The Politics of Neighborhood Redevelopment*, AHM Action News, Nov./Dec. 1999, at 1 (copy on file with author); *Southeast Direction: Forest Park Southeast Housing Corp Host For-Sale Home Tour*, ST. LOUIS POST-DISPATCH, Oct. 10, 1999, at G1 (reporting that residents recently completed a comprehensive neighborhood redevelopment plan).

established in the 1979-81 period.<sup>87</sup> These national intermediaries have pooled financial resources from public and private funding sources to provide grants, loans, and credit to local community development corporations. Collectively their impact has been enormous: they have articulated a *vision* of community development, and have developed ways to set the vision into *action* while engaging progressively larger numbers of people and organizations.<sup>88</sup>

More energy is being put into developing structural and organizational stability, along with continuing training for staff and board members, to enable not-for-profit neighborhood based organizations to carry out the wishes of their members. This is a major thrust of the St. Louis 2004 Sustainable Neighborhoods program discussed earlier.<sup>89</sup> RHCDA has embarked on a variety of training and educational programs for the people who organize and staff neighborhood organizations.<sup>90</sup> A crucial aspect of this consensus building effort is to help the neighborhood entities organize in such a way that neighborhoods can speak with one voice. For example, in the Forest Park Southeast area of St. Louis a major development effort was delayed for months because four separate neighborhood organizations all purported to speak for the residents of that area. Lenders, developers, and governmental entities understandably were reluctant to push forward with development efforts until those four groups agreed on a process by which one voice could be articulated from that neighborhood.<sup>91</sup>

The need for both approaches was stressed by Michael Allen, a civil rights lawyer and one of the leaders of a national effort to

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87. Vidal, *supra* note 16, at 431.

88. *Id.* at 432.

89. See *supra* notes 57-60 and accompanying text.

90. Memorandum from Barbara Geisman, RHCDA, to Community Development Technical Assistance Consortium, Sept. 17, 1999, including Final Technical Assistance Delivery Plan (copy on file with author).

91. Of course, public housing resident management organizations are only one type of community organization, and not all failures were confined to the formative years of the community organization movement. The 1997 collapse of a large community development corporation in Indianapolis after a twenty-year period of development success caused considerable soul-searching in the CDC community nationally. See, e.g., Carol Steinback, *After the Fall*, XXI(2) SHELTERFORCE 10 (1999).

improve implementation of the Fair Housing Amendments Act (FHAA) of 1988:

In many ways, providers and fair housing lawyers post-1988 were like kids on Christmas morning: the FHAA was a brand new toy, and it could do marvelous things. Remarkably, its “batteries” lasted a pretty long time.

The problem is, we have forgotten how to play with our other “toys.” That is, like some earlier social justice movements, we have come to rely too heavily on litigation to solve our problems. When we hand issues over to the lawyers, we may be undercutting the real strength of the movement. . . .

In the words of logicians, I think the FHAA is a “necessary,” but not the “sufficient,” condition for greater community acceptance. Because I think we will continue to win FHAA litigation battles, but still risk losing the war, we need to expand our campaign to include more of the traditional methods of winning public opinion. . . .

My own interest in this subject grew out of the fight over H.R. 3206, and my conviction that advocates, providers, elected officials, and neighbors are spending a lot of time, money, and energy fighting each other to a standstill. . . .

We need to speak honestly about community integration and inclusion of people who are poor, homeless, or who have disabilities. And we need to listen honestly to the concerns of people who oppose inclusion.<sup>92</sup>

## VII. CONCLUSION

Neighborhood collaborative planning has an important role to play in efforts to remake American cities. Urban and center city revitalization both point to a necessary restructuring of local government. Professor Frug’s point that residents of metropolitan areas, while they may consider themselves as belonging to a

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92. Michael Allen, *The Limits of the Law*, in THE NIMBY REPORT 6 (1999).

particular neighborhood, do not confine their activities to one local jurisdiction is well taken.<sup>93</sup> As local governments seek to respond to the twin pressures of looking outward to the region and looking inward to particular neighborhoods, they must recast their planning and decision-making process to reflect these realities.

The ability to appreciate the “other person’s point of view” is an important ingredient in a successful neighborhood collaborative planning effort. By its very nature, collaborative planning should involve all elements of the community in the planning process. The essence of this new version of grassroots planning is to be less confrontational and more collaborative. An appreciation for, and ability to include, all points of view is critical for success of the effort.

Neighborhood collaborative planning must be inclusive if it is going to produce meaningful change in the way decisions are made. A system that confines the appointment or voting process to property owners, as statutory business or neighborhood improvement districts often do, is not inclusive because it leaves out renters and non-resident workers. An approach in which the city funds a group of staff people whose job is to organize neighborhood councils also fails to be inclusive. St. Louis tried that, but many people believed the councils became captives of the city administration. Perhaps the best solution is a system that encourages neighborhood residents to organize themselves, requires inclusivity of all interest groups, and offers funding and administrative support to enable the councils to choose their own staff.

Neighborhood collaborative planning offers exciting promise for producing more realistic and effective plans because it begins with an invitation to a wide variety of stake holders to participate in the process. By nature it is a messy process because of the large number of meetings and other activities that must be held in order to fully

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93. *See supra* note 13.

engage the community.<sup>94</sup> Supporters of neighborhood collaborative planning believe it can add the missing bottom-up component to what has traditionally been a top-down process and thereby produce a more effective result. Careful attention to the realities of the process, including the potential tension between owners and non-owners of property, can go a long way toward making the ethical principle of community involvement a reality.

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94. The general manager of Los Angeles' new Department of neighborhood Empowerment alluded to the uncertainties that flow from the nature of an inclusive process: "But, at the end of the day, if they don't step forward and sit at the table and devise their future, we can't do that for them. This is the opportunity to create the kind of community we've been hearing from Angelenos that they want." Molly Selvin, *Rosalind Stewart, Beyond the Block Party: A Big Idea in Civic Renewal Gets Real*, L.A. TIMES, Feb. 13, 2000, at M3.