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2007 Better Government Competition

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The Better Government Competition is a signature event for the Pioneer Institute and a vital catalyst for change in Massachusetts. Over the last 16 years, the competition has presented ideas that have saved the Commonwealth upwards of \$400 million. BGC recommendations have been implemented at every level of government services. The competitive contracting of highway maintenance; water treatment enhancements at Deer Island; new models for human service care; court reform; the preservation of affordable housing and other zoning reforms; the establishment of energy-efficient building guidelines; improvements to the child support system and other important innovations have been guided by the efforts of BGC participants.

For 2007, our 16th Better Government Competition sought entries that would improve government at both the state and municipal level. The winners this year approach the relationship between state, regional and local authority in innovative, productive ways.

The Unified Permitting System for the Redevelopment of Fort Devens, proposed by the Devens Enterprise Commission (DEC), is the 2007 Better Government Competition Award Winner. To speed the redevelopment of a town-sized army base, DEC is empowered to perform municipal administrative tasks that are typically splintered among many agencies. It carries out these duties in the context of a unique one-stop Unified Permitting System. This expedited approach encourages needed economic development, and similar programs could jump-start growth throughout the Commonwealth.

The 2007 Runners-Up are all strong, timely proposals:

Transforming a Municipal Bureaucracy

City of Carrollton, Texas—By implementing an innovative Managed Competition program, Carrollton achieves “best value” service delivery while avoiding the problems of some competitive-contracting programs.

Computerized Neighborhood Environment Tracking

Worcester Regional Research Bureau—ComNET brings together citizens and technology to identify the physical problems of city neighborhoods, speeding up repairs and improving the quality of urban life.

Four Proposals to Reform Special Education

Special Education Day Committee—To reduce needless conflict, bureaucracy, and litigation, SPEDCO proposes a more collaborative and results-driven approach to public special education.

Entrepreneurial Service Delivery Program

Northern Virginia Regional Park Authority—Faced with declining visitation and rising expenses, NVRPA transformed its approach to deliver conservation and recreation services in a businesslike manner.

In addition, the four Special Recognition Awardees have advanced some exciting ideas, as described on page 44.

Shawni Littlehale is the Director of the Better Government Competition. She deserves our thanks for the enormous amount of energy she has brought to the Competition this year and for the past ten years. Our goals for this year's BGC are a reality because of Shawni's unflagging efforts. As always, her long hours were characterized by Shawni's usual humor and grace. Along with the winners, she is responsible for the high quality and responsible tone of this year's competition.

I would also like to thank Alex Batchilo, Melissa Dermakar, James Fenton, Alan Petrillo, and Stephanie de Sousa for their work on this year's Competition.

The Competition also profited from the involvement of a wonderful set of judges, who brought input from the Pioneer board, the public sector, private industry, the media and academia. Our deepest thanks to:

- Mrs. Nancy Anthony, President, Fernwood Advisors, Inc.
- Dr. Edward Glaeser, Professor, JFK School of Government, Harvard University
- Mrs. Deborah Goldberg, 2006 Candidate for Lieutenant Governor
- State Senator Bruce Tarr, First Essex and Middlesex District
- Mr. Paul Sullivan, WBZ NewsRadio 1030

The evaluation process was a lot of work, but they executed it with patience, openness to new ideas, and invaluable insight. Thanks to our judges for their efforts.

Finally, we would like to extend our sincerest thanks to the many media outlets that have helped ensure broad-based participation in the Competition. We would also like to thank the universities across the country that have helped distribute the competition guidelines, attracting many valuable entries from academia.

Our sincerest thanks to all of you.

—**Jim Stergios**

Executive Director

Unified Permitting System for the Redevelopment of Fort Devens

Devens Enterprise Commission

INTRODUCTION

The Devens Enterprise Commission Unified Development Permit System is an example of how a streamlined comprehensive development permitting process can bring an area back to life by attracting new businesses. By combining planning, conservation, health, historic, and variance issues under the authority of one entity, the Devens Enterprise Commission has been able to expedite the review and permitting of development projects to under 75 days, in a state where the norm is many more months, and sometimes even years.

A consolidated, expedited review process not only improves the quality and efficiency of government, it also provides applicants with more certainty and less risk in project planning, saving them money and encouraging them to bring their jobs and profits to the state. The recent decision of Bristol-Myers Squibb to locate its newest facility at Devens, after a global search, is evidence of the appeal of the Unified Development Permit System to major job and wealth creators.

While the Commonwealth has recently passed legislation that takes some steps towards consolidating and shortening permit review times, there is still much in the Devens experience from which to learn.

The Problem

Local development permitting in Massachusetts, like many other states, is often a slow and complicated process that frustrates developers and can delay projects for lengthy periods. This can be costly for both developers and communities, since businesses factor these costs, uncertainties, and delays into their decisions about where to locate, turning to areas where the process is more transparent and predictable, and taking their jobs with them.

The American Planning Association ranks Massachusetts among the

worst states in the nation with regard to its planning and zoning statutes. The Commonwealth's municipal development regulations typically feature a variety of statutory time limits, and splinter authority among multiple boards with variable jurisdictions. This often leads to disjointed inter-board communications, along with lengthy and complicated review and hearing processes. Harvard economist Edward Glaeser concludes, in his recent paper "Regulation and the Rise of Housing Prices in Greater Boston,"¹ that excessive zoning regulation has added greatly to the cost of housing in eastern Massachusetts.

When a particular locality or area has other advantages, for example, a fully developed infrastructure and proximity to markets, institutions of higher education, and trained employees, developers and businesses may be willing to suffer the obstacles erected by the local permitting process. However, in places that have few of those advantages, development often depends on government innovation to ease the way.

Such was the case at Fort Devens. In 1991, the U.S. Department of Defense (DOD) decided to close the Fort Devens Military Reservation in north-central Massachusetts. Faced with the loss of more than 7,000 jobs, the Commonwealth of Massachusetts worked together with the DOD, surrounding towns, and regional stakeholders to establish a redevelopment plan featuring a streamlined comprehensive development permitting process. The former military base consists of 4,400 acres, most of which required extensive facility demolition, environmental cleanup, and infrastructure upgrades and maintenance. With these kinds of internal hurdles, it was crucial that the state eliminate regulatory obstacles to redevelopment.

The Solution

The Massachusetts state legislature established Chapter 498 of the Acts of 1993 to create a legal framework for the governance and development of a Devens Regional Enterprise Zone to promote the expeditious and orderly clean-up, conversion, and redevelopment of Fort Devens for nonmilitary uses, including residential, industrial, institutional, educational, governmental, recreational, conservational, commercial, and manufacturing uses. The legislation evolved out of an extensive citizen participation process involving the four communities underlying the former Fort Devens (Ayer, Harvard, Lancaster, and Shirley) and representatives from surrounding communities, employing a steering committee format created by then-Governor Weld.

The culmination of this citizen participation process was the Devens Charette, a meeting held in conjunction with the Boston Society of Architects and with the participation of architects, planners, and

¹ Edward L. Glaeser, Jenny Schuetz, and Bryce Ward, "Regulation and the Rise of Housing Prices: A Study Based on New Data from 187 Communities in Eastern Massachusetts," Pioneer Institute and Rappaport Institute, January 5, 2006, http://www.ksg.harvard.edu/rappaport/downloads/housing_regulations/regulation_housingprices.pdf.

development professionals from throughout New England. The Charette established the organizing principle of redevelopment as sustainable development: development that balances economic development, environmental protection, and social equity issues. The Massachusetts Land Bank, in collaboration with the communities, worked with a team of consultants headed by VHB to draft the framework for Devens redevelopment. This included the Devens Reuse Plan, the Devens By-Laws, and the draft legislation that became Chapter 498. Chapter 498 also established the Devens Enterprise Commission (DEC)—the regulatory and permit granting authority for the redevelopment of Devens. The DEC is empowered to act as a local planning board, conservation commission, board of health, zoning board of appeals, historic district commission and, in certain instances, as a board of selectmen.

The DEC is comprised of 15 members, two from each of the three surrounding communities of Ayer, Harvard, and Shirley (plus one alternate from each of them) and six regional representatives. It is fortunate to have a highly competent and talented chairman, William P. Marshall, and a membership that understands the importance of its role in the development process. The composition reflects a balance of regional and local interests and has resulted in a consistent application of its regulatory powers over time.

Essentially, the DEC acts as a small regional planning agency, but with all the powers and authority of an individual town. This regional governance provides for a more comprehensive approach to planning and development, and reduces the competing interests of individual towns that adversely affect many of today's development patterns. Instead, growth is directed to areas where existing infrastructure can support it. Those areas that cannot or should not support growth are identified and classified as part of the green infrastructure of the community and region rather than as "no-build zones."

The DEC carries out these duties in the context of an innovative one-stop Unified Development Permitting system that greatly streamlines the local regulatory process. Under this system, all development is permitted as-of-right and complete permit reviews for projects are undertaken within 75 days. It is this unified development permitting system, combined with a comprehensive plan (the Devens Reuse Plan), and the consolidation of local permitting boards that has made the permitting system shorter, less complicated, and more transparent.

The Devens by-laws also provide opportunities for streamlining the permit review process by facilitating certain approvals administratively, without public hearing or formal commission meetings. These types of projects (referred to as "Level One Permits") typically involve relatively minor modifications to site plans, lot lines, and architectural

modifications in historic areas, as well as wetland certificates of compliance.

The Unified Permit Review process is guided by the redevelopment plan and its principles of sustainable development, which include economic, ecological, and social considerations. Applications that are consistent with the redevelopment plan and these principles move through the entire process in less than 75 days. Pre-application meetings with potential applicants filter out those projects that are not consistent with the Reuse Plan. Where feasible, the staff provides guidance on how to tailor the project to conform more fully to the Reuse Plan.

None of this was imposed from above by the Commonwealth or the Department of Defense. The towns within the boundary of the former military base—Ayer, Harvard, and Shirley—participated fully in the process. Moreover, the process was and is open-ended: these regulations have been amended numerous times since 1994 to incorporate innovations in land-use planning, ecologically sound industrial development, and smart growth practices.

The Cost of the Program

Funding for the implementation of Chapter 498 came from many sources. The DOD provided funding, through its Base Realignment and Closure Act, for start-up costs associated with planning, forums for public participation, and consulting services. These programs were delineated by the 1994 Bylaws, the 1994 Reuse Plan, and the Devens Enterprise Commissions' Development Rules and Regulations (the documents that detail the Unified Permit regulatory process).

The Devens Enterprise Commission and other programs provided for in the Development Rules and Regulations since 1996 were funded from two sources. The first was the Massachusetts state legislature, which provided \$250,000 in FY 1997, \$275,540 in FY 1998, \$230,000 in FY 1999, \$175,000 in FY 2000, and \$100,000 in FY 2001. The second source of funding was permit fees, which like the real estate development cycle, vary from year to year. Annual permitting fees generated income ranging from \$73,000 in FY 1998 to \$260,000 in FY 2000, \$640,000 FY 2001, and about \$300,000 in FY 2005.

While the DOD and the Commonwealth funded the development costs for creating the Unified Permitting System (about \$250,000), since then it has been largely self-sustaining, with permitting fees funding most of the costs associated with DEC operations. Permitting fees are set as a percentage of the total cost of the project, including land and all existing and proposed improvements. Since the DEC does not have licensed professional engineers on staff, the applicant pays the fee for independent engineering service review. In addition, the

landowner, MassDevelopment, dedicates two percent of the property taxes it collects to subsidize the operations of the DEC.

The Benefits of the Program

While developing, implementing, and supporting the Unified Permitting process has not been free, it has greatly increased the efficiency of the permitting process by consolidating boards and commissions. For example, rather than having separate applications, filings, notifications, paperwork, and hearings for wetlands, planning, zoning, and the various boards of appeals, the Unified Permitting process only has only one round of advertisements and public hearings. Although the DEC has by statute up to 75 days to accept an application, hold a public hearing, and render a decision, it has rarely needed more than 60 days. Table 1 illustrates some of the larger development projects and their review times.

Table 1: Unified Permitting Process Timeline for Specific Projects

Business	Site Size (in acres)	Date of Application Submittal	Public Hearing Date	Date of Decision	Total Formal Application Review Time
American Superconductor	34.28	6/8/00	7/25/00	7/25/00	49 days
NB Kenney	3.53	5/13/04	6/29/04	7/8/04	53 days
C&D Recycling	11	2/9/06	3/28/06	3/28/06	47 days
Bristol-Myers Squibb	96	9/6/06	10/25/06	10/25/06	49 days

Obviously, shortening and simplifying the permitting process also saves developers money. Even more importantly for developers, streamlined permitting makes the process more transparent and predictable, diminishing risk and uncertainty, which also cost money. Thanks to these advantages, and MassDevelopment's marketing and promotion of them, Devens has attracted and retained more than 90 businesses and organizations.

Table 2 shows the progress since 1991.

Table 2: Devens Build-Out

Type of Development	Area (Square Footage)
Reuse of Former Military Buildings	828,500 s.f.
New Construction	3,432,875 s.f.
Current Prospects	455,000 s.f.
Potential Expansions	1,302,800 s.f.
<i>Subtotal:</i>	<i>6,019,175 s.f.</i>
Total Build-out Allowed	8,500,000 s.f.
Gross Uncommitted Build-out	2,480,825 s.f.

The DEC is committed to the regular reevaluation of its processes, procedures, and regulations in order to accommodate changes in the market consistent with its sustainable development goals. This built-in flexibility has allowed it to study and adopt innovative approaches to development such as low-impact techniques, eco-industrial theory, and smart growth and New Urbanist concepts for compact, affordable mixed-use neighborhoods to meet resident, community, and business needs. The entire Devens regulatory environment is available online at www.devensec.com, much of it in a searchable format, along with sample staff reports, records of decision, annual financial audits, annual reports, application forms, and FAQs.

Application to Massachusetts

Long and complicated permitting processes are common in Massachusetts. As many studies have suggested, they are a principal reason for the high cost of residential housing and the flight of businesses and residents from the Commonwealth.² The state has recently passed new legislation (Chapter 43 D) that allows local towns and cities to adopt a streamlined permitting process for comprehensively planned areas, establishing development as-of-right, or without discretionary permit approvals. While this is a good first step, it still allows for a 180-day review period. The Devens experience has shown that a much shorter review period, 75 days, is compatible with thorough, high-quality review.

Devens operates in a statutory environment that more similar to that of New Hampshire than the rest of the Commonwealth. Zoning and regulations must be consistent with the local comprehensive plan (in this case the Devens Reuse Plan). There are no “Subdivision Approval Not Required” lots (ANRs), nor can you vest your plans for seven years by filing a preliminary plan, as one might do elsewhere in the Commonwealth. As the result of an extensive citizen participation process, all development within Devens is as-of-right: use variances are not allowed. Clearly written regulations describe how to site, design, and landscape facilities which wish to locate at Devens. Qualified and knowledgeable staff are available to answer questions from the development community and to clarify questions about the process and the regulations. An expert development review team is employed in analyzing the development application and the reviews and rigorous expectations produce high quality, aesthetically pleasing results. Devens’ industrial parks are well landscaped and exhibit excellent curb appeal.

Deploying similar resources to assist communities in developing and adopting such regulations will require reforms to the current

² See, for example, Barry Bluestone, “Sustaining the Mass Economy: Housing Costs, Population Dynamics, and Employment,” a draft report prepared for The Federal Reserve Bank of Boston’s New England Public Policy Center and The Rappaport Institute for Greater Boston, May 22, 2006, <http://www.curp.neu.edu/pdfs/Rev1.Draft%20Report1.052006.pdf>; Bonnie Heudorfer and Barry Bluestone, “The Greater Boston Housing Report Card 2005–2006: An Assessment of Progress on Housing in the Greater Boston Area,” The Center for Urban and Regional Policy (CURP), September 2006, <http://www.curp.neu.edu/pdfs/HRC%202005-2006.pdf>; and David Soule, Joan Fitzgerald, and Barry Bluestone, “The Rebirth of Older Industrial Cities: Exciting Opportunities for Private Sector Investment,” Center for Urban and Regional Policy (CURP), April 2004, <http://www.curp.neu.edu/pdfs/Final%20Report%PDF.pdf>. The latter, for example, states that “the development process in Massachusetts is broken. That construction starts are so slow to respond to increasing demand—and that they continue to increase even as demand ebbs—is symptomatic of the Commonwealth’s flawed development permitting process. A four-to-seven year lead time to get a project into the ground is typical for projects regardless of location, type, and price. The nonprofit developer piecing together six or seven funding commitments to make a small project feasible, the large-scale developer assembling a site and securing approvals in a major city, and the developer using the ‘expedited’ permitting process offered by the state’s affordable housing statute (Chapter 40B) in a suburban town all face a similarly protracted process.”

statutory environment such as those proposed in the Community Planning Act (H. 175 and S. 1193). There are also other local option initiatives, such as 40R, 40S, and 43D, that allow higher densities as-of-right in return for financial and other incentives from the state; however, the stronger these statutes have been, the more likely they have been to provoke resistance from communities and politicians who fear the loss of control.

Two special conditions are the foundation of the Devens experiment's success:

- Openness to engaging in new and challenging approaches to community-building. The Nashoba Valley region has a history of hosting experimental communities, ranging from Bronson Alcott's Fruitlands in Harvard to Shaker communities in Shirley and Harvard.
- The threat of a military base closure created a unity of vision and purpose that differentiated the region from the rest of the Commonwealth. Also, the state was more closely involved with Devens redevelopment than that of the South Weymouth Naval Air Station.

However, while these circumstances may be peculiar to Devens, many lessons from the Devens experience could make the regulatory process easier for other towns and cities:

- There is a role for regionalism in the Commonwealth. Organizations like DEC and MassDevelopment can function as a productive middle tier of government between the state and municipalities.
- Requiring consistency between the Reuse Plan (master plan), zoning, and regulations has worked throughout the nation and, as we have shown, it can work in Massachusetts.
- Streamlined permitting is great bait for business and development, especially when it cuts out the ANRs, special permits, and extensive vesting provisions that characterize so many communities' regulatory norms.
- Quality plans and a quality regulatory environment produce quality results.

There is still have plenty of work to do, with another 2,500,000 square feet in Devens to sell or lease. There is little potential for further streamlining of permitting, without impinging on necessary legal notice requirements and perhaps impeding the public's ability to participate fully in the process. Devens is still constrained, however, by zoning which artificially limits the amount of housing at Devens to 282 dwelling units. The recent failed efforts to create a new town at Devens attempted to remove that cap, and allow up to 1800 units of

housing. Hopefully, the governor and the legislature will address this issue in the near future, allowing Devens to fulfill the promise of its innovative approach to local governance.

Resource List

Neil Angus, Staff Planner

Peter Lowitt, Director

33 Andrews Parkway

Devens, MA 01434

978-772-8831 x3334 (Neil)

978-772-8831 x 3313 (Peter)

neilangus@devensec.com

peterlowitt@devensec.com

- Devens Enterprise Commission official website:
<http://www.devensec.com/>
- The complete DEC regulations and bylaws, including a searchable database: <http://www.devensec.com/devserv.html>
- Chapter 498 THE COMMONWEALTH OF MASSACHUSETTS 1993—AN ACT CREATING THE DEVENS ENTERPRISE COMMISSION: <http://www.devensec.com/ch498/dec498toc.html>
- Current listing of businesses located at Devens: http://www.devenscommunity.com/business_and_industry/directory.html
- Real estate information is available at <http://www.massdevelopment.com/re/devens.aspx>
- Information about the Devens community, news, and events: <http://www.devenscommunity.com/>

Transforming a Municipal Bureaucracy

City of Carrollton, Texas

Introduction

Governments can improve the way they do business and provide services by adopting a competitive business model for their operating processes. By submitting themselves to competitive pressures, they force themselves to learn from the private sector how to serve residents better and more cost effectively.

In managed competition, private sector providers are encouraged to compete with city departments for the opportunity to provide public services. The aim of Carrollton's version of managed competition, however, was not outsourcing or downsizing but rather to ensure that its residents receive the best value available through the public or private sector. For Carrollton, this involved four distinct initiatives:

- Internal support teams work with business unit managers and front line employees to eliminate waste and inefficiencies, evaluate workloads and staffing, reengineer business processes to improve service quality, ensure customer satisfaction, and reduce costs.
- Internal service units enhance their competitiveness by benchmarking against best-in-class competitors (both public and private sector), re-engineering operating practices, improving leadership capabilities, and empowering front-line employees.
- Divisions that are declared "substantially competitive" share some of the gains from cost reductions and revenue increases with employees.
- Interdepartmental service-level agreements are signed to ensure future accountability and maintain performance standards.

The Problem

Carrollton, an inner-ring community of the Dallas/Forth Worth metroplex, has faced increasing financial stress as its growth slowed during

the last ten years. Inner-ring suburbs are the first layer around the city, separating downtown from outer-ring suburbs. Most of these communities have stable populations and are more ethnically homogeneous than the diverse inner cities. Outer-ring suburbs are typically fast-growing communities that started expanding rapidly in the 1990s. In many cases, they are home to light industrial and commercial business parks.

Inner-ring residents, led by the upwardly mobile, sometimes move further from town, for many of the same reasons they left the urban core in the first place – to escape high taxes and heavy congestion. There has also been a trend towards returning to the urban core, often because older residents no longer need the space they originally sought in the inner ring, or for the cultural advantages of the city.

This flight, combined with inner-ring communities' dense development and inability to expand their boundaries, adds up to stagnation. For example, while the population of Carrollton grew from 14,000 to 100,000 residents between 1970 and 2000, it only added 6,000 new residents between 2000 and 2005. It is now nearing build-out.

Because of this deceleration in residential development, inner-ring communities share a variety of problems:

- *Slow growth of the tax base* - While decelerating residential development should mean a slower and more predictable demand for new services, the tax base will also grow at a much slower rate, meaning less new revenue to meet current and future needs.
- *Retailer flight* - Retailers view mature inner-ring suburban markets as less profitable, which encourages them to close or relocate their businesses. Inner-ring suburbs suffer from vacant shopping centers, abandoned service stations, obsolete buildings and sites, and sales tax leakage to newer retail centers.
- *Migration of the wealthy* - Upwardly mobile families with higher incomes tend to move out of inner-ring communities, and are often replaced by households or families with less disposable income, who both pay less in taxes and consume more municipal social services.
- *Aging infrastructure* - As the population and tax base are declining, the public infrastructure in older suburbs is often reaching the point of replacement or expensive refurbishing, requiring significant funding.

Inner-ring communities are finding it more challenging to reinvest, revitalize, and reinvent themselves in order to sustain a high quality of life for their residents.

The Solution

The City of Carrollton found one solution to its financial problems in managed competition, or the adoption of a competitive business model for its operating processes. In some service sectors, this meant outsourcing; in other cases it meant finding new ways to introduce competitive pressures within the organization. For example, comprehensive multi-year “service agreements” are signed with internal business units once they have passed through the managed competition process and have been declared “substantially competitive.” This relationship is analogous to outsourcing with private-sector companies.

Because almost three-quarters of the average city’s operating costs are related to personnel, a successful change management process must focus on managing human resources more effectively. The introduction of a competitive mindset within city government, utilizing tools like benchmarking and performance management, has contributed to significant productivity gains in city business units. Rather than simply cutting services or service levels in response to budget constraints, management is finding creative ways to restructure operations and maintain or improve services by doing more with less.

Carrollton rolled out its Competitive Services initiative slowly, giving each service sector a year to implement changes before the next sector was either put out to bid, or retained under contract after being declared “substantially competitive.” The sequence runs as follows:

- In 2002, solid waste collection and disposal was submitted to a bidding process and outsourced. In the first three years, cost savings, cash inflows from fixed asset sales and account transfer revenues amounted to \$6.3 million.
- In 2003, traffic operations was evaluated, found competitive, and retained under contract. In the first three years, there was operating cost savings of \$330,000.
- In 2004, parks maintenance operations was evaluated and retained under contract. In each of the first three years there was operating cost savings of \$305,000.
- In 2005, water/wastewater operations was evaluated and retained under contract. The city expects to realize annual operating cost savings of at least \$605,000 for each year of the five-year service agreement.
- In 2006, utility billing and collections was evaluated and retained under contract. This has resulted in operating cost savings of \$50,000 in the first year.
- In 2007, facility services was evaluated and retained under contract. This should result in operating cost savings of \$70,000 in the first year.

By opening up some service sectors to competition, the city government was also able to introduce competitive pressure throughout the organization to reduce unnecessary layers of supervision, eliminate surplus equipment, and empower employees. For example, in Parks Maintenance Operations (PMO) demonstrated substantial progress:

- Before managed competition, PMO had three first-level supervisors over its landscaping, irrigation, chemical application, and construction crews. Each crew of 4-5 employees also had a crew leader. PMO eliminated all three supervisor positions and created a parks manager who oversees all work crews in the division, empowering crew leaders to manage the daily activities of their assigned crews.
- Before managed competition, PMO had surplus equipment from so many manufacturers that mechanics could not maintain them. It eliminated many pieces, standardized the brands and types of equipment, and reduced its stock in 2003–2004 by 13 trucks, 12 tractors, 8 mowers, 6 mower attachments, and 21 trailers and farm implements.
- Field employees changed their reporting times in order to take advantage of daylight hours, suggested staging equipment in a more central location closer to work sites to minimize daily travel time, and redesigned and equipped trailers to carry more mowing equipment to the job site and allow for quick repairs.

The introduction of competition also brought about a greater sense of urgency and accountability in city employees. Of course, this is part of the culture of for-profit companies, with their quarterly revenue and profitability targets. Employees understand that managers who meet targets will be rewarded and that those who fail to do so will be replaced. The frequent measurement and monitoring of performance creates a greater sense of urgency and accountability, and a faster work pace than in most public-sector organizations. Carrollton's introduction of competition has led to positive city-wide changes:

- *Doing more with less.* Rather than staffing for peak seasonal workloads, departments staff for average workloads and hire part-time and seasonal employees for peaks.
- *Avoiding duplication of resources.* Departments share fixed assets with others when not needed, or rent specialized equipment for short-term uses.
- *Using time wisely.* Team meetings start on time, with a clear agenda, and project deadlines.
- *Focusing on essential services.* Every department is challenged to quantify customer demand and the cost of providing various services and functions. With council approval, the city has gradually discontinued low-volume and low-priority services and functions.

- *Cooperating more with more coordination between departments.* While an internal focus often creates competition among departments for power, position, and budget resources, external competition often leads to more internal cooperation and coordination.

Over the last five years, the net cost savings from managed competition is estimated to be in the range of \$12–14 million, or approximately 8 percent of the city’s general fund expenditures. Citizen needs are being satisfied with fewer employees. The number of full-time city employees is no greater than the number in 1995, while the city has added 25,000 residents during that time. However, in a 2006 telephone survey of 400 city residents distributed evenly through the city, 85.2 percent said that they were very or extremely satisfied with city services.

Application to Massachusetts

In Massachusetts, the Metropolitan Area Planning Council (MAPC) has been developing a plan under the auspices of the Inner Core Committee (ICC). The ICC consists of twenty-four cities and towns within the metropolitan Boston area: Arlington, Belmont, Boston, Braintree, Brookline, Cambridge, Chelsea, Everett, Holbrook, Lynn, Malden, Medford, Melrose, Milton, Nahant, Newton, Quincy, Randolph, Revere, Saugus, Somerville, Waltham, Watertown, and Winthrop. It fosters joint and cooperative action among these cities and towns and provides a forum for planners and municipal representatives to explore issues of mutual concern.

Inner-ring communities in Massachusetts share the same problems that plague Carrollton and many other inner ring communities: a slowing in the growth of the tax base, retailer flight, migration of the upwardly mobile to the inner city or outer suburbs, and aging infrastructure. Old industrial towns like Chelsea, Lynn, and Everett have already been through several cycles of deteriorating infrastructure and retailer flight.

The ICC would provide a perfect forum for discussing managed competition and adapting the Carrollton model to the needs of greater Boston’s older communities.

Considering its potential, it is encouraging that the cost of implementing the managed competition program is rather low. Carrollton calculated it at \$170,000 in the first year, of which \$40,000 was for overhead expenses, \$10,000 was for travel, training, research, and consulting services, and \$120,000 was for incremental staffing needs. These costs were categorized as 1.75 full-time employees (FTE):

- .75 FTEs for that part of the director of managed competition and strategic planning's time dedicated to managed competition projects in the first year;
- .5 FTEs for that part of one budget and management analyst's time reallocated to managed competition projects in the first year;
- .4 FTEs for that part of one internal auditor's time reallocated to managed competition projects in the first year;
- .1 FTE for that part of one administrative assistant's time reallocated to managed competition projects in the first year.

Conclusion

Entrepreneurial governments like Carrollton's operate as skillful buyers, shopping around for service providers that offer the best combination of desired attributes like service quality, price, reliability, and capability. Today the city's public services are delivered in a variety of ways: by public employees, by contractors, through joint ventures, business alliances, grants, intergovernmental agreements, contracts, and collaborations. According to City Manager Leonard A. Martin, "The City's responsibility is not to provide all services internally but to ensure that reliable, quality services are provided to our customers in the most cost efficient and effective means possible. Our goal is to produce a value-driven government product—the highest quality service at the lowest price possible."

Resource List:

Tom Guilfoy, Director of Competition

City of Carrollton, Texas
1945 E. Jackson Rd.
Carrollton, TX 75011-0535
972-466-3015
Fax: 972-466-3252
tom.guilfoy@cityofcarrollton.com

- The Privation.org Managed Competition/ Public-Private Competition webpage: http://www.privatization.org/database/practicesandstrategies/managed_competition.html
- "Managed Competition—Proceed with Caution," on the Deloitte Canada website: <http://www.deloitte.com/dtt/newsletter/0,2300,sid%253D3666%2526cid%253D47404,00.html>

- “Managed Competition in Indianapolis: The Case of Indianapolis Fleet Services,” on the Harvard Kennedy School of Government website: <http://www.innovations.harvard.edu/showdoc.html?id=11043>
- “Managed Competition in Florida,” on the Reason.org website: http://www.reason.org/commentaries/furney_20060720.shtml
- The Massachusetts Inner Core Committee (ICC) website: http://www.mapc.org/metro_area/innercore.html

Computerized Neighborhood Environment Tracking

Worcester Regional Research Bureau

Introduction

Many cities and towns in Massachusetts suffer from deteriorating physical conditions in some neighborhoods. Remedying these deficiencies is crucial to solving other urban ills such as crime, unemployment, and poor school performance. ComNET (Computerized Neighborhood Environment Tracking) is a tool for bringing together citizens and technology to identify and resolve these physical problems. Using handheld computers and digital cameras, teams of Worcester residents and college students have systematically documented more than 11,000 deficiencies on neighborhood streets, sidewalks, and properties since 2001. Because of this abundant, accurate, and practical information, municipal agencies and neighborhood associations have been able to resolve two-thirds of problems identified, improving the quality of life in Worcester's neighborhoods.

The Problem

Unlike the many cities in New England that have been losing population, the City of Worcester has grown modestly over the last two decades. With a population of 175,000, Worcester remains the second largest city in Massachusetts. However, during the past few decades, Worcester, like many other cities its age, has lost much of the industrial base that brought it into prominence in the 19th and early 20th centuries. It is still a city of immigrants, but these immigrants are no longer from Europe, but from Africa, Asia, and South and Central America. Students in the Worcester Public Schools are more likely to be minority, low-income, and limited-English proficient than they were just a decade ago.

The barons of the past industrial age did leave a rich cultural and educational legacy, including the Worcester Art Museum, Mechanics Hall, the Higgins Armory Museum, and nine colleges including

Worcester Polytechnic Institute, Holy Cross, Clark University, and Assumption College. Today, the economy is dominated by institutions of higher education and health care, including the University of Massachusetts Medical School (opened in 1974) whose research, along with that of WPI, has spawned a biotechnology-bioengineering industry in Worcester.

In 1993, the city manager decided to involve Worcester's residents in the development of its first strategic plan. He appointed to the Strategic Planning Committee two dozen members from around the city, representing diverse interests and backgrounds. The committee held five public hearings across the City, and then met with a facilitator to incorporate the findings of those hearings into a seven-year strategic plan, composed of five goals:

1. Improve the academic achievement of students in the Worcester Public Schools;
2. Increase economic development;
3. Improve public safety;
4. Improve municipal and neighborhood services;
5. Improve youth services.

However, while the city council and public were kept informed of the resources being devoted to these goals, no one was tracking measurable outcomes, such as decreases in the crime rate or improvements in student test cores. The Worcester Regional Research Bureau, which had served on the 1993 committee that established the plan and goals, decided to take on the task of measuring government performance.

The Research Bureau had been founded in 1985 by Worcester businesspeople concerned about the transformation of the city's economy and its capacity to sustain essential services and citizens' quality of life. Its mission is to serve the public interest of the Greater Worcester region by conducting independent, non-partisan research and analysis of public policy issues to promote informed public debate and decision-making.

In 1999, the Research Bureau began working with groups of citizens representing a broad cross-section of the community to develop and refine measures that would benchmark Worcester's progress toward achieving each of the Strategic Planning Committee's five goals. In 2000, it received a planning grant from the Alfred P. Sloan Foundation to develop a three-year project to institute citizen-driven government performance measurement in Worcester. While researching similar projects, it learned about a program designed by the Fund for the City of New York's Center of Municipal Government called ComNET (Computerized Neighborhood Environment Tracking), which can be used to benchmark neighborhood services. The

Research Bureau modified the program to fit Worcester's specific character, circumstances, and challenges.

The Solution

Worcester's version of ComNET is a system of biennial objective surveys of the physical conditions of its most socio-economically challenged neighborhoods, in which almost one-third (55,000) of the city's residents live. While the physical problems plaguing the neighborhoods are not news to their residents or municipal officials, before the implementation of ComNET there was no centralized means of collecting and reporting these problems to the appropriate municipal agency, or of tracking their resolution. ComNET surveys enable residents and officials to identify and document more than 275 specific problems affecting residents' quality of life, for example: potholes, faded crosswalks, abandoned vehicles, illegal dumping, or overgrown vegetation. Once neighborhoods have this inventory, they not only have a "punch list" of problems, but also a baseline for gauging the performance of city government in resolving these problems.

Before implementing the ComNET system and technology, the Research Bureau had to complete some important preparatory work. Its first step was to engage in extended discussion with neighborhood associations on how to define neighborhood boundaries, as well which problems to record. The second step was to create detailed maps for each of the neighborhoods that were to be surveyed, along with the routes to be followed, and then to program handheld computers with those streets and the physical features, and conditions to be recorded.

The actual process falls into three parts: recording, analyzing, and distribution. Traveling in teams of three or four (typically a scout to keep the team on its prescribed route, the unit user to input findings, and one or two others to point out trouble spots), participants record the deficiencies they observe on drop-down menus (for example, "lines fading" or "roof/chimney broken") falling under three dozen different broad categories of physical features (for example, "Building-Residential" or "Crosswalks").

Once the data is uploaded, users are able to generate a variety of spreadsheets depending on their desired analysis or action. Once the data from each survey is analyzed by Research Bureau staff, it is shared with neighborhood associations, giving them a clearer picture of specific areas of need and helping them to set priorities. Each municipal department receives a detailed electronic listing of the location and type of problems for which it is responsible, and if these problems are not already known to it, they are added to its workload.

City departments and neighborhoods are then better able to identify problems, determine responsibility, plan actions, and record progress.

Four neighborhoods in Worcester piloted the program in 2001, and four more were added in each of the following two years. Two have been added more recently. The fifty surveys completed during the last five years have led to the documentation of more than 516 assets (including potential partners such as schools, churches, and community centers) and 11,000 problems, for example: litter in more than 1,700 locations, more than 1,400 sidewalk trip hazards, and 1,300 instances of overgrown vegetation.

ComNET has led to a long list of quantitative and qualitative improvements in Worcester:

1. While residents had long complained of a perceived increase in abandoned vehicles, ComNET surveys made it possible to document the extent of the problem by pinpointing the exact location of each one. Since Worcester's Department of Public Works (DPW) assumed control of the abandoned vehicle removal program in 2003, more than 7,000 vehicles have been removed from the streets. The program, which was aided by the DPW's abandoned vehicle hotline, now pays for itself through the collection of fines and storage fees.
2. Instead of having residents wait to re-survey their neighborhoods to know whether a problem had been resolved, the DPW established a customer service center with a single phone number to provide residents direct access to municipal government for registering complaints and making requests and inquiries. The center responded to over 115,000 calls, 1,100 walk-ins, and 800 emails in FY06. About one-quarter resulted in work orders logged and tracked electronically by call takers who collect all necessary information before transmitting requests to the responsible municipal agency. The work order is tracked (allowing a resident to call the customer service center for updates) and closed when the issue is resolved.
3. The customer service center has both cut response times and saved thousands of dollars a year because fewer people are needed to answer phones. (Prior to this, there were 15 different service numbers for the DPW.) It has recently incorporated handheld computers in the field to expedite further problem resolution and a web-based component to allow citizens to submit requests online is in development.
4. The kind of quantitative evidence that ComNET is able to deliver has been able to sway political priorities and funding. While Worcester residents and the DPW have long been aware of the poor condition of the streets and sidewalks, it was ComNET's

ability to generate numbers and locations that have led to increased funding and a plan for remediation. The FY07 budget included \$2 million from a tax levy for street and sidewalk repair, plus \$6.9 million in capital funding. The city manager has proposed a five-year funding plan of \$44.5 million.

As a result of these innovations, about two-thirds of all the problems recorded have been resolved since the program began six years ago.

ComNET has also improved how city residents understand the work of the municipal government. ComNET data, for example, have dispelled the perception that some neighborhoods get favored treatment from municipal government, since there have been similar resolution rates for problems across neighborhoods. It has also led the residents to take on more responsibility for physical deficiencies in their neighborhoods. For example, according to the commissioner of public works and parks, because of the process of documenting deficiencies, residents now understand the issue of demand versus resources and that the city does not have the budget to address every issue at the same time. That same process of documentation has led to a more complete understanding of who exactly is responsible for remedying which kind of deficiencies. ComNET's spreadsheets not only list deficiencies but also clearly designate the agency responsible for remedying each, which, in about 25 percent of the cases, is the community itself.

With this information in hand, neighborhood residents have shown an admirable willingness to step in and deal with these deficiencies themselves. If there is debris accumulating in someone's driveway or yard, for example, neighborhood activists know to approach the homeowner directly. In the case of residents who might not have the physical or financial wherewithal to repair or clean up their property, community members have frequently chipped in to get the work done.

Finally, the ComNET program is helping break down some of the traditional barriers between Worcester and its institutions of higher education. The Research Bureau has teamed up with Holy Cross to incorporate ComNET into the service-learning component of its curriculum. As part of two courses in urban policy and politics, Holy Cross students join up with the neighborhood teams in conducting the surveys. To accommodate the academic calendar, four surveys are conducted in the fall and four in the spring. As a result of this partnership, the neighborhoods gain volunteers and get to know students as more than intruders in their neighborhoods, and the students become more integrated in the city and gain practical knowledge of the challenges facing urban areas. The partnership with Holy Cross is just one example of how ComNET can be adapted to local circumstances and opportunity.

Costs

The initial outlay for the handhelds, cameras, and map preparation was approximately \$20,000. The handhelds and the program were upgraded once since 2001. The staff time involved in organizing and conducting eight surveys each year, generating reports, maintaining the database (FCNY is paid \$5,000 per year to store data and generate reports), and meeting with neighborhood associations and city officials is about \$20,000 per year. With such low costs, budgetary considerations should not stand in the way of duplicating this program in other cities.

Application to Other Municipalities

Clearly, the same sort of problems that plagued Worcester affects most urban areas, in Massachusetts and across the nation. However, ComNET is not merely a technology. The program depends on the right institutional configuration and community commitment. One of the key factors is a credible, independent third party, like the Research Bureau, that takes responsibility for the project. Although the Research Bureau did not have a long history of working with neighborhood associations, it did have longstanding credibility as an independent, non-partisan agency. Knowing that it was not an arm of municipal government gave these groups the comfort level they needed. After working with the first set of four neighborhoods in conducting the surveys, sharing the results, and transmitting them to the appropriate municipal agencies, many other neighborhoods applied to participate in the project. Neighborhood residents continue to participate because they have been able to document improved conditions during re-surveys of their neighborhoods.

Another key factor is size. In a city the size of Worcester, it is possible for Research Bureau staff to have regular and informal contact with the senior public officials. They are able to ask one another for assistance, and the city manager and relevant department heads have been some of ComNET's major supporters. This kind of relationship with public officials is probably less likely in a city the size of New York or even Boston. Those cities identified as "Middle Cities" by Pioneer Institute, such as Springfield, Lowell, Brockton, Fall River, and New Bedford, are more likely to be able to establish such a program and see the most benefit.

Conclusion

As the program has matured, ComNET and the role of the Research Bureau have evolved. In what we see as a mark of the program's success,

a couple of neighborhoods have withdrawn from the program for the time being because their residents are now confident that they can get results dealing directly with the customer service center. In general, as the neighborhoods have gained experience with the surveys, they have been taking on more responsibility. Going forward, the Research Bureau expects to only to play a large role when a particular neighborhood wishes to undertake a more comprehensive survey, or when opening up a new territory, as it will be doing this summer when it conducts the first survey of Worcester's downtown neighborhood.

ComNET-like projects have been implemented in about fifty communities and business districts across the United States, usually relying on the program and the assistance of the staff of the Fund for the City of New York. The Research Bureau would be pleased to assist in this replication effort as well.

Resource List

Roberta Schaefer, Executive Director

Worcester Regional Research Bureau
319 Main Street
Worcester, MA 01608
508-799-7169
Fax 508-799-4720
rschaefer@wrrb.org

- Worcester Regional Research Bureau website: www.wrrb.org
- The Public Performance Measurement and Reporting Network website: <http://ppmrn.rutgers.edu/Home.aspx>
- Alfred P. Sloan Foundation, Standard of Living and Economic Performance Program website: <http://www.sloan.org/programs/PerformanceMeasurementandReporting.shtml>
- The Citizens and Performance website for the monthly magazine *Governing*, <http://www.governing.com/manage/pm/intro.htm>
- Fund for the City of New York's Center on Municipal Government Performance website: <http://www.fcny.org/portal.php/govt/cmgrp>
- Barbara Cohn Berman, *Listening to the Public: Adding the Voices of the People to Government Performance Measurement and Reporting* (New York: Fund for the City of New York, 2005).
- An article on Worcester's experience with ComNET: Jonathan Walters, "Tracking Team," *Governing.com* April 1, 2006, <http://www.governing.com/manage/pm/perf0406.htm>

Four Proposals to Reform Special Education

Special Education Day Committee

Introduction

In many ways, special education has achieved great success during the last thirty years. All public schools now provide access to educational programs for students with disabilities (SWD). Indeed, SWD are entitled to a free appropriate public education (FAPE) that is reasonably calculated to provide them with a meaningful educational benefit. Today, many SWD are educated in inclusive settings with access to the regular education curriculum. More than six million SWD across the nation receive access to the programs and the education they need to meet higher curriculum standards and lead fuller, more productive lives. In Massachusetts, 16.9 percent of all students receive services under the Individuals with Disabilities Education Improvement Act (IDEA) and Massachusetts General Laws Chapter 71B.¹

Moreover, the 2002 No Child Left Behind Act (NCLB) promotes broad changes in education policy for all students, including SWD. It requires that all children, including SWDs, have research-based educational curricula with demonstrated effectiveness, especially in the areas of reading and math.

However, upon closer examination, because of the requirements and cost of these special education programs, other areas of education are adversely affected. It is fair and just for us now to seek a better balance to serve all our school children. It is prudent to seek new pathways to find this balance if schools are to be educationally effective, fiscally responsible, and responsive to all in their charge. Let us ask: Can the special educational system be reformed and streamlined without diminishing appropriate services for SWDs?

The Problem

While the rest of the nation educates slightly more than 13 percent of its students through the IDEA, the states of Massachusetts and Rhode

¹ This is the number of students who have Individualized Education Plans, as required by the IDEA and by Mass. Gen. Laws, Ch. 71B. Massachusetts Department of Education data.

Island share the dubious distinction of placing the highest percentage (16.9 percent in Massachusetts) of their students in that category. While most of these students need support, the cost to the state and school districts of providing special services is seriously affecting our ability to invest in other educational areas and to promote education reform for all students.

Back in 2001, the Massachusetts Association of School Superintendents (MASS) issued a report, “The Impact of Special Education Reform: A Case Study of Massachusetts.” Among its findings were that “special education has consumed a disproportionate share of new funds allocated to education” since state funding began to climb in the early 1990s.² It found, for example, that in 29 percent of the school districts, the increased cost of special education exceeded all new state aid between 1993 and 1999, and that in 56 percent of the school districts in the state, the increased cost of special education swallowed more than 50 percent of all new state aid in that period. Most school reform dollars allocated for all students have, instead, been funneled to meet the rising costs of special education.³ This occurs because the cost of special education is not limited by budgetary considerations or constraints. Funding for special education comes off the top in our public schools.

Other numbers tell the same story. Between 1990 and 2004, the cost of special education in Massachusetts as a percentage of total district expenditures rose from 17.2 to 27.6 percent. While spending for regular education rose by 82.9 percent, the cost of special education rose by 154.4 percent.⁴ State spending for special education is approaching two billion dollars annually.

In 2006, MASS updated its 2001 report on special education. In spite of legislative attempts to assist public schools with additional funding, “districts were still experiencing cost increases that seriously compromised their regular education program and the goals of education reform.”⁵

In 1975, President Gerald R. Ford predicted some of these consequences in his signing statement for the nation’s first special education law. Although he agreed with the goal of educating all children with disabilities, he also foresaw that the law as written had these faults:

- It was too cumbersome, entailing too much bureaucracy and paperwork;
- It was too costly, claiming unrealistic and excessive authorization levels for funding;
- It promised more than it could deliver, falsely raising expectations.⁶

² Sheldon H. Berman, Perry Davis, Ann Koufman-Frederick, and David Urion, *The Impact of Special Education on Education Reform*, Task Force on Special Education, (Boston, MA: Massachusetts Association of School Superintendents, 2001), <http://mass.supt.org/policy/fileDisplay.cfm?file=327>.

³ *Ibid.* This diversion of funds is due to the fact that special education is still the **only** legal individualized entitlement under state and federal laws for children with educational, social, medical, emotional, behavioral, and other needs in our schools. Expenses for special education come off the top—followed by other programming needs. The Massachusetts situation is not unique. In “Extra-Special Education at Public Expense,” (*San Francisco Chronicle*, February 19, 2006, p. 1), Nanette Asimov quoted Paul Goldfinger, a California school finance expert: “This is not sustainable....Special education is a growing portion of budgets in many districts, squeezing out services for other pupils.”

⁴ In 2000, the United States spent approximately \$80 billion on IDEA services at the local, state, and federal levels. See Chester E. Finn, Jr., Andrew J. Rotherham, and Charles R. Hokanson, Jr., eds., *Rethinking Special Education for a New Century*, Thomas B. Fordham Foundation and the Progressive Policy Institute (May 2001), 32.

⁵ Sheldon Berman, “Special Education Finance Policy,” MASS Special Needs Task Force, Massachusetts Association of School Superintendents, <http://www.masssupt.org/policy/fileDisplay.cfm?file=329#1>.

⁶ The signing statement can be found at <http://www.ford.utexas.edu/library/speeches/750707.htm>.

Experience has confirmed Ford’s foresight. Although the law has been rewritten and reauthorized by Congress many times since 1975, becoming in its latest version the Individuals with Disabilities Education Improvement Act of 2004 (IDEA), sufficient reform has yet to occur. In 2002, the President’s Commission on Excellence in Special Education cited numerous remaining challenges, including the need to streamline regulation: “The current system often places process above results, and bureaucratic compliance above student achievement, excellence, and outcomes. The system is driven by complex regulations, excessive paperwork, and ever-increasing administrative demands at all levels.... The culture of compliance has often developed from the pressures of litigation.”⁷ Although the report included many recommendations, most of them have yet to be implemented. IDEA has done little to address this burden of paperwork: the 2006 IDEA Regulations themselves run (excluding the extensive comments and analysis section) more than 90 single-spaced pages. The Massachusetts regulations add another 35 pages, whose contents sometimes conflict with those of the IDEA and create confusion for educators and parents.

One of the key causes of this avalanche of paperwork and the high cost of special education is the adversarial framework within which special education takes place. While Congress had initially tried to create a more cooperative approach, where schools and parents would work together to educate SWDs, a litigious atmosphere has taken over, feeding off the mistrust it promotes.

Consider, for example, the Supreme Court’s recent decision in *Schaffer v. Weast*.⁸ The Court decided that in cases concerned with special education, the party bringing the suit, which is usually the parents, should carry the burden of proof. It added that the parents, however, are not powerless since they are entitled to an independent evaluation:

IDEA thus ensures parental access to an expert who can evaluate all the materials that the school must make available, and who can give an independent opinion. They are not left to challenge the government without a realistic opportunity to access the necessary evidence, *or without an expert with the firepower to match the opposition*. [Emphasis added]

The Supreme Court, in other words, assumes that those who should work together, parents and educators, with the common aim of providing services that the child needs, are inevitably adversaries.

Even worse than litigation is the fear of litigation, because it infects everything. The IDEA is the fourth most litigated federal statute. In Massachusetts, the Bureau of Special Education Appeals (BSEA)

⁷ “A New Era: Revitalizing Special Education for Children and Their Families,” The President’s Commission on Excellence in Special Education, 2002, 7, <http://www.ed.gov/inits/commissionsboards/whspecialeducation/reports/index.html>.

⁸ 126 S. Ct. 528, 44 IDELR 150 (2005).

provides mediations and due process hearings for special education (and Section 504) disputes. It fields almost 600 hearing requests per year, of which some 94 percent do not result in decisions. By experience, we know that many “settle.”⁹

A virtual “mansion industry” of evaluators, advocates, attorneys, and others has grown to navigate the laws’ complexities. Among the unintended consequences of the IDEA is that these professionals appear to have a stake in litigation or the fear of litigation, even as it breeds mistrust between those who, in the end, have to find a way to work together for the sake of the child.

Because the only entity that is legally required to provide for SWDs is the public school system, insurance companies and the other state social agencies are able to shirk their responsibilities for these children. Yes, “interagency agreements” are developed. However, they work around the fact that SWDs have no legal entitlements at other agencies or entities. Thus, those entities can deny all types of services to children on budgetary grounds, even when those services are within their mandate and are not educational. Due to the special education entitlement, public schools are left with the burden of escalating needs and costs.

The Solution

In 2005, SPEDCO sponsored its first annual Special Education Day in Massachusetts. Educators, state officials, parent representatives, and other leaders in education met to celebrate the anniversary of the IDEA, honor the progress of special education in Massachusetts, and develop reform proposals.¹⁰ The participants were asked what most needed changing in regards to special education. The most common responses were the adversarial climate, the litigious atmosphere, the burdensome procedures, excessive paperwork, and the lack of trust, respect, and dignity for school personnel.

Taking our cue from this, SPEDCO formulated four proposals. The first three require no legislative action, just the support of the public and Department of Education (DOE), and modest funding.¹¹ The fourth will require legislation. SPEDCO seeks to have the first three reforms piloted without delay, even as we wait for the legislature to work on the fourth proposal:

1. The “Procedure Lite” Option¹²
2. The Free Appropriate Public Education (FAPE) Expert model
3. A Collaborative Training Model
4. Conformity Legislation Model

⁹ This issue is not confined to Massachusetts. Too often the fear and threat of litigation is the reality of how special education “works” today. For example, Asimov, in “Extra-Special Education at the Public Expense” (*San Francisco Chronicle*, February 19, 2006, p. 1), quotes a special education director stating that legal proceedings “are a huge time drain on your administration and your teachers. You don’t want to spend precious dollars on this, so districts will settle a case to avoid it.” Another stated, “Special education is a huge industry now...I don’t think the average person realizes what’s going on.”

¹⁰ The second annual Special Education in 2006 was co-sponsored by SPEDCO, the Massachusetts Administrators for Special Education (ASE), and the Massachusetts Association of Approved Private Schools (MAAPS). *Education Week’s* January 3, 2007 online edition mentioned Special Education Day in its article about the death of President Gerald R. Ford. Recently, both the *Lexington Colonial Times* (February-March 2007) and *Wellesley* magazines cited it as an avenue of hope for reform.

¹¹ Note that the estimates of costs cited in the first two proposals are very rough and speculative. Unfortunately, we do not have data about how teachers spend their time, the cost of proceeding to a BSEA hearing at all stages, the costs of “settling” disputes, etc. We urge research to provide this data. A chapter in *Rethinking Special Education for a New Century* raises the same concern in its discussion of the annual costs for providing special education: “The wide range of cost estimates itself hints at an insufficient level of accountability in these programs, while also provoking the important question of what society is receiving as a return on its substantial investment in special education.” p. 53.

¹² We thank Marcia Mittnacht, State Director of Special Education of the DOE, for the term “Procedures Lite.” The use of this term does not imply an endorsement of any opinions stated herein by Ms. Mittnacht.

1. The Procedure Lite Option

Goals:

- To expedite the delivery of special education services to SWDs while minimizing procedural and paperwork requirements.
- To restore trust between parents and school systems.

The Procedure Lite option allows parents, with school consent, to opt out of the special education procedural/regulatory requirements. It establishes basic structures and processes (including an information packet, to be developed) within which parents and schools can work cooperatively while reducing the number of regulatory steps. Both parties waive legal terminology, attorneys' fees, disputes about additional or fewer services, compensatory services, and protracted procedures. Both parties have the right to opt back into the IDEA and Massachusetts procedures anytime by informing the other party.

Initial discussion with the DOE has confirmed that this option would not require legislation, and it appears interested in pursuing this avenue with us.

Anticipated Outcomes:

- Services for students to start as soon as agreed upon without protracted procedural steps.
- Improved communications between schools and families, focused on the student's program, needs, and progress, not on compliance issues.
- Quicker resolution of problems and conflicts.
- More direct instructional time.
- Less frustration and more trust between schools and families.
- Cost savings.

The cost savings from Procedure Lite could be enormous. We estimate that special education teachers may spend 25 percent of their time doing non-instructional work such as documenting compliance or organizing and attending meetings. The President's Commission on Excellence in Special Education echoed this concern in 2002: "Educators spend more time on process compliance than on improving educational performance of children with disabilities."¹³ If the Procedure Lite option could reduce that time by 40 percent, to 15 percent of their working hours, then students would be getting 10 percent more instruction per teacher. If we assume an average teacher salary of \$56,000 (from the DOE website) and estimate \$10,000 for benefits (for a total of \$66,000 per teacher), then this Option would save \$6,600 per teacher. Assuming a low number of special education teachers in Massachusetts—let's say 3500 for the sake of discussion—the Procedures Lite Option might divert more than 20 million dollars back

¹³ "A New Era: Revitalizing Special Education for Children and Their Families," The President's Commission on Excellence in Special Education, 2002, 11, <http://www.ed.gov/inits/commissionboards/whyspecialeducation/reports/index.html>.

to teaching (3500 x \$6600 = \$23,100,000).

We recommend that this option be piloted in selected school districts to study its effectiveness and implications for broader use.

2. The FAPE Expert Model

Goals:

- To provide effective, impartial, and student-centered dispute resolution focused on delivering a FAPE to special needs students.
- To reduce the need for litigation procedures, and provide prompt, appropriate delivery of educational services.
- To provide expertise that targets the student rather than future litigation.

The FAPE expert model ends the damaging “battle of the experts.” The parents and public schools would jointly choose an independent expert, paid for by the Bureau of Special Educations Appeals (BSEA) or by the local school district, to assist the BSEA hearing officer in making a decision. The FAPE Expert plays a role much like the guardian ad litem in other legal contexts.

The BSEA has shown interest in this approach during preliminary discussions.

Anticipated Outcomes:

- This model would shift the focus of family, schools, and BSEA to the child, away from positioning for the strongest case in litigation.
- Resolution would be reached within 30 days from the time the parents and school jointly choose a FAPE expert.
- A decrease in the number and intensity of disputes.
- The restoration of trust between schools and parents.

The cost savings from the FAPE expert model could be substantial. There is no hard data concerning what the present adversarial system costs, but we will try to make a rough estimate of the cost of an average BSEA hearing for schools. (We do not estimate the cost of maintaining the BSEA). There is no data to tell us how many of the approximately 600 hearing requests begin down the path toward a hearing or how far down that path they proceed. Such data would be useful to have. We do know that 34 decisions and 17 rulings were written in FY 2006.¹⁴

- Starting again with the estimated average teacher salary and benefits of \$66,000, and dividing it into a per diem estimate, a teacher costs \$360 a day (\$66,000 divided by 182). If we assume that the average three-day hearing involves seven teachers, administrators, service providers (occupational therapists,

¹⁴ See “Special Education Appeals—FY 2006 Data Summary,” <http://www.doe.mass.edu/bsea/fy06datasum.html?printscreen=yes&>.

speech-language therapists, etc.), then the school personnel cost of that hearing is at least \$7500 (3 x 7 x \$360). Taking into account preparation time, travel and meal reimbursements, discovery, and the possibility that the hearing will go longer, a good round total estimate would be \$13,000.

- Since attorneys' fees for the school district may run between \$10,000 and \$70,000 or higher, we will assume \$40,000.
- Fees for each expert may run between \$1000 and \$5000, depending on the nature of the case. If we allow for the possibility that more than one expert might be needed, a fair estimate would be \$5000.
- Administrative costs, mailing, and discovery may amount to \$5000.

These rough estimates add up to approximately \$60,000 for an average hearing. If a district loses the hearing, it will also have to pay the parents' attorney's fees, perhaps another \$40,000, and whatever additional services the BSEA orders. Thus, even with only 51 decisions and rulings in a year, several million dollars are spent that could be used for better educational purposes.

In comparison, we estimate the cost for the FAPE expert to run between \$2000 and \$5000, depending on the child's needs.¹⁵

We recommend that this model be piloted in selected BSEA cases to study its effectiveness and implications for broader use.

3. A Collaborative Training Model

Goals:

- To shift the training paradigm away from compliance toward student outcomes.¹⁶
- To redirect training resources towards initiatives that would build cooperative relationships between parents, schools, and state agencies and provide the tools to improve educational outcomes.

In current practice, school districts spend scarce money and effort in defensive training to assure compliance with procedural requirements. Special education paperwork burdens are onerous and often cited as the reason professionals leave the field. The shift in training will refocus educators and parents on improving teaching and learning strategies and on building cooperative working relationships.

Preliminary discussions with the DOE and the Federation for Children with Special Needs (FCSN) have indicated their interest in making training more constructive. No new legislation would be

¹⁵ See also a BSEA decision involving the Sudbury Public Schools, 44 IDELR 291 (SEA MA 2005), where the hearing officer awarded parents more than \$100,00 in retroactive reimbursement in addition to a private placement and attorney fees (left unspecified in the decision). According to the article in the *San Francisco Chronicle* of February 19, 2006 cited above, one district spent \$140,600, of that \$62,600 for its portion of the out-of-state tuition, \$25,000 for its own legal bills, and another \$50,000 for the attorneys of the parents.

¹⁶ In testimony before the President's Commission on Excellence in Special Education, cited in its report "A New Era: Revitalizing Special Education for Children and Their Families," Kim Goodrich Ratcliffe, PhD, Director of Special Education in Columbia, Missouri, testified that her district spends the whole week preceding the opening of the schools training special educators on **procedural mandates**: "The tail is wagging the dog."

required, just the shifting of money already in the system.

Anticipated Outcomes:

- DOE and U.S. Department of Education training funds will target training for educators and parents on successful education and relationship-building practices to enhance trust and communication.
- Fewer disputes and less spending on litigation.
- More funds and attention to improving student outcomes.

4. Conformity Legislation Model

Goals:

- To streamline legal requirements so that educators can focus on educational outcomes.
- To maintain the rights of the SWDs to a FAPE.

In addition to the federal law, the IDEA, Massachusetts has its own law (Chapter 71B) and its own set of regulations governing special education. Some Massachusetts requirements just create more toil and paperwork. Others create rights that exceed a FAPE and/or increase disputes and litigation because they confuse parents and educators and may create conflicts with federal requirements. The reality is that the IDEA is sufficient to provide the access to education to which SWDs are entitled because it provides them with the right to a FAPE.

In 2005, California passed conformity legislation that eliminated most requirements for special education that went beyond the IDEA. The effort streamlined special education, making it less confusing, more efficient, and more effective.¹⁷ While many other states already conform to the IDEA, Massachusetts continues to provide costly and confusing extras.

Anticipated Outcomes:

- Fewer conflicts and disputes because of divergences between state and federal regulation.
- The state will have the energy to tackle other needs, such as enforcing interagency agreements.
- Educators and parents will have the energy to focus on improving outcomes for all students.

This proposal, of course, will require state legislation.

Conclusion

The landscape has changed greatly for special education students in the last thirty years. So much has been accomplished in terms of programs, access, funding, and fairness. However, without timely and

¹⁷ Personal communication with Howard Fulfrost, Esq., of California (formerly at Lozano Smith; now at Fagan Friedman & Fulfrost LLP). Attorney Fulfrost played a key role in California's movement to conformity legislation.

radical reform, these gains, achieved with great effort and difficulty, are at risk. Moreover, education for all children in the Commonwealth may be compromised.

Resource List

Special Education Day Committee ~ SPEDCO

PO Box 600221

Newtonville MA 02460

617-542-6789 (at law office); 617-510-0248

Miriam Kurtzig Freedman, M.A., J.D., of counsel

Stoneman, Chandler & Miller LLP

Carla Jentz, Executive Director

Massachusetts Administrators for Special Education (ASE)

Marilyn E. Bisbicos, Ed. D.

Consultant and Former Pupil-Personnel Director for the Cambridge and Arlington Public Schools

Edward Orenstein, Executive Director

Concord Area Collaborative (CASE)

- Bureau of Special Education Appeals website:
<http://www.doe.mass.edu/bsea>
- Federation for Children with Special Needs website:
<http://www.fcsn.org>
- Massachusetts Association of School Superintendents website:
<http://www.massupt.org>
- Massachusetts Department of Education website:
<http://www.doe.mass.edu>
- Miriam Kurtzig Freedman's website:
<http://www.SchoolLawPro.com>
- President's Commission on Excellence in Special Education website: <http://www.ed.gov/inits/commissionsboards/whspeci-aleducation/reports/index.html>
- Special Education Day Committee's website:
<http://www.specialeducationday.com>
- U.S. Department of Education, Office of Special Education Programs and Office of Special Education and Rehabilitative Services website:
<http://www.ed.gov/about/offices/list/osers/osep/new.html>

The Entrepreneurial Service Delivery Program

Northern Virginia Regional Park Authority

Introduction

Faced with declining park visitation and an expense structure that was exceeding revenues, the Northern Virginia Regional Park Authority (NVRPA) faced the kind of difficult choices that many government entities have faced. There were three main options:

- Seeking additional appropriations from the six local governments that make up the organization.
- Scaling back operations to mirror the declining park usage.
- Approaching the delivery of conservation and recreation services in a business-like manner.

It chose the latter option, and from 2005 to 2006 transformed the organization into a market-focused, entrepreneurial public agency.

Because of this transformation, NVRPA park usage is now increasing at an annual growth rate of more than 10 percent. Rather than drawing from its reserves, as in 2003 and 2004, NVRPA now meets all of its financial obligations and accelerated reinvestment in park facilities in 2006. The central ingredient in the transformation of the organization was to develop a culture of innovation and high performance.

While the programs and activities of most park agencies draw more than 50 percent of their operating budget from tax dollars, a good measure of the financial soundness of the NVRPA is that it draws 80 percent of its operating revenues from its enterprise operations. This high level of self-sufficiency is unique in the country, and it provides a high return on investment for the public tax dollars that the local governments in Northern Virginia contribute to the NVRPA.

The Problem

The NVRPA was created in 1959 with the mission of protecting open space and natural and historically significant areas. The park system

today has grown to 21 parks encompassing 10,256 acres. The NVRPA is a special purpose governmental body that is guided by a twelve-member board, appointed by its six jurisdictional members. Its jurisdiction includes a population of more than 1.6 million people. The parks serve the residents of these jurisdictions as well as many other visitors. A recent park user survey found that almost 30 percent of the patrons come from outside of the member jurisdictions.

In 2003, the NVRPA faced a funding crisis. During the late 1990s, it had allowed its staff and associated overhead to outgrow its revenues. Then, between 2002 and 2003, the usage of its facilities declined precipitously, and along with that usage, its revenues. Between FY 2002 and FY 2003, overall user fee revenues decreased by 18 percent, and Enterprise Fund operating income dropped from more than one million dollars to an operating loss. There were a number of novel factors that may have led to this dramatic drop: poor weather, 9/11, and a series of sniper attacks in 2002. Moreover, park usage had been declining across the country. United States National Park Service data show that between 1992 and 2005, the number of overnight campers at national parks dropped by 26.5 percent, and overall park usage was down significantly. For example, the usage of state parks in California dropped 11 percent between 2002 and 2005. Many other states and regions have experienced similar declines. In 2006, Richard Louv's best-selling book *Last Child in the Woods* focused national attention on the decline of outdoor activity among today's youth.

Because of this sudden shortfall, the NVRPA had to borrow from its reserves in 2003 and 2004 to make ends meet, and defer preventative maintenance throughout the park system, which only further reduced the appeal of the facilities to potential park patrons.

The Solution

The NVRPA's Entrepreneurial Service Delivery Program had three aims: cutting expenses, increasing revenues, and making the organizational culture more entrepreneurial.

In 2005, the NVRPA streamlined the organization, reducing positions. This contributed to an almost eight percent drop in operating costs for personnel between 2004 and 2006 (see exhibit 1). Additionally, the vehicle fleet was reduced by ten percent and an energy conservation policy was implemented to control expenses and lead by example.

Having costs under better control, the NVRPA turned to making its services more attractive to the public and marketing those services effectively. It focused on two of its potentially most lucrative services: golf and camping.

Halfway through FY 2005, it created a golf membership program that allowed frequent players to purchase season passes for unlimited play at NVRPA courses. These were priced to promote play during non-peak demand times. Augmented by an aggressive marketing program, including advertisements in golfing publications, wide distribution of a new brochure, and a greater presence at Virginia Tourism Centers, there was an increase of 12 percent in golf rounds between 2005 and 2006, with a \$579,000 increase jump in total golf revenues (see Exhibit 2).

Towards the end of the same year, NVRPA took its first steps toward improving the camping facilities. The Park Authority added rustic cabins and expanded hook-ups for recreational vehicles and wireless internet access at both of the NVRPA's two campgrounds, allowing the public to select from a wider range of camping experiences and comfort levels. These new amenities were marketed through print advertisements, the internet, and camping directories. NVRPA also developed new camping literature that emphasized the attractiveness to families of a camping facility so close to the nation's capital. Between 2005 and 2006, there was increase of almost 3,000 new camping reservations (more than 10,000 campers) and a jump in revenues of \$136,000 (27 percent). In 2006, camping revenues exceeded expenses for the first time in decades (see Exhibits 3 and 4).

Exhibit 1: Total Personnel Cost as a Percent of Operating Costs %

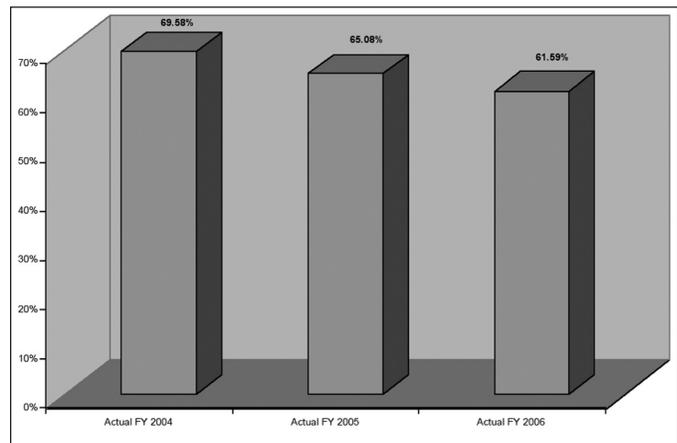


Exhibit 2:

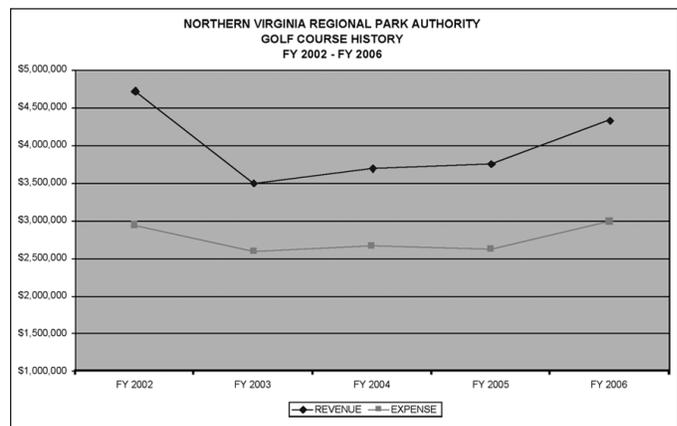


Exhibit 3:

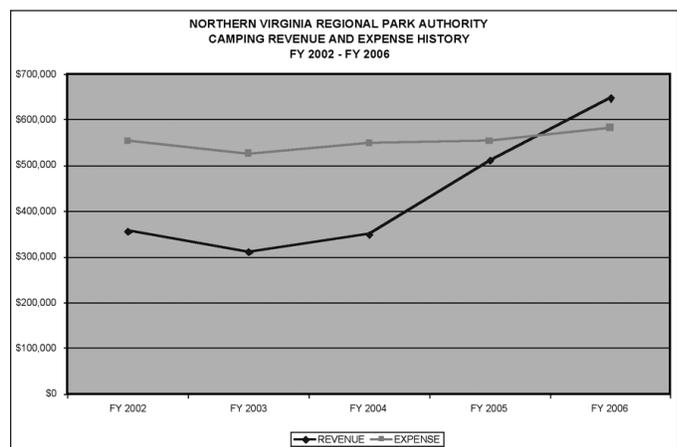


Exhibit 4: FY 2006 Performance Measures

ACTIVITY	Increased Usership		Increased Revenue	
	July 05–June 06	%	July 05–June 2006	%
Golf	9,377	12%	\$578,943	15%
Camping	3,000 reservation (10,000+ additional campers)	13%	\$136,619	27%
Other park usership increases *	65,464	10%	\$190,396	10%
Total Increase in usership	84,841	10.44%		

**This data does not attempt to measure users on the NVRPA's 100 miles of trails. The W&OD trail is considered one of the most heavily used trails in the country with an estimated 2-3 million users per year.*

Finally, the NVRPA initiated employee achievement awards in 2006 to reward innovation, cost savings, safety, creative programming, and being a team player. These awards were designed to promote the entrepreneurial values that are most important to the long-term performance of the organization. Prior to this, awards had only been given for years of service. In the words of Paul Gilbert, the executive director of the NVRPA, “In surveys done of the staff, board, and external stakeholders, one of the recurring themes was an appreciation for the non-bureaucratic, nimble nature of the NVRPA. With the employee achievement awards, we are now recognizing this strength and reinforcing this important element of our organizational culture.”

By cutting expenses before moving on to making investments in operations and infrastructure, the NVRPA was able to free up money for those investments. Between 2005 and 2006, it raised the share of its operating revenues from enterprise operations from 79.34 percent to 80.16 percent. However, in fact, most of the money for these investments came out of its \$4 million annual capital budget. It was money well spent. The annual average of the capital investments in golf courses and campgrounds compared to the increase in revenue from 2005 to 2006 shows that the campground improvements yielded a 66 percent return on investment (ROI) and the golf course improvements yielded a remarkable 224 percent ROI (see Exhibit 5).

Exhibit 5:

Capital Investments	Revenue Increase FY 2005 & 2006	Capital Investment FY 2005 & 2006	Return on Investment (ROI)
Golf Course Renovations: New fairway drainage, improved golf paths, new tees.	637,951	284,867	224%
Campground Improvements: New rustic cabins, upgraded utilities for RV camping, renovated rest rooms.	298,143	453,996	66%

The NVRPA was able to revamp its public information spending with new brochures and new strategies for information distribution

with little added cost but, as we have seen, greatly enhanced results.

As a direct result of the improved performance of the agency, the NVRPA was able to reinvest more than \$800,000 in surplus operating income at the end of 2006 into capital maintenance. In the words of Dennis Rust, the Manager of NVRPA Central Maintenance, “For many years, maintenance was deferred in a short-sighted effort to save money. As a result of our reinvestment in maintenance, everything works as it is supposed to do. These improvements will make our parks more popular than they have ever been. We will also save money in the long run with our preventative maintenance program that fixes small problems before they become large ones.”

Future Plans

With the success of the 2006 campground improvements, plans for 2007 include the addition of playgrounds, refurbishing restrooms, an expansion of the advertising in the major camping directories, and continuing to reduce energy consumption.

The NVRPA is also in the middle of an extensive study of its current and future retirement plan benefits. Like many public agencies, it has a defined benefit plan that is getting increasingly expensive. While it wants to honor its financial commitment to current employees in its plan, it also wants to find less expensive ways to fund them.

Finally, it is in discussions with other local governments in Northern Virginia about joining the NVRPA. If those discussions materialize, it could mean a substantial expansion of the park system.

Application to Massachusetts

The Massachusetts state park system faces the twin challenges experienced in Northern Virginia—a stagnating or declining park visitation rate and an expense structure that exceeds revenues.

Visitation at the Massachusetts state parks facilities for fiscal year 2006 is estimated to be just over 33 million. Of that number, 32.4 million were day visitors and 734,000 were overnight camping visitors. It has remained more or less flat, marginally beating national parks in Massachusetts, whose use has declined from more than 10 million visitors in calendar years 2001 and 2002 to 9.2 million visitors in 2003. This was the lowest number of annual visitors since 1986.

The revenue base of the Massachusetts state park system is far less dependent on camping and other customer-based revenues than is the park system in Northern Virginia. The agency in charge of the parks, the Department of Conservation and Recreation (DCR), receives fund-

ing for its annual operations and capital needs from several state and non-state sources. Overall funding in fiscal year 2006 can be broken down as follows:

- 35 percent of all spending came from annual legislative appropriations from the General Fund.
- 50 percent represents capital authorizations (44 percent of which was subject to the sale of bonds).
- 14 percent of spending came from non-state sources (federal and trust).

The operating budget, however, depends heavily on appropriations. More than 90 percent of the DCR's operating budget comes from either annual operating or supplemental operations, and less than 10 percent from retained revenues.

The DCR's assets are enormous and unsustainable given its revenue stream. They include pools, splash pools, golf courses, skating rinks, parks, camping grounds, water infrastructure, beaches, seawalls, dams, bridges, parkways, and buildings. The need for additional revenue is considerable, with a deferred maintenance backlog that has been estimated as between \$750 million and \$1.2 billion.

Some business practices have been implemented by the DCR to increase revenues:

- Raising fees.
- Creating public-private partnerships that range from philanthropic collaborations to long-term lease arrangements for some of its key capital assets (most notably skating rinks).
- Introducing an Annual ParksPasses program, which offers volume access to park facilities across the state for a discounted price.
- Making technological upgrades such as the internet-based campground reservation systems known as the Outdoor Recreation Management System (ORMS), which in 2006 enabled over 40,000 camping reservations to be made, generating \$4 million in revenue.
- Working with municipal partners to re-invent closed or failing swimming facilities to create modern family aquatic centers that improve service and reduce maintenance and maintenance costs.

However, for the most part, the DCR has focused less on revenue generation than on increasing use of the state parks by various populations. Attempts to increase visitation include the following:

- The introduction of new themes and activities. For example, the Great Park Pursuit program is a six-week outdoor adventure for families and teams in which participants visit a different state park each Saturday to learn about natural resources.
- Creating partnerships with other institutions. For example, it

has implemented a collaboration with local libraries called “Use Nature as Your Library.” Public libraries across the state are given free ParksPasses for their library patrons. Special programs were arranged with the libraries as part of the promotion.

- A push to increase volunteerism. For example, the DCR is collaborating with the state Americorps to sponsor a “Park Serve” day. This year, 1,300 volunteers participated at more than 50 locations.
- Providing better access to the disabled. For example, the Universal Access Program provides outdoor recreation opportunities in state parks for visitors of all abilities through site improvements, specialized adaptive recreation equipment, and accessible recreation programs.

Clearly, these are all worthwhile efforts. However, even together they make only a minor dent in the real problem: how to bring revenues and expenses into alignment. Unlike the NRVPA, the DCR depends on other agencies for the bulk of its funding, and much of its revenue goes back to these same agencies. It, therefore, has little incentive to either make itself more efficient or invest the money saved through efficiency in improving its programs to enhance its revenue stream. It will be difficult for the DCR to make itself into a market-focused, entrepreneurial public agency unless it, like the NRVPA, faces many of the same market pressures as a private business.

Conclusion

Traditionally, the government has funded park facilities and assumed that the public will find and use them. However, given the enormous and growing range of alternatives, and the scarcity of leisure time, especially shared family leisure time, park systems need to work just as hard and smart as their competition does. They need to offer great services to the public and market them just like all the other products and services competing for the public’s free time.

Resource List

Paul Gilbert, Executive Director

5400 Ox Road
Fairfax Station, VA 22039
703-359-4600
pgilbert@nvrpa.org

- The NRVPA website: <http://www.nrvpa.org>
- Massachusetts Department of Conservation and Recreation website: <http://www.mass.gov/dcr>

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