

Sustainable Development or Sustainable Freedom?

Property rights under siege by good intentions.

By Henry Lamb

Betty Perry was at home, minding her own business, when an officer of the Orem, Utah, Neighborhood Preservation Unit knocked on her door to issue a ticket for failing to water her lawn. The officer asked her name; she said she wanted to call her son. The officer said no, a scuffle ensued, 70-year-old Betty fell, was handcuffed, and hauled off to jail.

Moss Dalrymple told his neighbor, Drexel Phillips, that he was a veteran of three wars and had been captured four times, but none of it fazed him as much as this. “This has come nearer to driving me crazy than anything I’ve ever had,” he told his friend. After the war, Moss chose to live in rural Marshall County, Ala. Over the years, he had collected “treasures” that were important to him.

One day the Marshall County “junk police” showed up on Moss’ property and told him that he had 10 days to clear the junk from his property, or the county would come in and clear it for him and send him the bill. The day after that visit, Drexel found Moss dead. He had died from a heart attack.

Rondel Keith Jarvis failed to mow his grass the way the code-enforcement officer in Corbin, Ky., thought it should be mowed. Rondel was fined \$100. A dispute arose between him and the enforcement officer, and Rondel’s fine rose to \$2,250 for high grass and debris on his property. A phone call to the code-enforcement office resulted in a shouting match, and Rondel was charged with “third-degree terroristic threatening.”

The common denominator in these tales is “sustainable development”; the consequence is the loss of freedom.

Sustainable development washed across the nation during the Clinton administration. The term arose from the 1987 report of the World Commission on Environment and Development, chaired by Norwegian Prime Minister Gro Harlem Brundtland. The report defines sustainable development as “development that meets the needs of the present without compromising the ability of future generations to meet their own needs.”

This rather meaningless definition was given real meaning in 1992 at the U.N. Conference on Environment and Development in Rio de Janeiro. Heads of state from 179

nations adopted Agenda 21, a 40-chapter nonbinding policy document that provides step-by-step procedures for transforming communities into “sustainable communities,” by implementing its recommendations. Agenda 21 addresses virtually every facet of human life. Sustainable development requires that government manage virtually every facet of human life.

To comply with an Agenda 21 recommendation, President Bill Clinton avoided congressional involvement by issuing Executive Order 12852 on June 29, 1993, which created the President’s Council on Sustainable Development. The council consisted of 12 cabinet secretaries, top executives from six major environmental organizations, including The Nature Conservancy, Sierra Club, and the International Union for the Conservation of Nature, as well as top executives from Enron, Browning Ferris, and S.C. Johnson. Using its enormous grant-making powers, the federal government extended sustainable-development consciousness throughout state and local governments, and created a whole new community of sustainable-development nongovernmental organizations (NGOs). Grants were made to NGOs and to state and local governments to launch a “visioning” process leading to the adoption of a new comprehensive plan to codify the recommendations in Agenda 21.

A good example of how this process works is provided by Florida’s Heartland Rural Economic Development Initiative, which is an NGO created in 1993 to coordinate the sustainable development of Florida’s six-county heartland. The executive committee consisted of one county commissioner from each county, and the rest of the directors were officials from municipalities in the region with a few other selected businessmen.

To facilitate the project, the group turned to Florida State University’s Conflict Resolution Center, which specializes in consensus-building projects. The first visioning session was held in Glades County; 35 people attended. At the end of the three-hour meeting, the facilitator had solicited 129 “visions” of what the county should look like in 2020. Surprisingly, most of the visions were quite similar to what Agenda 21 recommends. Here are just a

few of the visions suggested by the group:

Preserve natural environment; Save our wetlands; Improve our wetlands; Restrict development in sensitive areas; Sustainable agriculture and farming; Comprehensive resource preservation; Never compromise wetlands or wildlife; Preservation of scenic views; Designate scenic highways; Development should be clustered; Rural village concept; Smart growth, planned developments; Increased density can



spur walkability; Utilize impact fees that limit mobile homes; Zoning should encourage infill; and, More codes to be enforced.

The 129 vision items were selected by consensus, not by vote. Consensus is not necessarily agreement; consensus is the absence of stated objection. To ensure that no objection was heard, the participants were asked to visit eight stations where vision items were suggested. Each person was asked to write his vision on a note pad and post it at the station. The facilitator collected the visions, compiled them, and announced the consensus. Those visions not consistent with Agenda 21 could have easily been trashed with no one the wiser. Two additional meetings were held before the final report was issued. Eight very bland recommendations were published. Here’s a sample:

"We would like the county to develop in a way that enhances our quality of life, while maintaining the rural character of the county." And, "We would like future generations to be able to enjoy our beautiful natural environment, with clean waterways and picturesque natural areas." Who could possibly object to such mush? Not one of the visions or the recommendations mentioned the protection of private-property rights.

Once the vision statement is compiled by a group of local stakeholders, the next step is to develop a plan of action. This step is most often done by a smaller committee, or by the professional staff of a planning department. It becomes the "comprehensive plan" for the county, or for the designated planning area.



BIG CYPRESS SWAMP © TOM STACK, TOM STACK & ASSOCIATES

To make sure that these sustainable-community plans had teeth, the federal government awarded more than \$4 million to the American Planning Association to create model legislation for the states. APA's work product is titled "Growing Smart: Legislative Guidebook." Three model laws and two model executive orders provide the basis for states to create laws that make county plans legally binding.

These plans can sometimes be downright ridiculous: Betty Perry's violation of a grass-watering code, for example. What's worse, these plans pay no attention to private property rights, or to the U.S. Constitution. The Fourth Amendment, for example, guarantees that: "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures,

shall not be violated, and no warrants shall issue, but upon probable cause, supported by Oath or affirmation particularly describing the place to be searched, and the persons or things to be seized."

When the "junk police" entered the property of Moss Dalrymple, they had no warrant issued by a judge. Moss was not secure in his person, his house, or his effects. The county adopted a plan that included a definition of junk that completely ignored Moss' right to his property and to his possessions.

These comprehensive master plans often bring more than development prohibitions and higher taxes—they also bring detailed restrictions on human activity. The plans almost always include International Building Codes. The International Code Council is an organization created in 1994—one year after Clinton's creation of the President's Council on Sustainable Development—to provide the following uniform codes to government:

International Building Code; International Energy Conservation Code; International Existing Building Code; International Fire Code; International Fuel Gas Code; International Mechanical Code; ICC Performance Code; International Plumbing Code; International Private Sewage Disposal Code; International Property Maintenance Code; International Residential Code; International Wildland Urban Interface Code; and International Zoning Code.

Comprehensive plans may even ignore the Fifth Amendment by stipulating that if private property is not brought up to code within a specified time, the government may either bring the property to code, place a lien on the property and sell it at auction to recover the costs, or "take" the property by eminent domain. The Fifth Amendment requires that private property be taken only for public use, and then only when just compensation is paid. The Constitution does not authorize the taking of private property for failure to comply with an international code.

Two decades after all the hoopla and ballyhoo about how wonderful sustainable development is, people are beginning to see the painful consequences of government management. They are finding ways to resist and to fight back. Alabama's Alliance for Citizens Rights is a group of concerned citizens that has been providing educational materials for its members and for elected officials. Their work is beginning to bear fruit.

A citizens group in Houston County, Minn., has been trying to reverse its county's onerous plan for more than two years. It has adopted a new strategy that offers promise to

other groups across the nation. The Houston County citizens group drafted a petition which said, essentially, that any county plan should be constructed on the principle of protection for private-property rights. More than 700 landowners in the small community signed the petition. Scores of private landowners also filed written comments about the plan as it was being developed.

County officials ignored the comments and the petitions and adopted the plan anyway. The citizens group then quietly set out to document instances in which the county plan infringed on the constitutional rights of private citizens. Hundreds of examples were collected and documented. The group then engaged the Budd-Falen Law Firm from Cheyenne, Wyo., to notify the county of its intention to sue. The group offered to withhold the lawsuit if the county would sign the petition affirming the principle that the county's plan should be constructed on the principle of protection for private property rights, and work with a small committee appointed by the group to rewrite the plan.

The county is in the position of publicly rejecting the value of private property rights, or working with the group to rewrite the plan, or defending a lawsuit that has hundreds of documented instances where the county has violated the constitutional rights of its citizens.

Citizens groups that have become well informed about sustainable development and Agenda 21 are now participants in Tea Party organizations and the Glenn Beck 912 groups, and are building momentum that local election officials cannot ignore. These people are firmly convinced that the most important value this generation can leave for the next is not sustainable communities or sustainable development, but sustainable freedom. All across the nation, citizens groups are demanding that freedom be recognized as more important than government-mandated sustainability. Citizen groups are demanding that private property rights and the principles of freedom be recognized and declared the most important heritage to be passed on to subsequent generations. ■

Henry Lamb has prepared a 40-page booklet entitled "Sustainable Development or Sustainable Freedom?" that describes the origins of sustainable development and details its consequences in actual cases around the country. This booklet is intended as a guide for citizens groups and for elected officials. It is available at www.sovereignty.net/store/sdsf-buy.html.