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Planning is Political; Except when it isn't

Abstract: City councils, mayors, and other local elected officials are consumed by questions of how much development to allow, where that development should occur, and what type of development it should be. In fact, managing and planning for growth are a large part of what local politicians do (Babcock, R. F. and C. L. Sieman (1985) *The zoning Game Revisited*. Boston: Oelgeschlager, Gunn, & Hain.). Many planning and growth management decisions, however, are not made by politicians; instead they are made by unelected planning commissions and professional planning staff (Beito, D. B., P. Gordon and A. Tabarock (2002) *The voluntary city; Choice, community, and civil society*. Ann Arbor: University of Michigan Press.). Planning commissioners are asked to play two different roles. In the first they assist in developing formal planning documents, and ordinances. In the second role they act as quasi-judicial officials who determine if proposals are consistent with general plans and ordinances. In this study we seek to understand what drives planning commissioners' quasi-judicial decisions. We begin by assuming that commissioners are driven by three factors, either in combination or individually: staff recommendations, planning commissioners' own opinions, and public input (Nelson, R. H. (1977) *Zoning and Property Rights*. Cambridge, MA: MIT Press; Babcock, R. F. and C. L. Sieman (1985) *The zoning Game Revisited*. Boston: Oelgeschlager, Gunn, & Hain). To explore how these factors influence the decision making process we conduct a quantitative case study of decisions by the Ventura, CA planning commission and draw conclusions for other municipalities.

Keywords: California; land use; planning; planning commission.

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1 Introduction

City councils, mayors, and other local elected officials are consumed by questions of how much development to allow, where that development should occur, and what type of development it should be. In fact, managing and planning for growth are a large part of what local politicians do (Babcock and Sieman 1985).

Many planning and growth management decisions, however, are not made by politicians, instead they are made by unelected planning commissions and professional planning staff (Beito et al. 2002).

Planning commissioners are asked to play two different roles. In the first they assist in developing plans, specifically formal planning documents known as general plans, and ordinances for implementing those plans. In the second role they act as quasi-judicial officials who determine if proposals are consistent with general plans and their implementing ordinances. In this study we seek to understand what drives planning commissioners' quasi-judicial decisions. We begin by assuming that commissioners are driven by three factors, either in combination or individually: staff recommendations, planning commissioners' own opinions, and public input (Nelson 1977; Babcock and Sieman 1985). These three factors may seem to be self-evident, yet there is a complexity to them that we examine and draw implications from. To do that we conduct a case study of decisions by the Ventura, CA planning commission and draw conclusions for other municipalities.

1.1 Understanding Planning Commissions

In their most common form, planning commission members hold non-elected, non-partisan positions at the pleasure of the appointing body. They exercise power delegated to them by state law and local ordinance. Because they are appointed as opposed to elected, they face different incentives than local elected officials and are likely to keep their position regardless of citizen dissent (Nelson 1977; Babcock and Sieman 1985). Many, if not most, receive little or token pay for their public service.

Planning commissions vary greatly in form. In the smallest towns, the town council may also act as the planning commission. In the largest cities, individual neighborhoods may have their own commissions. The usual form of the traditional town, county, or city planning and zoning commission is five to seven citizens appointed by elected officials and the commissioners' terms of office are not concurrent with the politicians' terms

As noted above, planning commissions have two very different roles. The first role is to plan. They help propose a city's vision about its future growth by developing planning documents, sometimes called general plans, and presenting them to the city council who then accepts, modifies, or rejects the planning commission's work. General plans normally include maps delineating land uses allowed in areas within a municipality's boundaries; transportation and traffic circulation plans; urban design requirements; economic development goals and regulations;

public facilities, services, and safety plans; recreation and open space aims, and historic preservation requirements. City general plans may be thought of as a city's land use planning constitution. The general plan for San Diego, California, for example begins with these words, "The City's General Plan is its constitution for development."¹ The City of Lincoln, California begins its general plan with:

California state law requires that all cities adopt a General Plan, a "constitution" that includes the goals and policies upon which the City Council and Planning Commission can base their land use decisions. All subdivisions, public works projects, and zoning decisions must be consistent with the General Plan.²

In this context, a planning commission acting in its planning role drafts "constitutional" language for elected officials to consider. Once a general plan is accepted, regulations for implementing the plan are developed and proposed to the city council by the planning commission, often at the request of the city council. Commissioners also propose amendments to the general plan. As planners, commissioners draft general plans, amendments, and implementing ordinances. They plan for the future.

A planning commission's second role is to determine whether proposed development is consistent with a city's general plan and ordinances. To continue using the constitution metaphor, the commissioners determine whether a proposal is constitutional. This is a quasi-judicial role in which commissioners consider proposals, compare them to requirements in the general plan and ordinances, and determine their "constitutionality." They deliberate and act in a public meeting, one at which the public may attend and may also offer opinions. There is, of course, a policy-making effect from these quasi-judicial decisions as precedent can be established and followed in subsequent decisions. But the intent is for planning commissions to formally assist in establishing planning policy when acting in their planning role and determine facts and consistency when acting in their quasi-judicial role. In some cities, planning commissions are authorized by state or local ordinance to make the final decision about a proposed project. In other cities, planning commissions act as recommending bodies, forwarding suggested courses of action to elected officials (Iaver and Babcock 1979; Fischel 1985). The general public often confuses these two roles of a planning commission. Input from the public is designed into the "constitutional convention" portion of the process. That is, public input is sought and considered in public hearings as a general plan is developed.

¹ We accessed the San Diego general plan on December 8, 2011 at <http://www.sandiego.gov/planning/genplan/#genplan>.

² We accessed the Lincoln City general plan on December 8, 2011 at <http://www.ci.lincoln.ca.us/index.cfm?page=644552>.

Often, public participation is requested by the commission and even required by state law in identifying goals and incorporating them into planning documents. The public is asked to comment at intermediate stages as well as the final stages of developing and approving the various portions of a general plan. The democratic ideal is for citizens, elected and appointed officials, and professional staff to collaborate in producing a plan. The entire process can be a genuinely cooperative effort among interested citizens and their elected and appointed representatives.

Things change dramatically, however, once a general plan is adopted and development proposals are brought to the planning commission. In their quasi-judicial role, commissioners are not seeking public input on any question other than whether the proposal is consistent with the general plan; if it is “constitutional.” Considerations of whether the proposal will be good or bad for local interests or preferences, whether a city “ought” to have such a development, or desires to have the project go elsewhere are not formally part of the decision process, which is the root of public confusion, frustration, and anger. Citizens often come to these meetings assuming the meetings are about determining policy, but discover their preferences are usually irrelevant to outcomes. In fact, planning commissions are directed by state law and court decisions to not consider public claims beyond whether a proposal is consistent with the general plan and its implementing ordinances. Even when commissioners explain that they are not acting in a policy role but in quasi-judicial one, citizens may react angrily. Such reactions are known as “public clamor” and, although public clamor is not formally a determinant of the quasi-judicial decisions, it is a visible and sometimes rancorous part of the approval process (Mitchell and Simmons 1994).

1.2 Factors Potentially Affecting Decisions

The normal development process is that property owners propose projects that are reviewed by a city’s planning staff before being submitted to the planning commissioners. Although there are usually informal discussions between developers and local officials, the first formal step is a written proposal with accompanying maps for review by the planning staff. The members of a planning staff are generally restricted by law to consider only three things about a project: whether it is legal, that is, whether it conforms to local, state, and any applicable federal regulations; whether it is consistent with the general plan; and whether improvements can be made to the proposed project to better comply with ordinance.³ After their review,

³ In general, if improvements are identified, the professional staff works with developer to make the change prior to approving the project or forwarding it to the decision-making body.

the professional staff recommends denying, approving, or tabling the project in an open and regularly scheduled public meeting of the planning commission.

Local officials' autonomy to make land use decisions is restricted by local and state statutes, as well as by a growing number of state and federal court cases. The planning commission evaluates the recommendation of professional staff in determining whether the proposed project is legal. In most cases, if the planning commission finds that a project is legal, the commission is legally obligated to recommend approval. Recent court decisions demonstrate that failing to recommend approval and subsequently denying a legal project is grounds for suing individual members of the commission, and that members who knowingly refuse legal projects lose governmental immunity.⁴ Of course, making these determinations is often more art than science. Planning commissioners can and often do exercise a great deal of discretion in deciding whether a proposed project is consistent with city land use plans. Recognizing that evaluating a proposal can be more art than science becomes important in our discussion of factors that influence the decision-making process.

After reviewing staff's recommendation, the planning commission considers the project and takes one of three actions: Forward the project to the land use authority with a positive or negative recommendation, table the project, or send the project back to staff for further consideration including modification. As we note above, in some jurisdictions, the planning commission is the final approving body for projects. The city council simply establishes the appropriate zone and city codes while the planning commission approves or denies projects. In these cases, the planning commission makes a positive or negative decision rather than recommendation, tables the project, or sends the project back to staff.

Our study is an attempt to identify and test factors that might influence how decisions are made. A series of court decisions require planning commissions to only consider issues of law; that is, whether the project meet the legal criteria of the jurisdiction [see e.g. *Oin v. City of Independence*, 445 U.S. 622 (1980), *Maine v. Thiboutot*, 100 S. Ct. 2502 (1980) and *Maher v. Gagne*, 100.Ct. 2570 (1980)]. This view of planning commissions treats them as quasi-judicial bodies who are simply clerks applying the law (Beito et al. 2002; Cox and McCubbins 2005, 2007). Since commissioners are not generally students of the law, they must rely on staff recommendations about the legality of a proposed project. Ignoring staff recommendations regarding legality opens commissioners to law suits in which they would not be protected by governmental immunity. Our first factor, therefore, is that planning commissions decisions are affected by staff recommendations.

⁴ *Woodwind Estates, Ltd. V. Gretkowski*, 205 F.3d 118 (3d Cir.200). Which was based in large part on; *OIn v. City of Independence*, 445 U.S. 622 (1980). *Maine v. Thiboutot*, 100 S. Ct. 2502 (1980), *Maher v. Gagne*, 100.Ct. 2570 (1980).

A second factor arises from the fact that, while the admonition to “just apply the law” is attractive on its face, it ignores the reality that the art of making land-use decisions can be far more complex and nuanced than simply applying the law. Interpreting city ordinances allows for a great deal of leeway for planning commissioners to bring their own biases and values to decisions about what the law actually means or ought to mean. Studies of judicial decision-making provide some guidance about how planning commissioners might make decisions. These studies provide strong evidence that the judges’ attitudes affect the decisions that they make and we should expect no less of planning commission members. Segal and Spaeth (2002), in their seminal work on courts, for example, find that that by knowing the attitude of a Justice *ex ante*, it is often possible to know how that Justice will vote on a particular case. Our second factor, therefore, is that a planning commission’s decisions are affected by the commissioners own biases and values.

The rich description of the decisions of planning commissions identifies one additional set of actors who may have an effect on the planning commissions’ decisions – the public at large. Through the planning process, members of the public are given an opportunity to express their own opinions about proposed projects. When public input becomes expressions of frustration, anger and hostility, it is known as public clamor. This feature has led some scholars to conclude that there are times when public clamor affects the planning commissioners’ decisions (Babcock and Sieman 1985). This effect has been identified in the actions of the various federal regulatory bodies that are required to accept public comment and feedback about their decisions. In those federal bodies, public comment can affect their decisions (Iingast and Moran 1983). If public clamor affects federal agency decisions, we might easily assume that it affects planning commission decisions. Planning commissioners make their decision in public, in front of what may be a hostile crowd of citizens. And many of those citizens can easily be a planning commissioner’s neighbors and friends. Where there is public clamor, commissioners may simply interpret the law to mean something it was not intended to mean or ignore the law altogether. Our third factor, therefore, is that a planning commission’s decisions are affected by public clamor.

2 Data, Methods, and Analysis

2.1 Data Collection

We were able to use data from the City of Ventura, California to test effects of factors that might influence planning commissioners’ decisions. We selected Ventura for

several reasons. First, the Ventura planning commission makes a significant number of decisions each year, which provide enough data to perform statistical analysis. Second, Ventura utilizes a complex ordinance system that increases the variability of the decisions they are called upon to make. Under this system, there are different zones with increasing levels of control. Third, the staff making recommendations to the planning commission is large and well trained, which reduces personal bias or ineptitude by individual staff members as likely confounding variables.

We selected a sample consisting of the decisions made from January 2002 to December 2003. We chose 2002 at random from the available minutes and used 2003 to ensure that projects with longer timelines were accounted for.

Using the minutes, we completed an initial content analysis for approximately 10% of the data, gathering information on potential variables. After this initial analysis, we coded the entire data set for each of the identified variables, including the 10% already coded. Quantifying the information requires several rules to ensure reliability. Our coding procedures were as follows: When coding occurred over several sessions, we recoded 5% of the previously coded information and tested for inter-coder reliability. The source for coding was the commission's minutes because they do not produce transcripts, only minutes. This is a potentially important distinction. If some statements made by members of the public or planning commissioners are systematically excluded from the minutes, the coding of those variables is potentially biased. The law does not require transcripts, and few commissions have full transcripts available for analysis.

We coded the statements of both planning commissioners and the general public in three categories: "indicating denial," "indicating approval," or "providing no indication." To measure support and opposition, we used the formula $Q=(P-N)/C$, where P is the number of positive comments, N is the number of negative comments, and C is the total number of comments, including those that were neither positive nor negative. Q is a measure of the favorability of the comments with a numerical value from -1 to 1 .

2.2 Hypotheses

Our first hypothesis draws from the perception that planning commissions are semi-judicial bodies who consider only the legality of the proposed project. We use the recommendation of professional staff as a proxy for an evaluation of whether the proposed project is legal.⁵

⁵ This proxy is based on the assumption that professional staff follow the training and ethical guidelines of their formal profession. Professional planners are typically certified by the American Planning Association, or other groups and must abide by the ethical guidelines of those groups.

H1: when professional staff recommends approval, planning commissions are more likely to approve the project.

Our second hypothesis is that planning commissioners' attitudes affect their decisions. We coded all the comments made by the commissioners during the open discussion of the project to develop a measure of their attitudes. Because there is no readily constructible *ex ante* measure of the attitudes of individual planning commissioners, we measure the collective comments of the commissioners as a group.

Those who view planning commissions as semi-judicial bodies might argue that commissioners' comments are tied to the legality of a project. This claim, while potentially valid, makes rejecting the null hypothesis of no attitudinal effect more difficult as the comments should coalesce around the correct legal answer despite any attitudinal differences among commission members. Our data identify relatively consistent deviations from uniform comments on almost every project, and the statistical test of the attitude measure in both of the models tested provides evidence that a unique effect is occurring.

H2: The more positive the expressed attitudes of planning commissioners, the more likely a project is to be approved.

Our third hypothesis is that public input is affecting planning commissioners' decisions. Our measure of public input is similar to our measure of planning commissioners' attitudes, namely if the content of public comment affects whether projects are passed.

H3: The more positive public comment is about a project, the more likely planning commissions are to approve them.

2.3 Statistical Tests

We use logistic regression to assess the effects of the independent variables. The independent variables are the recommendation of professional staff, the favorability of the comments made by planning commissioners, and the favorability of comments in the public hearing.

Because the measures of planning commissioner attitudes and public comment do not account for the amount of discussion that occurs on any given project, we include control variables for the number of comments made in the public hearing and the number of comments by members of the planning commission. We chose these controls because more discussion about a project may

indicate a potentially controversial outcome and therefore more discussion can affect the decision (Levine 2006). Using Ventura's zoning structure, we also control for what level of regulatory control a project faces. A final control variable is included to address the claim by some who study committee decision making that postponing a decision through tabling may have an effect on future considerations of the project (Nitzan and Paroush 1982; McKelvey and Ordeshook 1984; Ben-Yahar and Nitzan 1997).

Table 1 shows the results of the logistic regression with the dependent variable Passage.

Table 1 provides evidence that we can reject the null for each hypothesis and that those factors identified by the descriptive literature are statistically significant predictors of a project being approved. Further, the amount of comment by members of the public had the expected effect – more clamor about a project makes its passage less likely.

We used Prchange to calculate the effect of each variable on the probability of approval. The overall effect of a positive recommendation by staff, where all other factors are set at their minimum values, is an increase in the likelihood of passage of 73.74% points. Likewise, the impact of receiving the most positive comments by members of the planning commission is 85.98 points, and the effect of the most positive of comments in public hearings is 48.78 points over the most negative. The effect of each of these variables is a significant increase in the probability of projects being approved, when the others are at their minimum.

Table 1: Logit Regression – Project Passage.

N=201				
McKelvey & Zavoina's R²=0.567				
Percent Reduction in Error= 36.35% adjusted count R²?				
	Independent variable	Odds ratio	Standard error	P-value
S	Staff recommendation	44.07**	25.12	0.000
C	# of comments By planning members	1.03	0.032	0.387
Q	Content of planning commission comment	18.30**	11.46	0.000
C2	# of comments In public hearing	0.752**	0.076	0.005
Q2	Content of public hearing comment	4.02**	1.61	0.001
	Regulatory zone	0.976	0.032	0.472
	Times previously tabled	1.09	0.389	0.817

**p<0.01.

*p<0.05.

The positive content of comments made by the public and commissioners has positive effects on approval of a project. The total number of comments made by the public during the public hearing, however, has a negative effect. That is, the more public clamor both for and against a project, the less likely the project is to be approved by the commission.

2.3.1 Tabling

Although passage may be the most important consideration for those interested in planning commissions and their decisions, the choices for commissions are not just between approving and not approving. There is always an option for planning commissioners to decide not to decide. They can simply table a project. And as Table 2 demonstrates, in Ventura this happens with some regularity.

Because tabling is a decision to not approve, at least for the time being, it may be that the reverse of each of our hypotheses is true in relation to tabling. That is, tabling should be less likely when staff recommends approval, when commissioners' comments are more positive, and when the public's comments are more positive.

The results presented in Table 3 confirm the results of our hypothesis tests in Table 1. In each case the independent variables are having the reverse effect on tabling that they had on approval. A positive recommendation of professional staff, which is important to approval, reduces the likelihood that a project will be tabled. Further, the relationship between commissioners' comments and the public's comments and tabling is negative, indicating that when the comments are more positive tabling is less likely to occur.

The Ventura City data show that approval of a project is a function of the positive recommendation of staff, the favorability of the overall discussion of planning commissioners, as well as a relatively quiet public hearing with generally favorable comments from the public. We find tabling is more likely when staff recommendation is negative, when planning commissioners' comments are negative, and there is a relatively noisy public hearing on the project.

Table 2: Tabling in Ventura.

Project	Total projects	Project approved	Tabled	No decision
# Of cases	225	169	51	5
%	100	75.1	22.7	2.2

Table 3: Logit Regression Results Predicting Tabling.

N=216				
McKelvey & Zavoina's $R^2=0.185$				
Percent Reduction in Error=28.31%				
	Independent variable	Odds ratio	Standard error	P-value
S	Staff recommendation	0.2524**	0.1160	0.003
C	# of comments	0.9894	0.0351	0.764
	By Planning members			
Q	Content of planning commission comment	0.4138*	0.1477	0.013
C2	# of comments	1.088	0.0612	0.132
	In public hearing			
Q2	Content of public hearing comment	0.5214*	0.1630	0.037
	Regulatory zone	1.011	0.0263	0.669
	Times previously tabled	1.5918	0.4967	0.136

** $p < 0.01$.

* $p < 0.05$.

3 Implications

3.1 Planning is Political

Our initial reaction to our findings was, “so commissions listen to staff except when they do not. So what?” One “so what” in this story is that when there is not public clamor and when commissioners’ private attitudes do not intrude, staff are the real decision-makers. Our data suggest that planning commissioners are not convened to actually make decisions. Instead they are convened to review and ratify staff decisions. Planning commissions are already one step removed from voters by the fact that they are appointed, not elected. Thinking about it in terms of authority, voters authorize elected officials to act on the voters’ behalf, elected officials authorize commissions to act on the officials’ behalf, and commissions authorize staff to act on their behalf. Other than to provide at least a whiff of democracy in the process, there really is no reason for the commission to be in that process. Efficiency would suggest that the planning commission be bypassed entirely and decisions as to whether a plan meets legal requirements can be turned over entirely to staff. At that point there is no need for public input nor should there be room for private attitudes to intervene in the process, at least in theory (Mueller 2003).

The drafters of Utah’s Land Use Management and Development Act (LUDMA)⁶ recognized that the quasi-judicial role of determining “constitutionality” of land

⁶ Utah Code, title 10, chapter 09a. http://le.utah.gov/~code/TITLE10/10_09a.htm.

use proposals is not really a democratic decision, but a judicial one that planning staff may be better equipped to make than are appointed commissioners. Thus, LUDMA made it possible for cities to choose to have staff act as the “land-use authority,” a term invented to identify the entity to whom power is delegated to hear and act on land use applications. Of course, a city may authorize the planning commission to be the land use authority, but the intention is to restrict planning commissions to actually planning, rather than acting both as planners and judges. LUDMA does require that land use authorities hold their meetings in public and included provisions for appealing decisions.

One of us was mayor of Providence, Utah during the LUDMA implementation process and observed the challenges of removing what we called above “the whiff of democracy” inherent in having planning commissions rather than staff formally making the decisions. Opponents to staff being designated as the land use authority claimed that professional staff would be biased. They apparently meant that staff would be less likely to share the opponents’ biases than would members of the planning commission, or that staff would be less influenced by public clamor than would be planning commissioners. That is, planning commissioners were more likely to be influenced by the “democratic” influence of statements from citizens who show up at meetings. Although allowing staff to be the land use authority is a more honest recognition that most planning commission decisions are consistent with staff recommendations, continuing to have the planning commission be the land use authority creates the impression that citizens have a say in outcomes. That is, staff often rules, but under a cloak of democracy.

The opponents of formally designating professional planning staff as the land use authority were actually on to something, according to our data, which shows that public clamor can affect decisions. A second “so what” from our results is that although everyone “knows” that public clamor works, we now have a data-based demonstration that public clamor works in fact to reject or circumvent staff recommendations.

One reason that public clamor might affect decisions is that planning commissioners are appointed and generally not paid. They are in public service. That is, they are “public servants.” Their boss is not the city council or plans and statutes; their boss is the public. If the public shows up to demand an outcome different than the one proposed by planning staff, there is a strong temptation and even incentive to respect the boss’s wishes. Democracy, to most citizens, may mean that citizens actually make decisions.

Another contending and not inconsistent reason for public clamor “working” could be simple intimidation. Appointed officials do not have the authority established by having been elected to office. Nor do they have the ego investment that

characterizes elected officials. As such, they have less status in their own eyes and in the public's as well. A lower status person is more easily bullied by a belligerent citizenry and is more likely to allow the bullying or to accede to it. If that is the case, decision-making by public clamor may have a cloak of democracy but is not majority rule. Instead it is rule by the unruly.

Another "so what" might be that our findings help understand the various visions elected officials may have of themselves. The familiar ideas of delegate, trustee, and politico are applicable. Delegates are people appointed to act in the place of another; they are chosen to perform a specific duty. Commissioners are delegated the responsibility of carrying out a quasi-judicial role; they are empowered to determine the "constitutionality" of a proposal. Their delegation does not extend to consider whether something is consistent with citizen preferences, just whether it is consistent with legal requirements. Their source for determining legality is likely to be the planning staff. Staff members are, after all, professionals. Planning commissioners whose vision of themselves is that they are delegates would most likely follow staff recommendations.

Planning commissioners, who see themselves as trustees, act to protect the public trust, as they understand it. As such, their understanding of what is in the public interest is superior to legal restrictions or public clamor. In fact, protecting the public may require ignoring legal considerations or claims by citizens. They are to act according to their vision of the public interest regardless of pressures or advice from staff or citizens. Trustees rely on their own biases to make their decisions. Of course that may require some obfuscation, play-acting, or strategic voting in order to get around staff and citizens, but protecting the public trust is sufficient justification.

While a delegate will vote to approve a proposal that is legal but offensive to her understanding of what ought to be done, a trustee will find a way to oppose it. This may require tabling, asking for more information, dragging out the process, or searching for minor blemishes. When trustees find their own interpretations of the public interest in line with staff recommendations, they follow the staff recommendations. When interpretations diverge, trustees' values lead them to reject staff recommendations.

Politicos are commissioners who respond to political pressure. They do not exercise allegiance to the law or to an inner understanding of the public interest. They are easily pressured by a clamorous public. When there is no or little public pressure, they respond to staff recommendations.

Planning commissioners may not always see themselves as a delegate, trustee, or politico. They may choose their role depending on the context of the proposal. A commissioner may, for example, firmly act as a delegate most of the time, but personal values may be so important in a particular case that the role

may switch from delegate to trustee. Or, a delegate or trustee may not really care about the outcome of a proposal. In that case, it is easy to act as a politico.

Trustees and politicos have one tool available to them that delegates do not. A delegate may recognize that a proposal may be distasteful but legal and simply vote to approve it. A trustee or politico, while recognizing a proposal's legal status, must search for a way around that status. That is, they need to determine a way to get the developer out of the room without getting sued. In that case, tabling provides at least a temporary way out of accepting legal requirements. Tabling is a way to decide to not decide and, if done with enough finesse, can draw the approval process out so long that the economic viability of the proposal changes. It can be a tactic that does not kill a proposal but lets or causes it to die.

4 Conclusions

We believe that planning commissions usually attempt to arrive at an answer consistent with legal requirements. They do, after all, usually accept staff recommendations. There are times, however, that commissioners' underlying attitudes and opinions encourage or allow them to act as trustees or politicos rather than as delegates assigned to follow the law. This conclusion suggests planning commission behavior is determined by more than institutional arrangements and constraints. Indeed, there is a great deal to learn about attitudes, opinions, and visions of one's role as a commissioner. Such studies will develop richer understandings of decision processes than those our data only allow us to suggest. We believe that such studies will provide greater insight into who seeks appointment to planning commissions and who gets appointed and, therefore, the amount, type, or existence of local development.

Our analysis suggests that planning commissions have a spark of democracy in them. Although they are appointed and insulated from the public institutionally, they respond to the preferences of the public as expressed in public hearings. That "whiff of democracy" may not be a good thing; those who attend and speak out at public hearings may be activists whose opinions do not reflect general public opinion. Nevertheless, proponents of more democracy in public decision process may find hope in our conclusion that even these insulated, appointed bodies can be influenced by the public.

The practical implication of our findings is that ordinances are not the only factor that influences whether a project is approved. Both the expression of public opinion and the attitudes of the appointed commission members are active in the decision process. This suggests that, in addition to institutional explanations

of planning decisions, there are also behavioral and political explanations. This adds richness to the story, and suggests that planning is not just a series of legal hoops to be jumped through, but is a political act that requires a nuanced understanding of the institutions and the players.

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