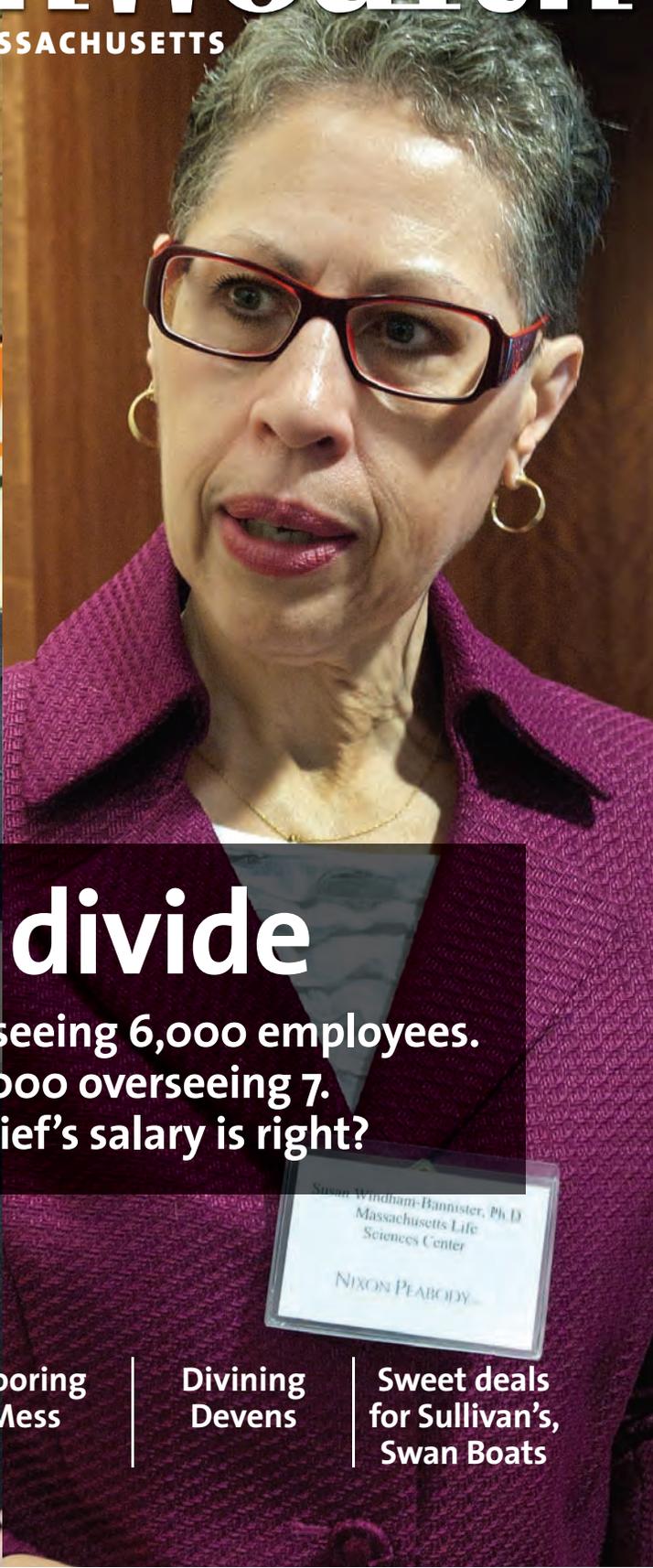


CommonWealth

POLITICS, IDEAS & CIVIC LIFE IN MASSACHUSETTS



Salary divide

He makes \$145,000 overseeing 6,000 employees.
She makes \$285,000 overseeing 7.
Which authority chief's salary is right?

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South
Coast Rail:
Expect delays

Mooring
Mess

Divining
Devens

Sweet deals
for Sullivan's,
Swan Boats



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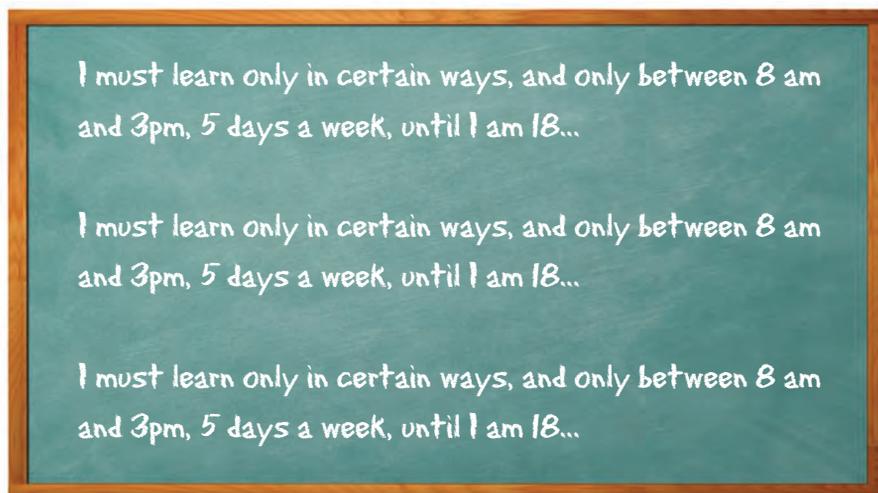
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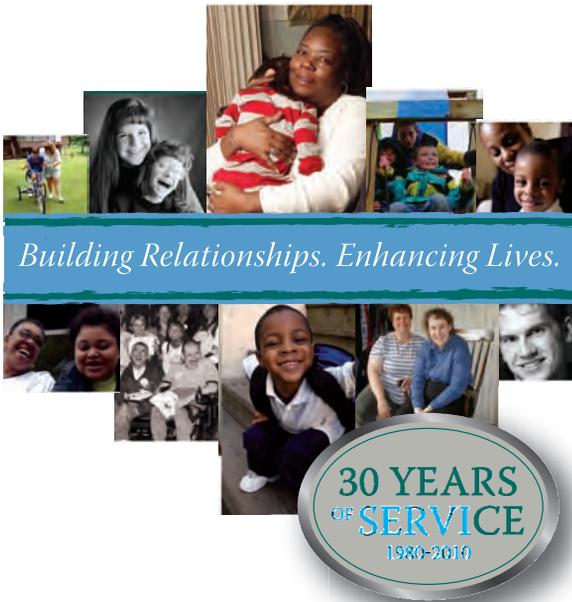
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From the halls of Beacon Hill to the main streets of Massachusetts



Since 1996, *CommonWealth* magazine has provided unbiased, in-depth reporting on the issues that affect communities throughout Massachusetts. This year, as MassINC celebrates its 15th anniversary, please join us in supporting **The *CommonWealth* Campaign for Civic Journalism**, a fundraising effort to continue this unique brand of public affairs reporting. The recent receipt of a \$500,000 gift comes with the promise of an additional \$500,000 in 2012 on the condition that we raise a matching \$500,000—all towards the goal of bringing news, information and analysis from the halls of Beacon Hill to the main streets of Massachusetts.

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SENATOR: LAWRENCE MAKING PROGRESS

Your article, “Lawrence on the mat,” in *CommonWealth*’s spring issue painted a misleading view of the city of Lawrence, which I represent in the state Senate. Author Gabrielle Gurley claims that “there’s a desperate urgency to fill the city’s leadership void” and blames city officials for failing to attract new businesses to the area and provide a coherent vision for Lawrence’s future, thus perpetuating the poor economic base and transient population. I strongly disagree with this assumption.

Gurley is mistaken in asserting that there is no coherent group of leaders working systematically to address the issues faced by Lawrence and to articulate an economic strategy for its future. The story failed to pick up on a large number of residents, businesses, organizations, and government officials that are deeply committed to the well-being and future of the city. There is a coalition that is growing in size and strength that is determined to bring positive change to Lawrence.

First, let me be clear that I do not think the problems in Lawrence are insignificant or that they have simple solutions. However, our city’s position is not unlike the other 23 Gateway Cities in Massachusetts. All Gateway Cities continue to struggle with persistent unemployment, concentrated poverty, and high crime levels. These are real issues, and ones Lawrence must work to address, but, unfortunately, they are not unique to Lawrence.

Progress is being made on a variety of fronts. Arson, auto theft, and auto insurance fraud have fallen dramatically. The city moved all of its employees into the state’s Group Insurance Commission and, as a result, it will see about \$23 million in savings. The City Council took a very tough vote

last April and adopted a meals tax. Lawrence also contracted its trash collection operation to a private company in 2009, a measure that saves roughly \$500,000 a year. The city is currently working on a plan to install parking meters—as noted by Gurley—not a popular decision, but a necessary one. The city has also worked to achieve concessions from public unions, a deeply difficult process for all involved.

According to financial overseer Robert Nunes, overall fiscal discipline in managing the city’s budget by the mayor and the city council has led to Lawrence accumulating a \$5.4 million budget surplus. It was the first positive certification of a surplus by the Department of Revenue in six years. These changes are evidence Lawrence’s elected officials are willing to take difficult votes and make difficult decisions.

New small businesses are cropping up around the city, specifically Café Verde and Terra Luna on Essex Street. Gurley mentions Northern Essex Community College’s new \$27-million allied health and technology center on Essex Street, but misses the crucial role this new building will play in the revitalization of downtown.

Gurley does mention the mayor’s successful courtship of J.S.B. Industries and their Muffin Town location in the city—this did not happen overnight or just by the persuasion of one person. The Merrimack Valley Chamber of Commerce, a group consistently working with the administra-



tion and small businesses to build crucial networks, as well as the state and federal delegation, all played a part in this venture. Solectria Renewables is another example of an expanding business in the city fostered by a coalition of proactive Lawrencians.

Gurley recognizes the award-winning work being done by Lawrence CommunityWorks but failed to see all of the other community organizations committed to the city, including Mill Cities Community Investment, Groundwork Lawrence, and 10 very active neighborhood organizations.

There is still much work to be done; however, the idea that no one is working to improve the current condition of the city is simply untrue. There is, in fact, a coalition of dedicated and concerned stakeholders working together, a coalition that includes the City Council, the Patrick administration, the state and local delegation, local business leaders, community-based organizations, and, while there can be conflict, city departments like the police department. This group is working together toward a common vision—one that is shared

We welcome letters to the editor. Send your comments to editor@mass-inc.org, or to Editor, *CommonWealth* magazine, 18 Tremont Street, Suite 1120, Boston, MA 02108. Please include a city or town, as well as a daytime phone number. Letters may be edited for clarity and length.

by the people of Lawrence —and our best work is done when we work together in unison toward our goal of revitalizing these seven square miles.

*Sen. Barry Finegold
Andover*

NEW PRIORITIES NEEDED

In his Real Talk piece, Michael Jonas recycles the advice to public sector unions that Northeastern University professor Barry Bluestone has been dispensing, in *The Boston Globe* and elsewhere, for several years now (“Labor’s Love Lost: How public sector unions became the *bête noire* of uneasy times,” Spring ’11).

The Bluestone-Jonas message is that “the squeeze that public sector unions are putting on public coffers” must end. “Cash-strapped states” and municipalities must be granted contract concessions by teachers, social

workers, firefighters, and other public employees in order to maintain vital services. Any “hidebound” trade unionists who don’t get with this austerity program ASAP are just making themselves “look more like a threat to the middle class than a guardian of its security and quality of life.”

As a 40-year trade unionist, who spent three decades representing Massachusetts workers in both the private and public sector, I think this is very myopic framing of “solutions to the problems facing public budgets.” Let’s take the reported deficit facing Massachusetts state government in 2011—\$2.7 billion—as one such problem. During 2011, Massachusetts taxpayers contributed nearly twice that sum—\$4.9 billion—to pay for our ruinously expensive occupation of Iraq and Afghanistan.

Wouldn’t it make more sense for “union-friendly liberals” like Blue-

stone (or MIT’s Tom Kochan, another academic quoted by Jonas) to argue for an end to both Mideast wars? Our Bush/Obama interventions now carry a total (direct cost) price tag of \$1.05 trillion, over the last 10 years. US withdrawal would free up several hundred billion dollars a year that could be devoted to “quality of life” improvements here.

With new federal spending priorities, we could fund social services, balance public sector budgets at all levels, and continue to pay government employees what they deserve.

If public sector unions need a knuckle-rapping, it should be over their failure to mobilize their own members, the citizens they serve, and the public officials they bargain with in a much bigger and stronger national campaign for new priorities.

*Steve Early
Arlington*

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DOESN'T WALK THE WALK

Ed Glaeser's book (John Schneider review of *The Triumph of the City*, Spring '11) joins a large body of literature by urbanists who have long argued that cities are sustainable, profitable, and fun. But we won't understand what policies are necessary to promote urban living until we understand why this passionate advocate chooses to live on the most remote bucolic edge of the leafiest of suburbs of the city he credits with holding up Massachusetts. And since he sends his kids to private school, his suggested remedy of "school choice" to improve urban schools is evidently not the answer.

The reviewer glosses very briefly over the fact that Glaeser lives in the suburbs, but misses its importance. The message that dense urban living makes us "richer, smarter, greener, healthier, and happier" is obviously not

enough to attract "smart people" like Glaeser, who will talk the talk but will not walk the walk. Is he really saying that cities are only good for ambitious poor people who, benefiting from urban settings, may aspire to one day flee to the suburbs with him and the rest of the middle class?

Mr. Schneider might interview Glaeser and ask him what no reviewer of this book seems to have asked: Why does Glaeser choose to live in Weston?

*Shirley Kressel
Boston*

IT'S CLASS, NOT RACE

Regarding "Boston NAACP moves to recapture relevance" (Spring '11), I grew up with the Civil Rights Movement happening all around me. I was in Boston during busing and had a pretty good seat for the goings-on in the street and behind the scenes.

In today's Boston, I have begun to get a really bad vibe, but it's not race that's driving it. It's class. I read the papers, the opinion pieces, and the reporting and I am feeling very manipulated by people who are above the fray and those who are ignorant of the social history of Boston. Boston can only have a discussion with itself and among the people who love the city if the issue and history of class is part of the conversation.

*Sarah Wenig
Boston*

BALANCED WINSLOW PIECE

Very well done piece about Dan Winslow ("Who does he think he is?" Spring '11), balanced and seemingly unbiased. It should be interesting to see where his enthusiasm leads.

*Barbara Shea
Westwood*

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Public records makeover

CommonWealth long has focused on the need for greater transparency in government. We've highlighted the needless secrecy surrounding the recipients of state tax credits and the shortcomings of the financial disclosure forms filed by government officials. We've even had some success in addressing those issues. The state plans to start identifying the recipients of certain tax credits next year. And we've tried to make financial disclosure forms more accessible to the public by spending thousands of our own dollars buying copies of the forms from the State Ethics Commission and posting them on our website.

But one area where we've had little success is the state's Public Records Law. We published a cover story on the law in 2008 ("Public records not so public," Fall '08), highlighting the many stonewalling tactics used by public officials to avoid turning over documents. We've also published numerous articles on our website about rulings on appeals of records denials.

In this issue, Michael Morisy offers his own unique perspective. Morisy runs MuckRock, which files public records requests on behalf of the public. Users simply fill out a form detailing what information they want and MuckRock takes care of the rest. It writes the request, figures out who it should be sent to, and follows up if the information isn't forthcoming.

MuckRock's results so far have been disappointing. Of 94 requests MuckRock has helped users file at the state and local level in Massachusetts, only 36 have been answered, Morisy writes. That's a good batting average for baseball, but it's pretty dismal for gaining access to the inner workings of government.

"The opacity carries a very real cost," writes Morisy. "In the past few years alone, Massachusetts has paid a terrible price for a lack of transparency in the form of patronage, kickbacks, payoffs, and the implosion of one of the Commonwealth's largest investments in a private company, Evergreen Solar."

While a revamped Public Records Law wouldn't solve all of these problems, it could help. We rely on the Public

Records Law a lot at *CommonWealth*. In this issue, contributing writer Colman Herman gathered much of the information for his Inquiry on the lucrative lease deals given to the Swan Boats in the Public Garden and Sullivan's on Castle Island using the Public Records Law. He also spent more than six months trying to obtain records on other real estate deals from the state Department of Conservation and Recreation and the Division of Capital Asset Management with minimal success.

For my story on the governor's crackdown on compensation at the state's authorities, I tried to find out how much MassDevelopment was paying its private attorneys to

Change in attitude needed

fight a \$562,000 severance payment being sought by Ben Caswell, who was booted from his job at another authority when it was merged with MassDevelopment. MassDevelopment denied my request, arguing that the fee arrangement was protected by attorney-client privilege and exempt from the Public Records Law. I can understand why a lawyer's legal advice to a client would be shielded, but I see no reason why the fees he is paid deserve the same protection. We're appealing the authority's decision.

It seems obvious the Public Records Law needs a makeover. It should be expanded to cover the governor's office, the judicial branch, and the Legislature. Exemptions from the law should be minimized and spelled out more clearly. Oversight of the law needs to be concentrated in one office instead of split between the secretary of state and the attorney general.

But most of all there needs to be a fundamental change in attitude about transparency in government. All too often the pursuit of information becomes a game of cat and mouse between government officials and reporters, with excesses on both sides. The games need to end. After all, what's at stake is nothing less than the accountability of government to those they govern. Pretty important stuff, we think.



BRUCE MOHL



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MBTA offers a premium deal in Braintree

Premium can mean a few things. As a noun, it could be an added amount one pays over and above a standard rate for an item or service. As an adjective, it could mean something that is far above average in quality.

The MBTA is banking on both definitions to get commuters to pay a premium for a guaranteed parking space. The T has launched a pilot program at its Braintree garage where commuters can have a spot near the entrance door of the Red Line set aside for them and them alone, 24 hours a day, 7 days a week.

The space costs \$200 a month. With an average of 20 working days a month, the price is about \$3 a day above the daily rate for a space that's a couple hundred feet closer than the regular garage spots. Even if you leave your car there every day of every month of every year, weekends and holidays included, the cost is \$6.58 a day, a savings of 42 cents a day.

"The target customer is anyone who wants to make an easy-to-pay monthly fee, and be GUARANTEED not only a parking space, but one that is very close to the station entrance," T spokesman Joe Pesaturo writes in an email.

The T makes about \$30 million a year from its 100 garages and lots that serve about 46,000 daily commuters. The new premium parking is "another MBTA initiative to improve customer service while generating some additional non-fare revenue," according to Pesaturo.

As of mid-June, the premium campaign had attracted four customers willing to pay a premium for prime parking.

► JACK SULLIVAN

Swan Boats, Sullivan's get sweet deals from city, state

► COLMAN M. HERMAN

THE SWAN BOATS in the Public Garden and Sullivan's hot dog stand on Castle Island in South Boston are two of Boston's most beloved businesses. But the landmark operations are showered with more than just the love of an adoring public; they also enjoy unusually generous leases from their government landlords.

The state's deal with Sullivan's, which sits on Department of Conservation and Recreation parkland at the tip of South Boston, and the city of Boston's lease arrangement with Swan Boats Inc. are weighted heavily in favor of the private businesses. It's as if officials became so enraptured with the taste of a Sullivan's snap dog or a serene swan boat ride around the Public Garden lagoon that they forgot they were negotiating a deal on behalf of taxpayers.

The state gave Sullivan's a monopoly on food sales at Castle Island and didn't charge the owners any rent at all from 1951 until about 1986. It was then that the Legislature passed a law authorizing the state to lease land to Sullivan's for the next 45 years. State officials set the initial monthly rent at \$400, rising every five years by 20 percent but no higher than the increase in the Consumer Price Index. Currently, the rent is \$671 a month.

Low rent wasn't the only benefit Sullivan's received. At the time the lease was negotiated, the state was making improvements at Castle Island and wanted Sullivan's to move to a new spot. The lease agreement required Sullivan's to pay for the demolition and removal of its old stand, but allowed the restaurant to deduct those costs from future rental payments. The lease also required the state to pay fair market value to Sullivan's for the new brick building it had constructed if the lease is terminated.

"This is an unbelievable deal for Sullivan's—just unbelievable," says Todd Lafleur, who, as the lease program manager for the Department of Conservation and Recreation, reviewed the Sullivan's deal about a year prior to his retirement in 2009. "I was shocked that a lease could have been written with such favorable terms as Sullivan's got. It was certainly a terrible deal for the Commonwealth."

The city of Boston's request for proposals for the swan boat operation, meanwhile, is written in such a way that only the current operators, Paul and Lyn Paget, can win the contract. That's perhaps understandable, since the Paget family has operated Swan Boats Inc. since 1877. Nevertheless, the terms of the lease are so favorable to the Pagets and the revenue from the operation so poorly monitored that it's impossible to tell whether the city is receiving the money it is owed.



Swan boat at the Public Garden



Sullivan's on Castle Island

During a recent visit to the swan boats, an employee was observed collecting admission fees (\$2.75 for adults, \$2 for seniors, and \$1.50 for children) and throwing the money in a drawer—no cash register, no electronic recording of receipts, no written log.

The current contract between the Pagets and the Fund for Parks and Recreation, a nonprofit entity created by the city's Parks and Recreation Department, runs from March 2009 through December of this year. It calls for the Pagets to pay the city an annual fee of \$5,000 plus 2.75 percent of gross ticket sales and 50 percent of the net income from the sale of souvenirs. The previous three-year contract carried the same terms.

In 2010, the Pagets reported gross ticket and souvenir revenue of \$569,000, generating a payment to the Fund for Parks and Recreation of \$21,500.

The financial statements of the Pagets indicate the swan boat operation averaged a meager annual net profit of \$7,600 from 2006 to 2009, but 2010 was even worse, with the company losing \$1,200. It's difficult to tell why the profits are so dismal, since the financial statements of the Pagets offer few details on the operation's expenses. For example, the statements don't disclose how much the Pagets pay themselves.

The Pagets are required to submit quarterly income statements, but they only submit annual statements, and the statements are not audited, contrary to what the contract mandates.

Cohen & Associates, the Boston-based accounting firm for Swan Boats Inc., says in a letter accompanying the financial statement that it has not audited or reviewed the company's financial statements. "Management has elected to omit the balance sheet, statement of cash flows, and substantially all of the disclosures required by generally accepted accounting principles," the firm writes.

Jerry Carchedi, assistant commissioner for parks and recreation, says the city waives the quarterly reporting and auditing requirements for Swan Boats Inc. based on a provision in the contract that allows for such waivers. When asked for a copy of the waiver, he produced one, but it was dated 14 days after *CommonWealth* asked for it. He says waivers for previous years were given orally.

Matthew Cahill, the executive director of the Boston Finance Commission, the city's financial watchdog, says he thinks an audit should be required to make sure taxpayers are being fairly compensated. He says money from the Swan Boats contract can be used to offset the cost of maintaining the Public Garden.

"The important thing the city needs to know is, really, how much money are we leaving on the table as a result of this," Cahill says. "How much are they making off of those swan boats is the question and how much is the city losing?"

With the city preparing to lease property on the Boston Common for a restaurant, Shirley Kressel, a Back Bay activist and long-time critic of public-private deals struck by the city, says the Swan Boats deal shows no one in City Hall is watching the store. "The Pagets operate a private business on prime public land in what amounts to a no-bid monopoly, without even meeting the city's minimal contract requirements, which were tailored to them in the first place," she says.

Lyn Paget declined to comment.

The oversight of the Sullivan's lease in South Boston is also lax. The authorizing law for Sullivan's to lease the land on Castle Island has a provision that requires that compliance with the terms of the lease be monitored every five

OVERSIGHT OF CONTRACTS IS LAX

years and that reports be submitted to the Legislature. No such reports have ever been made to the Legislature, and the only monitoring event occurred in April 2008 when Daniel Sullivan Jr., the owner of Sullivan's at the time, announced he was selling the business to his son Brendan. The sale prompted a meeting with the state to review terms of the lease.

Notes from the meeting taken by Lafleur, the Department of Conservation and Recreation lease program manager at the time, reflect his astonishment at the terms ("Wow!" he wrote in connection with the building buy-back provision) and his view that "the rent is extremely low, considering the location, type of business, and lack of competition." Lafleur's notes, obtained through a public records request, recommend that a review of the lease be done annually, but no one ever followed through. A spokeswoman for the Department of Conservation and Recreation says no one has been actively involved with the lease since Lafleur retired. "The rent comes in and it's recorded," she says.

In a telephone interview, Brendan Sullivan talked with obvious pride about the history of Sullivan's, but when asked about the low rent he responded by saying, "I do appreciate the call," and then hung up.

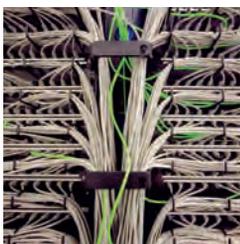
Conventions of color coming to Boston

► BRUCE MOHL

TWO AFRICAN-AMERICAN ORGANIZATIONS are coming to Boston for major conventions this summer, a breakthrough for a city with a national reputation for not being welcoming to people of color.

The Urban League, with more than 3,000 delegates, is hitting town in late July and Blacks in Government, with about 5,000 attendees, is coming in August. The Urban League hasn't held a convention in Boston since 1976, the same year that anti-busing demonstrator Joseph Rakes attacked Theodore Landsmark with a flag on City Hall Plaza. Blacks in Government has never been to Boston.

Wooing the two groups took a lot of time and effort. James Rooney, executive director of the Massachusetts Convention Center Authority, says he began reaching out to convention groups representing people of color in 2002. The word he heard back from meeting planners for the groups was: "Why would we bring black people to



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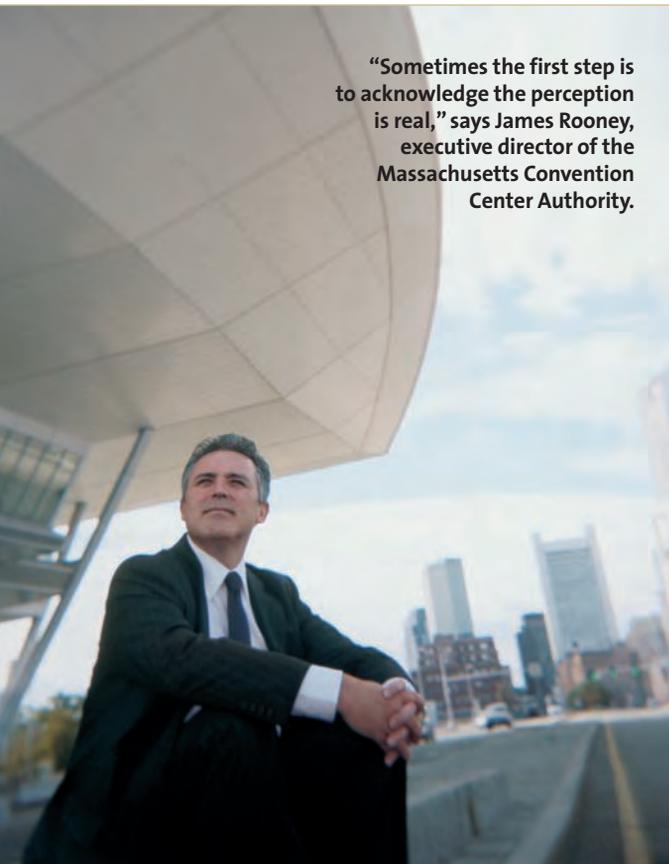
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“Sometimes the first step is to acknowledge the perception is real,” says James Rooney, executive director of the Massachusetts Convention Center Authority.



Boston to have a conference?”

Rooney admits the question caught him off-guard, but then he says he decided to embrace it. “Sometimes the first step is to acknowledge the perception is real in the minds of people who have it,” he says.

Polling suggests the perception is widely held. A national online poll of 1,500 people conducted by Chadwick Martin Bailey in April 2010 asked African-Americans to rate 10 major cities on how welcoming they were to people of color. Boston ranked last, with 22 percent of African-Americans giving Boston a poor rating and 40 percent rating it fair. Philadelphia, by contrast, received a poor rating from only 4 percent of those surveyed and a fair rating from 25 percent. Boston was also the only city that received lower ratings from African-Americans who had actually visited it than from African-Americans who had never been here.

To attract more diverse conventions, Rooney reached out to people of color in Boston and together they developed a two-pronged strategy. First, they invited meeting planners representing multicultural groups to come to Boston when the Dimock Center was hosting its annual Steppin’ Out fundraiser, a popular event where people of all races mix easily. The planners were also invited to a luncheon where they could meet and talk with people of

color from across the city.

Darnell Williams, president of the Urban League of Eastern Massachusetts, says the goal was to answer any questions the meeting planners had about race in Boston. “Our job was not to sugarcoat our history at all,” he says. “We wanted them to interface with folks that look like them so they wouldn’t think that Boston is just an enclave of white people. They didn’t know this city as a majority-minority city.”

According to the 2010 Census, Boston is 47 percent white, 22 percent African-American, 17 percent Hispanic, 9 percent Asian, and 4 percent other races.

Marc Morial, the president of the Urban League and the former mayor of New Orleans, says the election of Deval Patrick as governor of Massachusetts changed a lot of perceptions about the state and Boston. During a pre-convention visit to Boston in May, Morial met with Patrick and Boston officials. He said he thinks delegates will be surprised by what they find when they look around the city this month.

“It is a chance for Boston to showcase the transformation taking place in the city,” he says.

Michelle Shell, the head of the Convention Center Authority board, chooses her words carefully in discussing Boston’s troubled racial history and the problems that history has caused when it comes to enticing multicultural organizations to hold conventions here.

“The meeting planners have been very blunt about it,” says Shell, an African-American who grew up on Long Island and came to Massachusetts in 1993 to attend MIT. She currently works as a vice president at a subsidiary of Fidelity Investments. Shell says this summer’s conventions offer a chance to dispel the city’s negative image. “The reputation we continue to have among multicultural groups is not deserved,” she says.

During the Urban League convention, which opens on July 27, Microsoft founder Bill Gates will sit down for an hour-long conversation with Harvard professor Henry

MEETING PLANNERS WERE BLUNT

Louis Gates Jr. At press time it was unclear what the two men will discuss, but professor Gates undoubtedly can offer insights on race relations in the Boston area. In 2009, he returned from a trip abroad and found the door to his Cambridge home jammed. As Gates, who is black, tried to gain entrance, a neighbor called police, thinking a robbery was in progress. Once police arrived, tensions flared and Gates was arrested. Gates and the white policeman who arrested him later sat down for a “beer summit” on race at the White House with President Obama and Vice President Joe Biden.

State pushing bulk solar sales

► CHRISTINA PRIGNANO

STATE OFFICIALS ARE trying to drive down the cost of solar power for homeowners and small businesses by bringing potential buyers together with sellers in a more cost-efficient manner.

Right now, solar installers have to make their pitch house by house. The state's new program, called Solarize Massachusetts, aims to round up a bunch of potential customers in a town and let a solar installer make a presentation to all of them at once. It's a little like the website Groupon, where merchants offer a price discount to attract a large volume of customers.

Patrick Cloney, the executive director of the Massachusetts Clean Energy Center, says part of the idea behind the pilot program was born from his experience in the construction business, where he would perform work on one house in a neighborhood, and then neighbors would come to him asking for work to be done on their homes.

"I always thought that was an interesting phenomenon. It gave residents a level of comfort that, if we were doing a good job on one house, we'd do a good job on all the rest," says Cloney in a phone interview.

The Clean Energy Center is testing the concept this summer in Scituate, Winchester, Hatfield, and Harvard, four of the state's 53 green communities, a state designation for cities and towns that have met a set of regulatory and energy use criteria.

Cloney says the "solar integrators," or companies that will install the solar photovoltaic systems, agreed to a tiered pricing model where the cost of the system to homeowners will depend on how many people sign up. He says participants can expect to see a base savings of 8 to 10 percent off the current cost of a solar photovoltaic system, which is about \$6 per watt, or \$30,000 for a five-kilowatt system. If more people participate, savings could rise to between 18 and 33 percent, he says.

A homeowner's energy savings will depend on a number of factors, including whether he purchases the system outright or leases it from the company doing the installation. With existing tax credits and other incentives available for installing solar, Cloney says a system typically will pay for itself within six to seven years. Assuming the indus-

What's happening to the American Dream?

Massachusetts is emerging from the Great Recession faster than other states. But signs suggest the deep downturn accelerated trends that change the rules of the game for middle class families pursuing the American Dream.

MassINC, The MassINC Polling Group, and *CommonWealth* magazine are joining forces with the Center for Labor Market Studies at Northeastern University to examine this phenomenon and what it means for Massachusetts' middle class.

To learn more about this new project, including how your organization can become a visible sponsor in this groundbreaking work, contact Lauren Louison, Chief Operating Officer at 617-224-1613.



try-standard 20-year warranty on a solar photovoltaic system, Cloney says a homeowner could pay off the system and end up generating electricity at no cost for about 14 years. The payoff will be faster with the savings from the Solarize Massachusetts effort, he says.

Alteris Renewables, a Connecticut-based company whose website boasts the tagline “The sun will never announce a rate hike,” was chosen as the solar integrator for Winchester and Hatfield. Hudson-based New England Breeze will be the integrator for the town of Harvard and New Bedford-based Munro Distributing will provide the services for Scituate.

The Solarize program is part of an ambitious effort by the Patrick administration to install 250 megawatts of solar energy by 2017. Massachusetts is expecting to have 85 megawatts installed by the end of this year.

To promote interest in the pilot, the Clean Energy Center provided the selected towns with small grants for marketing and promotion of meetings where residents can learn more about the program.

“Solar 101” community meetings were held in late May, with the purpose of educating residents about solar energy. Louellyn Lambros, a volunteer for Solarize Massachusetts in Scituate and member of an initiative called Sustainable Scituate, helped spread the word about the program in Scituate through flyers, newspaper announcements, and social media.

Lambros says interest is strong, with 143 people attending the May 23 “Solar 101” meeting in her town. “I have to say I was just so surprised that, practically without exception, there was just so much enthusiasm for solar energy, that the idea of it had become so mainstream,” says Lambros.

In Winchester, Dave Judelson, who serves as a liaison between Solarize Massachusetts and town nonprofit groups, says that there were about 120 people interested in getting the solar assessment done for their homes.

Kate Plourd, a spokeswoman for the Clean Energy Center, says residents were invited to “Solar 201” meetings in mid-June where they would hear from the chosen solar integrator in their area on costs and potential savings. At the Solar 201 meetings, residents would also be able to sign up for a site assessment to ensure that installing solar panels on their property is viable. Participants will be able to sign contracts for installation through September, after which the pilot program ends.

Both Cloney and Plourd emphasized that the pilot’s focus on solar energy education is a way to build interest in harnessing the sun’s energy. “By teaching people and encouraging them to spread the word, we think that more people will learn and really understand how easy it is,” Plourd says.

Nuclear disaster funding increases in Plymouth

► GABRIELLE GURLEY

THE OWNER OF Pilgrim Station is opening up its wallet to fund local emergency training, an indication that the nuclear accident at Japan’s Fukushima Daiichi nuclear power plant is having an impact on plant operators in the United States.

In June, Plymouth and Entergy Nuclear agreed on a deal that will allow town officials to beef up first responder training for emergencies at the Pilgrim nuclear power plant. Aaron Wallace, Plymouth’s emergency management director, says the 2012-2013 agreement gives the town an annual grant of \$245,000 for administration costs, including salaries, and \$75,000 for training. The training money is more than twice the \$31,000 the town received in 2010.

Rob Williams, an Entergy Nuclear spokesman, says that the company reached “interim agreements with a couple of towns” in the 10-mile evacuation zone around the plant, but declined to offer more details about any of those pacts at press time, saying only that “process [is] still underway.”

Williams says that last year Entergy provided the eight communities near Pilgrim Station with \$1.3 million for expenses related to planning, training, equipment, and supplies. Another \$1.7 million went to other public safety agencies involved in nuclear disaster preparations.

Wallace says Plymouth police officers and fire fighters currently receive training on the basics of radiation and state emergency planning and operating procedures. He says the town’s preparations are effective, but he wants to see training move beyond the basics. In Japan, news reports showed first responders using specialized equipment to decontaminate residents and check radiation levels, says Wallace. “That’s [the training] that we want to be able to provide to all of our first responders who have that role,” he says.

Local emergency managers expect to see more federal and state requirements post-Fukushima. If federal nuclear regulators increase the size of emergency zones to include more communities, a move that Bay State and federal lawmakers called for at a special Beacon Hill hearing on nuclear power plant safety in April, emergency managers in Plymouth and elsewhere would have to select new evacuation centers, (Plymouth’s are in Braintree, Bridgewater, and Taunton), health care centers, and transportation routes. “Trying to figure out how to fund those and... accurately plan those will be a challenge,” says Wallace. **CW**

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Cracks in cap and trade

BY BRUCE MOHL

THE SAME CARBON tax concerns that have stymied climate change legislation in Washington are now starting to gain some traction in the Northeast.

Chris Christie, the Republican governor of New Jersey, says he plans to pull his state out of the Regional Greenhouse Gas Initiative by the end of this year. The Republican-controlled House in New Hampshire, led by conservative Speaker William O'Brien, voted in February to withdraw from the 10-state compact. Republicans in a handful of other northeastern states are pushing their own withdrawal bills.

Steve Lonegan, who heads the New Jersey chapter of the Americans for Prosperity Foundation, a group founded by conservative businessmen David and Charles Koch, says economic concerns are fanning opposition to the regional compact. He says the initiative was designed as a template for a country-wide cap and trade system, but now that

the national legislation isn't going anywhere he thinks the regional system should be scrapped as well. "If not," he says, "the long-term steady, slow pressure of pushing rates up will damage the economies of these states."

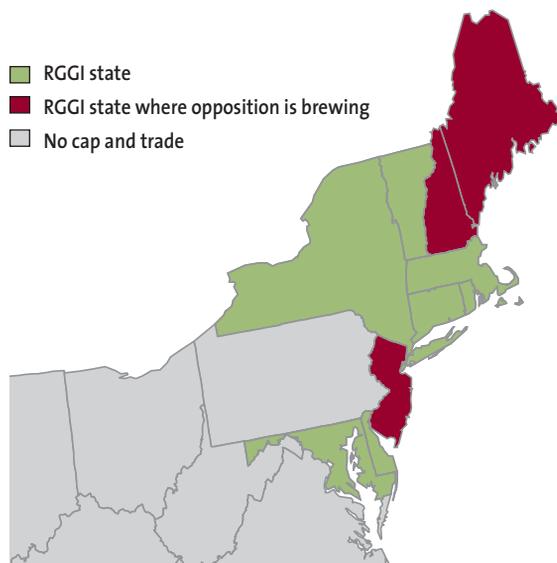
The Regional Greenhouse Gas Initiative was launched in 2009 and requires electricity generators in the region to buy allowances for each ton of carbon they emit. The sluggish economy has dampened demand for electricity, so the regional cap of 188 million tons of CO₂ hasn't been too painful yet, but the cap is supposed to start ratcheting down 2.5 percent a year starting in 2015.

The carbon allowances are sold at auction and the \$789 million raised so far flows to member states, with a requirement that at least 25 percent of the money go for "consumer benefit." Studies indicate just over half of the carbon tax money has been funneled to energy efficiency projects, with another 12 percent going for renewable energy development and technologies to reduce carbon emissions.

Environmental groups say this "cap and invest" approach pays dividends for the environment and consumers. Environment Northeast, a regional group supporting cap and trade, says investing money from the sale of carbon allowances in energy efficiency programs saves consumers money, puts downward pressure on electricity prices, and reduces overall demand for electricity and the need for new power plants. The environmental group says the economic payback for Massachusetts consumers is almost \$3 for every \$1 invested in energy efficiency.

Cap and trade opponents dismiss the benefits and worry about the cost. Power generators roll the cost of the carbon allowances into the electricity prices they charge their customers. The impact on utility bills varies by state, but officials at the Regional Greenhouse Gas Initiative say it ranges,

WHERE OPPOSITION IS BREWING



Gov. Chris Christie of New Jersey says climate change is real, but cap and trade isn't addressing it.



on average, from a low of 28 cents a month in New Jersey to a high of 68 cents in Connecticut. The impact in Massachusetts is estimated at 57 cents a month.

Calling the cap and trade system a backdoor tax increase, the New Hampshire House voted 246-104 to pull the state out of the program. But the Senate in May voted 16-8 to continue the state's participation with new restrictions on how the proceeds are spent. At press time, the two branches were working to resolve their differences, with Gov. John Lynch threatening to veto any move to pull the state out of the regional compact.

Christie says he believes climate change is real, but he calls the regional cap and trade program a failure in addressing it. He says carbon allowances are selling for \$2 a ton and would need to rise to \$20 to \$30 a ton to force utilities to start shifting to cleaner energy sources. Yet he clearly doesn't want

to see that happen, calling the cap and trade program a "tax on electricity" that can hurt businesses in New Jersey. Ocean Spray Cranberries Inc. recently announced it was relocating a New Jersey processing plant to Pennsylvania in part because of high energy costs in the Garden State.

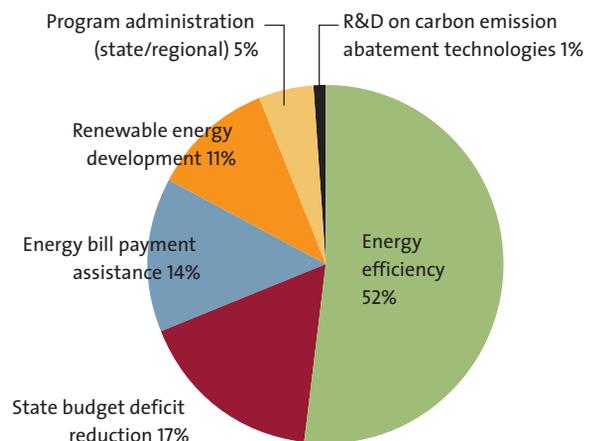
Ironically, New Hampshire and New Jersey, the two states where opposition to cap and trade is the strongest, have treated a portion of their carbon allowances as taxes. While most states participating in the initiative have used nearly all of their allowances for energy efficiency projects, New Hampshire and New Jersey both used a portion of their funds to balance their budgets. New Hampshire diverted \$3.1 million, or 11 percent of its allowances, while New Jersey tapped \$65 million, or 44 percent of its total. New York used \$90 million of its carbon allowances to plug budget gaps. **CW**

SELLING CARBON ALLOWANCES through Dec. 31, 2010

STATE	ALLOWANCES (TONS OF CO2)	PROCEEDS
New York	64,310,805	\$282,272,683
Maryland	37,503,983	\$147,530,363
Massachusetts	26,660,204	\$123,229,478
New Jersey	22,892,730	\$102,223,631
Connecticut	10,695,036	\$45,341,674
New Hampshire	8,620,460	\$28,215,274
Maine	5,948,902	\$23,544,204
Delaware	7,559,787	\$18,858,578
Rhode Island	2,659,239	\$12,340,209
Vermont	1,225,830	\$ 5,701,535
Total	188,076,976	\$789,257,630

Source: Regional Greenhouse Gas Initiative

WHERE THE MONEY GOES Sept. 25, 2008-Dec. 31, 2010



Source: Regional Greenhouse Gas Initiative

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All proceeds will support MassINC's *CommonWealth* Campaign for Civic Journalism as well as a scholarship program for civic journalism.

For event updates and more information, visit seriousfun2011.org. For sponsorship and table information, contact Lauren Louison at 617-224-1613.

Criminal capacity BY JACK SULLIVAN

GOV. DEVAL PATRICK wants to close two prisons this year to save money, but the Legislature isn't enthusiastic about the idea, partly because of fears about violence stemming from cramming too many prisoners into tight spaces.

According to 2009 data from the US Department of Justice, Massachusetts has one of the 10 most overcrowded prison systems in the country. The system is operating at 140 percent of its capacity, with 11,300 inmates living in prisons originally designed to hold just under 8,000.

North Carolina has the most overcrowded prisons in the country, with facilities operating at 397 percent of planned design capacity. Mississippi's prisons are the least crowded, with just 50 percent of prison beds in use.

The problem with the Justice Department numbers is that states use different yardsticks to measure overcrowding. States like Massachusetts compare inmate population to the designed capacity of the prisons. Others compare

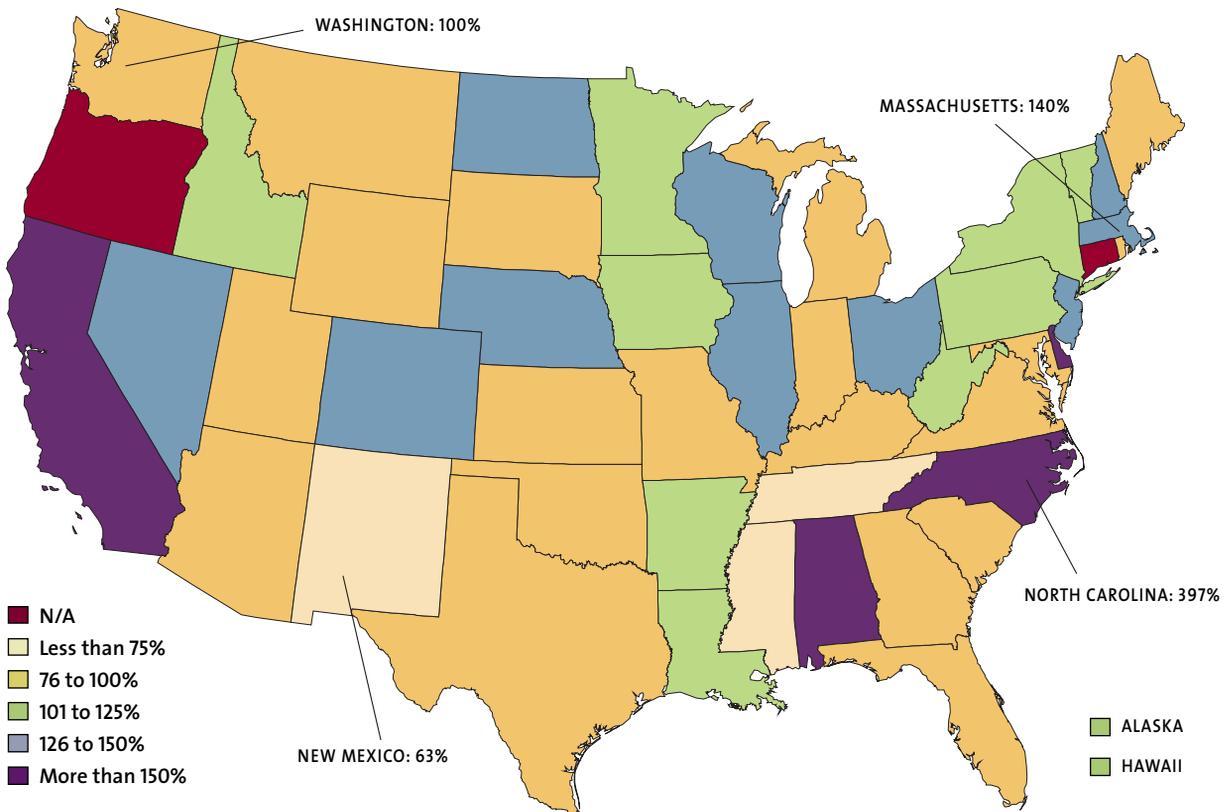
the inmate population to prison square footage or to the amount of staff, programs, and services offered. The Justice Department data don't distinguish among the three approaches.

Patrick administration officials have not publicly identified the prisons targeted for closure, but Terrel Harris, the spokesman for the Executive Office of Public Safety and Security, says officials are confident they can accommodate more inmates at fewer facilities without creating safety or security problems.

Harris says the Patrick administration is also eyeing sentencing reform so fewer nonviolent criminals end up in prison in the first place.

"We have proposed several reforms to the state's criminal justice system and sentencing laws that will help address issues like overcrowding in our prisons," Harris says. **CW**

INMATE POPULATION AS A PERCENT OF PRISON CAPACITY



Source: US Department of Justice, Bureau of Justice Statistics. Note: Connecticut and Oregon do not report prison capacity.

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Time to go to work BY JACK SULLIVAN AND LEANNE O'BRIEN

THE BIG DIG was touted as saving time and money for commuters, but the most recent Census data show travel time to work for most cities and towns around Boston stayed the same or increased since 2000.

According to US Census five-year community surveys, which have taken the place of the long-form census questionnaire, Cohasset residents have the longest commute in the state with an estimated average time of 39-plus minutes to get to the office. Ten years ago it took Cohasset workers nearly five minutes less to get to work.

Statewide, the estimated average commute time is slightly more than 27 minutes, up about six seconds from 2000. The national average is just over 25 minutes, which dropped about 1 percent from 2000.

Not everyone, of course, works in Boston, where the Big Dig was dug, but one might expect those in the surrounding cities and towns to see some reduction in their commuting time.

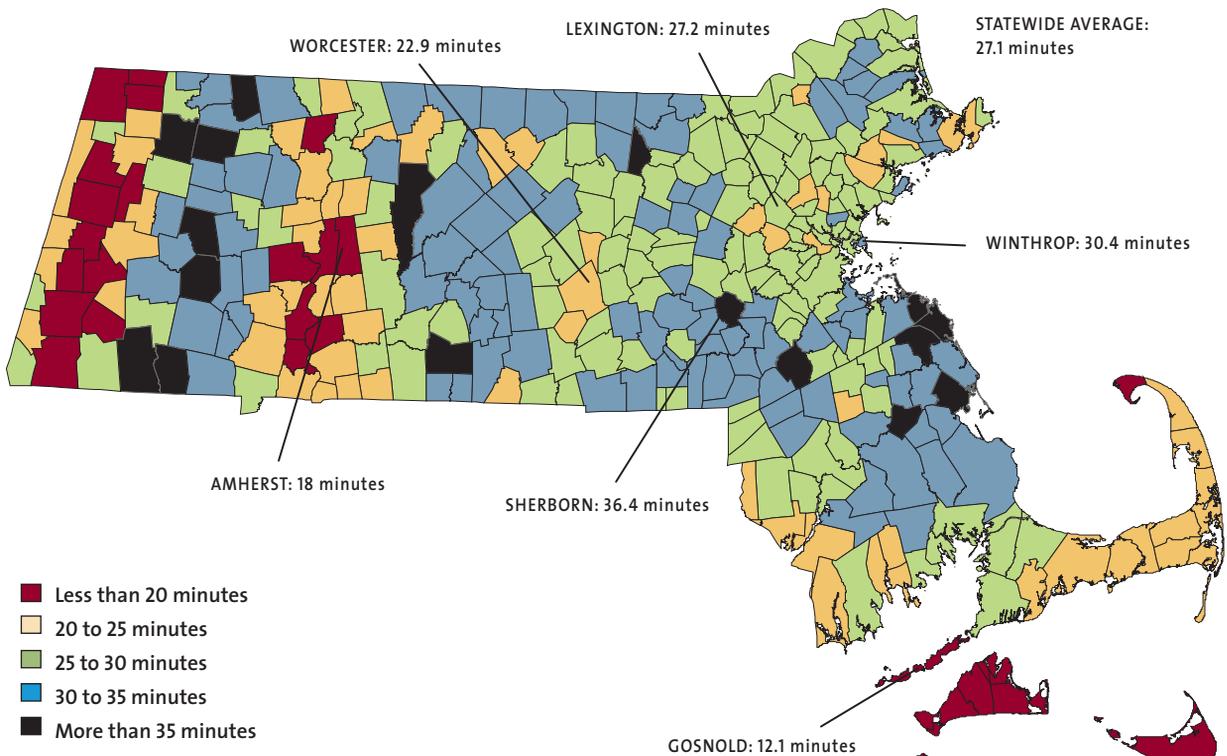
Quincy residents, however, have the same length of

commute—a little more than 31 minutes—as they did in 2000. To the north, the trend is the same. Saugus commuters are taking a little more time to get to work, with average commuting time going up 1.5 percent from 2000 to nearly 27 minutes today. Lynn and Beverly, meanwhile, stayed the same over the last decade, 27 minutes and 25½ minutes, respectively.

The commute for Wellesley workers rose about a minute from just over 24 minutes to a little more than 25, but, interestingly, more people abandoned their cars and bought new walking shoes. Nearly 18 percent of people from Wellesley walk to work compared with less than 12 percent in 2000.

If a short commute is what you seek, look offshore. Residents in Nantucket have the easiest daily commute to work in Massachusetts, with an estimated average of 11 minutes to get there. In addition, islanders are much more likely to carpool, with 16.2 percent sharing a ride, nearly twice the statewide average. **CW**

AVERAGE TRAVEL TIME TO WORK



Source: U.S. Census Bureau

Our Communities, Our Families: The Most Important Networks



Ann – a Verizon employee of 23 years and vice president of the Denver Chapter of Verizon Pioneers – partners with the Worcester Tree Initiative to replace trees devastated by the Asian Longhorn Beetle.

"We must take great care to preserve our environment here in Massachusetts. That's why I am committed to helping the Worcester Tree Initiative replant thousands of trees that were destroyed by the invasion of the Asian Longhorn Beetle. I'm proud to be one of the Verizon Pioneer volunteers working to ensure the future is green in Massachusetts."

– Ann Cove

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Liquor battle brewing

With Massachusetts law on wine shipments overturned, Congress struggles with who should regulate alcohol distribution **BY SHAWN ZELLER**

MASSACHUSETTS HAS LONG guarded its unique rules for regulating alcohol, so state officials weren't happy last year when the federal appeals court in Boston struck down a 2006 state law that barred large wineries from shipping their products directly to Bay State consumers. The three-judge panel ruled that the law violated the Constitution's guarantee of free commerce across state lines because it exempted Massachusetts' own smaller wineries from the rule.

Now Congress is pondering legislation that would make it clear that such rules should be left to the states. And alcohol wholesalers, who oppose direct shipping because it takes business away from them, are leading the battle to get the bill passed.

Massachusetts is at the center of the debate, not only because of the appeals court's decision but because the proposed law was first introduced in the House last year by Democrat Bill Delahunt of Quincy. It would give states near-total control over alcohol distribution and essentially reverse court decisions like the one that struck down the Bay State wine law. Since Delahunt retired at the end of last year to become a lobbyist, a Utah Republican, Jason Chaffetz, is carrying the bill forward.

Fighting the proposal are beer, wine, and spirits producers, many of them with Massachusetts ties, including Rich Doyle, the president of Boston's Harpoon Brewery, and Peter H. Cressy, a former chancellor of the University of Massachusetts Dartmouth and currently the president of the Distilled Spirits Council of the United States.

Beacon Hill lawmakers, who supported the measure overwhelmingly in 2006 and overrode then-Gov. Mitt Romney's veto, are also watching the debate in Washington closely. Former state senator Michael Morrissey of Quincy, who was the wine law's chief sponsor (and is now Norfolk County

district attorney), says he pursued the legislation for fear that out-of-state wineries would avoid sales tax by shipping directly to consumers and because he wanted to protect the current distribution chain. He said the state's small liquor store businesses—state law bars anyone from owning more than three liquor stores—rely heavily on wholesalers for their livelihood.

"These small mom-and-pops rely on the distribution chain to be able to get the product they need," he says.

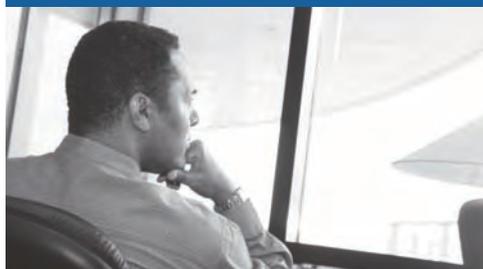
Large California winemakers challenged the law as a violation of the Constitution's interstate commerce clause. They said it discriminated against them because it carved out an exemption for small vintners, including every winery in Massachusetts, so they could ship directly to Bay State wine drinkers. Wineries producing more than 30,000 gallons a year were denied the same privilege.

The court's decision has left the shipping situation in limbo. Technically, Massachusetts is now allowing direct wine shipments, but it has capped the amount of wine that any one household can buy at 26 cases per year. Because it's impossible for any winery to know what a consumer has bought previously from other vintners, the Wine Institute—the trade group for California wineries—has warned its members not to ship to Massachusetts consumers. Neither FedEx nor UPS will ship wine to the state.

The threat to wholesalers hasn't come only from the demise of laws like Morrissey's. Large retailers have also challenged the wholesalers' dominance by trying to buy directly from vintners, brewers, and distillers. Costco Wholesale Corp., for example, has in recent years financed a legal and lobbying campaign in Washington state to win the right to buy directly from producers. If it succeeds, and

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WASHINGTON NOTEBOOK

expands its direct purchase arrangement nationwide, wholesalers would be badly hurt.

The wholesalers insist that their lobbying campaign in Washington, where they maintain one of the country's largest political action committees, is about more than preserving profits. They say that a three-tier distribution system—producer to wholesaler to retailer—helps states ensure that underage drinkers can't get alcohol and that the alcohol business isn't beset by corruption.

"This was the system set up after Prohibition that prevents the abuses that led to Prohibition," says John Stasiowski, president of the Beer Distributors of Massachusetts, a state trade group. "It insulates the supplier from the retailer and prevents overconsumption and crime."

Even if Congress doesn't agree with that, Stasiowski says, the federal government should respect that "the states are the best governmental organizations to determine how alcohol is sold in their borders." It hardly makes sense, he says, for the federal government to dictate to states as disparate in their values as Utah and Nevada how alcohol can be sold.

Legal experts are skeptical. Einer Elhauge, a Harvard Law School professor who has studied the issue, says that he fears the Delahunt bill could force the courts to oversee years of litigation over whether state rules supersede federal ones. In testifying before the House Judiciary Committee in Washington last fall, he argued the bill "would actually worsen the concerns about legal uncertainty and excessive litigation."

In Elhauge's view, the legal threat to state rules by alcohol producers and retailers has actually been minimal. States have continued to maintain their unique approaches to alcohol regulation, including the Massachusetts limits on liquor store ownership.

Delahunt insists the threat to state regulation is real. Citing his experience as Norfolk County's district attorney prior to his seven terms in Congress, Delahunt says any threat to state alcohol regulation is a threat to public safety. The alcohol producers "have an economic interest to see the states not have the authority to regulate. Their economic interest is to have a wide open market, a Wild West," Delahunt says, "despite the statistics in terms of drunk driving and alcohol and how it insinuates into criminal behavior among young people."

Restricting direct shipments of alcohol, as the Morrissey law intended, will help prevent that, Delahunt says. "I bet there are a lot of teenagers now that are doing a healthy business, either consuming alcohol or selling it to minors after getting it by mail."

Of course, Massachusetts alcohol producers point out that the state isn't nearly so worried about the distribution chain when its own producers are involved. The state has long allowed in-state wineries to ship directly to con-

sumers, and it allows in-state producers of all stripes to sell directly to bars and restaurants. It's only out-of-state producers that must go through wholesalers.

That's a huge loophole, all the more so since Anheuser-Busch—the beer maker that makes Budweiser and controls most of the US beer market—continues to be treated like an in-state manufacturer under the terms of the 1971 Massachusetts law that set the rules. That law grandfathered in out-of-state brewers that at the time had a license to do their own distribution in the state.

In his bill, Morrissey had allowed small vintners to continue shipping directly to consumers, he says, in order to protect the state's own small wineries, which rely on direct shipping for a part of their revenue.

But local vintners say they never wanted the protection. "We don't advocate any kind of protectionist measures," says Kip Kumler, the owner of Lincoln's Turtle Creek Winery and president of the Massachusetts Farm-Winery and Growers Association. "The more choices consumers have, the better."

Kumler says that laws like Morrissey's give license to other states to discriminate against his wines. "People come to Massachusetts. They taste our wine, they enjoy it, and they go home and they order it," he says. "To lose that

ability to ship would hurt us."

As for the threat direct shipping poses to underage drinking laws, Kumler doesn't buy it. Massachusetts teens could already try to buy Turtle Creek wine but don't because of the shipping costs and the time lag before the product arrives. Direct shipping, he says, is a way for wine connoisseurs to get unique and often expensive products they can't find in their local stores.

Direct shipping isn't as big a deal for Massachusetts brewers, who rely heavily on wholesalers to get their product to market. That's created a quandary for them: fight a bill they don't like and risk offending their wholesalers or steer clear of the issue. Doyle, of Harpoon, declined to be interviewed, his spokeswoman Liz Melby said, for fear of offending his wholesalers. He wasn't so reticent last September when he told the House Judiciary Committee in Washington that the proposed federal legislation could create huge headaches for brewers by, for example, allowing every state to adopt its own labeling requirements for beer bottles. New York recently tried to do just that, before a federal court intervened.

"As a small brewer in Massachusetts, I do not have the resources to fight every discriminatory state statute and regulation that restricts my ability to compete," he said. **CW**

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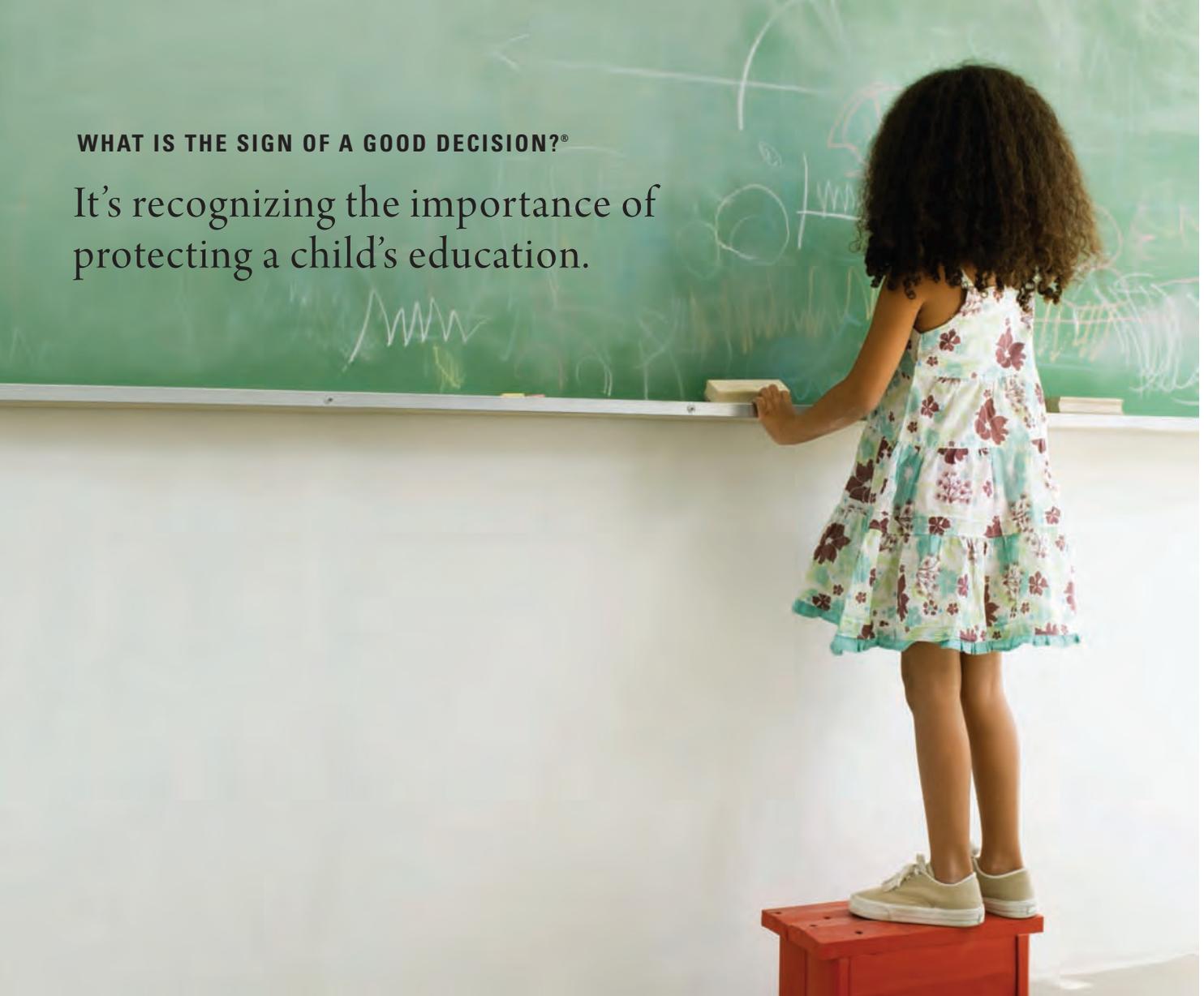
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Social impact bonds

Boston company is looking for capitalists willing to invest in government social programs **BY PIPPIN ROSS**

TRACY PALANDJIAN LOOKS and acts like many of the other hotshot dealmakers in Boston. She dresses in upscale chic, occupies a 14th-floor office on State Street with panoramic views of the city, and peddles bonds to private investors. What sets her apart from most of her colleagues is the type of deals she's pursuing. She's not schmoozing with high-flying Internet startups or cultivating public officials trying to borrow money at low interest rates. Instead, she's trying to entice private investors to put money into projects that benefit society—keeping drug dealers and thieves from going back to their old ways after prison, and getting the homeless into permanent housing.

Think of it as do-gooder capitalism, a way of marrying the power of markets with the challenge of tackling longstanding social problems by getting investors to bet on the ability of private social entrepreneurs to perform government services more effectively and efficiently than the government does now.

Palandjian's company, Social Finance Inc., is an independent, information-sharing ally of a British firm by the same name that pioneered the sale of so-called social impact bonds—bonds that pay a healthy return if the privately-run government service exceeds expectations or pay nothing if it doesn't. Social Finance and a Boston-based rival, Third Sector Capital Partners, are trying to jump-start the business in the United States, acting as intermediaries bringing investors, social service entrepreneurs, and government officials together. President Obama is already on board, calling for seven test projects, and Gov. Deval Patrick is also looking to test the concept in Massachusetts.

"Boston seems like the ideal place to incubate these three-way partnerships. There's money, there's a broad culture of social services, and there's a government that has no problem with setting precedent," says Palandjian, who left Parthenon Capital Partners a year ago to launch the Social Finance startup in office space provided by Parthenon. Palandjian built her resume managing money

for Parthenon's nonprofit and foundation clients.

Jeffrey Liebman, a professor of public policy at Harvard's Kennedy School of Government who crafted the federal approach to social investing while working at the US Office of Management and Budget, says government tends to spend a lot on ineffective social programs because it doesn't do a good job of measuring outcomes.

"This is to finally make it so the government only pays for what works, something that isn't happening because government isn't designed to operate that way," Liebman says. "The question is whether there are interventions that will generate high benefits that will both bring savings to taxpayers and generate a return on the investment."

Social Finance launched its business in the United Kingdom with a program designed to reduce recidivism among former prison inmates. Currently, the bulk of the UK's 40,200 prisoners cycle in and out of prison at an alarming and costly rate, with about 60 percent of first-time offenders returning to jail within a year after their release.

Social Finance spent a couple of years convincing 17 investors, including the Rockefeller Foundation, to buy \$8 million worth of social impact bonds to fund a program providing just-released inmates from a prison in Peterborough with assistance in finding housing and employment as well as financial, family, and addiction counseling. Peterborough holds more than 800 men and women prisoners, most of them first-time offenders.

The British Ministry of Justice agreed to refund the investors their original \$8 million investment if the Peterborough re-entry program succeeds in reducing the recidivism rate at the prison by 7.5 percent over an eight-year period. If the recidivism rate drops even more, the investors and the British government agreed to split the savings.

In the United Kingdom, Social Finance spent months working with the Treasury and the Ministry of Justice to tightly define the exact population for the test drive. "This is why it's a good

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WHAT WORKS

idea to have an intermediary like Social Finance," says Kippy Johnson, associate director of the Rockefeller Foundation, which invested nearly \$1 million in the UK experiment. "Not only do they put all the players together and do the negotiations, but they are going to have to drive the social service provider hard to ensure [good] outcomes get a return on the investment."

The UK experiment tapped mostly nonprofit foundations as investors, but the Rockefeller Foundation thinks the program has broader appeal. It intends to spend \$54 million to develop a plan to convince US for-profit investors to put money into programs attacking social and environmental problems. "The idea is to unlock private capital to invest in social problem solving," says Johnson.

In his budget address earlier this year, Obama embraced social impact bonds, using the name Harvard economist Liebman gave them—Pay For Success contracts. If Congress approves, \$100 million will be set aside for seven pilot programs. "Instead of spending first and asking questions later, we're rewarding folks inside and outside of government who are delivering results," Obama said.

The Patrick administration is already angling to participate in one of the seven federal pilot programs and launch state ones as well. "We have to change the way we do business," says Jay Gonzalez, the governor's secretary of finance and administration. "What we're doing is unsustainable. There are lots of good reform efforts, but I'm definitely excited about this one."

The Patrick administration's primary focus is to come up with ways to reduce the state's homeless population and keep released inmates from winding up back in prison. "Is it going to be simple?" asks Gonzalez. "No. It needs some real rigor to make it right, but we'd be fools to not explore this, and the exploration has definitely begun."

Patrick says the idea has tremendous potential. "It shows our willingness to invite new people to the table to solve old, intractable high-cost social problems," he says. "To me, this is really, really appealing."

Molly Baldwin, the founder and executive director of Roca Inc., says her 23-year-old Chelsea-based program for high-risk kids could flourish with the use of social impact bonds. It currently receives only 12 percent of its funding from the state.

"When I read an article about what's going on in the UK, I went berserk," says Baldwin, who is already trying to line up investors for a project. "I'm in a business in which we all talk about how much money is being wasted on failure and never invested in success. We carefully track what we do. Meanwhile, our criminal justice system, which doesn't track or ever adjust, is a miserable failure that's ridiculously expensive. After all the talk of evidence-based practice, it's time for the government to put its money where its mouth is." **CW**

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Left, state transit executive Richard Davey; right, Susan Windham-Bannister, head of the Massachusetts Life Sciences Center.



Susan Windham-Bannister, Ph.D.
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Salary divide

She makes \$285,000 overseeing 7 employees. He makes \$145,000 overseeing 6,000. Which authority chief's salary is right?

BY BRUCE MOHL | PHOTOGRAPHS BY MARK MORELLI

It's 7:30 a.m. The MBTA's Richard Davey is standing just inside the Roxbury Crossing station, sipping his coffee while getting an earful from a woman worried about security on Orange Line trains now that the number of operators has been cut from two to one. After she heads off to catch her train, another woman steps up, wanting to know if Davey really intends to force mothers to fold up their strollers when they get on buses. Then there's the coffee shop next door leasing space from the T; its roof is leaking.

Davey, who has overseen the T and other state transit operations for more than a year, is spending several hours on this rainy mid-May morning listening to the concerns of everyday users of the T. He seems to enjoy the give and take, perhaps because it's a break from the intractable problems facing him back at the office, where he oversees close to 6,000 employees and a budget of \$1.6 billion. Davey's job is to transport about 1.3 million people every weekday on a bus, subway, and commuter rail system that is old, prone to breakdowns, and effectively broke.

It's one of the toughest jobs in state government and definitely one of the

most important. The T keeps the eastern Massachusetts economy moving and is critical to the livelihoods of area residents and businesses. Yet the 38-year-old Davey is paid \$145,000 a year, a figure that seems remarkably small compared to his responsibilities. Indeed, it's less than what he was making in his previous job at the private company managing the T's commuter rail network. It's also \$110,000 less than his predecessor at the T made, even though Davey has taken on more responsibility.

Compared to 13 other managers of similar-size transit systems around the country, Davey's salary is far and away the lowest—\$132,000 below the average. At Bunker Hill Community College, Davey's salary would make him the fourth-highest paid employee on the payroll. Many University of Massachusetts professors and even some assistant professors, not to mention deans and provosts, earn more money than Davey. Some of Davey's own employees earn more than he does.

His job perks aren't very generous either. He receives no car allowance, he pays for his own T commute to and from work, and on his last vacation he even took a side trip to South Korea—on his own dime—to visit a factory building new locomotives for the authority.

"I didn't take the job for the money," Davey says with an earnest smile.

Davey is one of the faces of the Patrick administration's campaign to rein in the state's quasi-public authorities and bring the salaries and perks of their top officials more in line with the rest of state government. It's a good, old-fashioned house-cleaning. Two authorities have been eliminated and six authority chiefs have been ousted. The governor and his aides say the cozy culture of entitlement that once existed at the state's quasi-public authorities is now dead.

But there is a growing chorus of people inside and outside the administration who see the governor's move against the state's authorities as good politics but bad public policy. They say the proverbial nationwide search to fill important authority posts with the best possible candidate has degenerated into a hunt for someone who will do the job for less. They worry that authorities, set up purposefully to be independent of the political process and operate more like public enterprise businesses, are being turned into wholly owned subsidiaries of the administration. And they say the crusade for lower salaries is just political cover for a governor trying to centralize control in his administration, as he did previously with transportation and education, and fill key authority posts with his own people.

Indeed, Patrick seems to have a split personality when

it comes to authorities. He has forced out or lowered the pay of every authority executive earning more than \$250,000 a year—with one exception. Dr. Susan Windham-Bannister, who heads the Massachusetts Life Sciences Center, the one authority Patrick played a personal role in creating, is earning \$285,000 a year managing an agency with just seven employees and an annual budget of \$2.5 million. Two of her employees earn more than Davey makes at the T.

Stephen Crosby, the dean of the McCormack School at the University of Massachusetts Boston and the person Patrick chose last year to lead a commission analyzing compensation at quasi-public authorities, is a big believer in paying people what they're worth. He says the juxtaposition of the pay of Davey and Windham-Bannister shows how outrageously low Davey's salary is. But he says it's incredibly difficult to pay competitive salaries in the public sector. "It's a soft spot in democracy," he says. "Setting high levels of compensation in the public sector is something where democracy has a problem."

A "PRIVILEGE" TO SERVE

Jay Gonzalez, the governor's secretary of administration and finance, says the old adage that you get what you pay for doesn't always apply in state government. He, for example, makes \$150,000 a year reporting to a governor making \$10,000 less than he does. The salaries of both men are far less than what they used

“I came into government knowing that the public sector is different and I was going to sacrifice some compensation.”

to earn in the private sector, but he says that's the way government works.

"I came into state government knowing that the public sector is different and I was going to sacrifice some compensation versus what I was getting in the private sector in order to have the privilege of working in the public sector," he says. "For anyone who has these positions, it is a privilege, an opportunity to serve the public in a unique way."



"It's important that we are all working together toward common objectives, that we're all rowing in the same direction," says Jay Gonzalez, the secretary of administration and finance.



Gonzalez says jobs at the quasi-public authorities should be no different. Sure, Gonzalez says, the quasies were established with their own boards and their own salary structures to make them independent of state government. Many of them are financially independent and receive no state money. But Gonzalez says the quasi-public authorities are still public and also a part of state government.

"The concern was that they had veered a little too far to their independent side and a little too far away from the public side," he says. "It's important that we are all working together toward common objectives, that we're all rowing in the same direction."

Gonzalez says hefty salaries came to symbolize how far the quasies had strayed. Many top authority chiefs were making \$250,000 to \$300,000 a year with perks unheard of in government. Tom Kinton at Massport stored up \$450,000 of unused sick and vacation time. James Rooney at the Massachusetts Convention Center Authority is working on his second pension. Most of the authority chiefs were sitting on fat severance packages that paid them big bucks if they were removed before their contracts were up.

"The poster child was Ben Caswell at HEFA," says Gonzalez. Caswell earned a salary of \$225,000 running the state's Health and Educational Facilities Authority, plus

deferred compensation of \$67,500, a bonus of \$14,583, a \$5,000 car allowance, a T pass, and a health club membership. He also was promised a severance payment equal to as much as three years of salary if he was dismissed without cause.

"There were some absolutely ridiculous aspects of his benefit package," says Gonzalez, who worked in the bond business before joining state government. "I will guarantee you you do not need to pay somebody what Ben Caswell was paid to get a qualified person to do that job."

But what should someone running an authority be paid?

Gonzalez says each situation is different, but before negotiating a salary authority boards should do salary comparisons with authorities in other states, companies and nonprofits in the private sector, and state government. "One of the positions that should be looked at as a comparable for a CEO at a quasi-public authority should be me and other CFOs in state government," Gonzalez says. He also says if a quasi can hire someone who is willing to work for less, it should. "It's a sacrifice they make for the opportunity to serve," he says. "We owe it to taxpayers to take advantage of that."

The administration has overhauled the major quasi-public authorities, but there are nearly 30 smaller ones



“Setting high levels of compensation in the public sector is something where democracy has a problem,” says Stephen Crosby, dean of the McCormack School at the University of Massachusetts Boston.

left that haven't been touched. I ask Gonzalez which authority is next in line for review.

“None come to mind personally,” he says.

What about the Life Sciences Center, an authority Patrick created and on whose board Gonzalez sits? Does the governor feel Windham-Bannister's salary is out of whack?

“That's what we need to assess,” he says, noting Windham-Bannister was hired before Crosby's report on authority compensation was completed. “When her contract comes up, that's something we need to look at.”

But Windham-Bannister doesn't have a set-length contract. She serves at the pleasure of the board and can be terminated at any time, something Gonzalez should know as a member of that board. I ask him if Windham-Bannister's salary goes untouched because she heads an authority created by Patrick, while the other authority heads were targeted because they were brought on board by appointees of prior administrations.

“The process we've been going through is not to put our guys in,” Gonzalez says testily. “That's not what this is about. It's about getting good people in who are going to work together with the administration and others to further the mission.”

SHIFTING STANCE

The Patrick administration hasn't always been so concerned about excessive pay at quasi-public authorities. That concern evolved over time, and took serious root after the governor's efforts to place a political supporter in a high-paying job at one of the authorities blew up in a damaging patronage controversy.

In May 2008, Windham-Bannister was named to the top job at the state's Life Science's Center. No one raised concerns about her \$285,000 salary at the time, even though two of Patrick's top lieutenants headed the board that selected her.

Nearly a year later, according to administration emails and court documents, Patrick administration officials began lobbying behind the scenes to place then-state Sen. Marian Walsh, an early political supporter of the governor, in the No. 2 position at the Health and Educational Facilities Authority at a salary of \$175,000.

Caswell, HEFA's executive director at the time, says in court filings that he resisted the hiring of Walsh because the position had been vacant for 12 years and she had little experience in finance. But he claims Allen Larson, HEFA's

chairman, insisted Walsh be hired. His lawsuit quotes Larson as saying Gonzalez “feels dirty about this but Patrick called him into his office and demanded to know why this was not done already and told him to get it done.”

At a March 12, 2009, board meeting, HEFA voted to hire Walsh, subject to a final approval the following month. The announcement set off a firestorm of protest that Patrick was engaging in exactly the sort of patronage politics that he had pledged to end during his run for governor.

Twelve days later, Patrick called in Crosby from UMass and asked him to review compensation at all the state’s quasi-public authorities. In a statement, the governor said recent criticism regarding compensation at HEFA “has drawn attention to the tension that exists between salaries appropriate to attract and retain talent and the sense of shared sacrifice the public demands in times like these.” He said Walsh, “a respected and qualified individual

Instead of lambasting salaries at authorities, the report called them “appropriate” as a broad generalization.

recently hired at HEFA, will lead by example by voluntarily reducing her annual salary from \$175,000 to \$120,000. She will work to lead the reform efforts at the agency to generate savings.”

Four days later, the *Boston Globe* reported on email traffic between the Patrick administration and HEFA indicating that Patrick aides, despite earlier claims to the contrary, had orchestrated Walsh’s hiring and set her original \$175,000 salary. In the ensuing furor, Walsh withdrew her name from consideration for the job.

After the Walsh fiasco, the administration’s attitude toward the quasi-public authorities hardened. In August 2009, Dan Grabauskas was fired as the general manager of the T even though he had nine months left on his five-year contract and was owed severance of \$327,486.

That same month the Crosby commission released its report. Instead of lambasting high salaries at the authorities, it concluded that compensation packages “as a broad generalization” were “appropriate and reflect legitimately the context of each of their industries.” The report focused more of its attention on perks, recommending doing away with fixed contracts, excessive severance pay, guaranteed raises and bonuses, and cash payouts for banked sick time. It also said retirement benefits

should be figured into salary comparisons.

But the Crosby conclusions did not deter Patrick. Over the next year and a half, Davey was hired at the T and paid \$110,000 less than Grabauskas; Gonzalez appointed one of his own aides, Glen Shor, to replace Jon Kingsdale at the Health Insurance Connector Authority and paid him \$88,000 less; Kinton was denied a \$22,000 pay raise at Massport, forcing him out; James Rooney swallowed a \$26,000 pay cut at the Convention Center Authority and the loss of \$73,000 in bonus money, and Mitchell Adams was ousted from his \$264,000-a-year job at the Massachusetts Technology Collaborative. HEFA was merged into MassDevelopment, and the heads of both authorities (Caswell at HEFA and Robert Culver at MassDevelopment) were booted, replaced by Boston developer Marty Jones, who is making \$215,000 a year—\$309,000 less than the combined salary of her two predecessors.

The governor’s top aides orchestrated most of these changes, in some cases negotiating the new pay packages with little or no input from the authority boards. Some of the aides privately grumble about trying to find good people willing to do tough and often thankless jobs for less than they could make in the private sector.

The tone of the press releases announcing each new appointment has changed over time. When Shor was named head of the Connector in April 2010, his salary and the Crosby commission weren’t even mentioned. But by the time Jones took over at MassDevelopment a year later, the press release noted her salary and effectively rewrote the conclusion of the Crosby report by saying it had “outlined a plan to address excessive salaries and benefits for executives at independent agencies.”

Who Massport hires as its next administrator will tell a lot about the Patrick administration’s commitment to downsized salaries and contracts without guaranteed lengths. Massport runs Logan Airport which, like the T, is vitally important to the state’s economy. It’s also the airport where the two 9/11 planes that flew into New York’s World Trade Center originated. At the time, Logan was run by Virginia Buckingham, a political operative who had no aviation experience when she took the job. Just three months after the tragedy, a special task force recommended that Massport hire a very experienced chief executive and give him or her a five-year contract “to provide some insulation against political influence and pressure.”

Kinton, who came up through the ranks at Massport, was appointed to the top job in 2006 and given a five-year contract, a practice the Crosby report opposes. Sources say the Massport board began maneuvering last year to lock Kinton in for another three years. The board commissioned a salary comparison survey that found Kinton’s

\$296,000 annual pay was \$12,000 above the median for managers at airports of Logan's size. The board wanted to raise his salary to \$318,000, which would have placed him just below the 75th percentile for managers of equal-size airports.

The board shared its findings with Transportation Secretary Jeffrey Mullan early in the fall. Sources say Mullan had no problem with the salary increase, but warned that the timing wasn't good, given the down economy. Days before the Massport board was scheduled to vote on the salary increase, Mullan privately told board members he would fight it. The pay hike was scrapped and Kinton subsequently submitted his resignation. At press time, no replacement had been announced.

The Patrick administration's crackdown on authority salaries has generated some savings. At the Connector, for example, the hiring of Shor set off a chain reaction of staff turnover and salary reductions. The 10 highest-paid Connector employees under Kingsdale earned a total of \$1.66 million, while under Shor they earn a combined \$180,000 less.

MassDevelopment boasts that its merger with HEFA generated payroll savings of \$2 million, but the combination also ended a competition between the two authorities that yielded significant savings for higher education institutions, a cornerstone of the state's economy. Prior to the merger, the two authorities competed aggressively for higher ed business, but after the merger MassDevelopment adopted one fee structure for all its deals. The result was a sharply higher fee structure for higher ed institutions. Harvard University, for example, issued tax-exempt debt through HEFA twice before the merger and paid a fee of \$95,000 each time. Since the merger, Harvard has completed one deal, paying a fee of \$677,000.

MassDevelopment is also refusing to pay Caswell a \$562,000 severance payment he says he is owed. Caswell is suing, and a preliminary decision by the judge indicates the law may be on his side. It's unclear whether the private attorneys representing MassDevelopment are working for less-than-market rates since since the authority is refusing to say what it is paying its lawyers, citing attorney-client confidentiality.

MANY OPINIONS ON PAY

Paul Levy, who ran the Massachusetts Water Resources Authority from 1987 to 1992, says he has watched with great concern as the Patrick administration has slashed salaries at quasi-independent authorities and curbed their independence.

"The public as a whole doesn't like the idea of people in the public sector earning private sector salaries, but I

think that's shortsighted," he says. "One reason you create authorities is to have them outside the purview of the regular politics of state government. The goal is to attract highly competent people and attract them away from the private sector."

Levy says he hired Dick Fox to run the Boston Harbor Project and paid him a salary that made him the second-highest paid person in state government. Levy says Fox also paid his staff well. "We had a highly paid, highly skilled project team that was comparable to the teams we were contracting with," Levy says.

Levy says it was no coincidence the harbor cleanup came in on time and on budget. By contrast, he says, the Big Dig didn't take the same approach and the result was in many ways a disaster. Levy says Frederick Salvucci, the transportation secretary under former governor Michael Dukakis, would vouch for that.

But Salvucci actually disagrees. He applauds Levy for

Salvucci and Levy take different stances on whether it makes sense to pay public workers private sector salaries.

hiring Fox and paying him a market-rate salary, and he acknowledges people running the Big Dig were not paid similarly. But he says the Big Dig's problems wouldn't have been solved by paying managers more. He says the real problem with the Big Dig was that it was handed off mid-stream during the transition from Dukakis to former governor William Weld and expertise and institutional memory were lost. That left Bechtel, the management company on the project, as the only entity with any institutional memory and, as Salvucci says, "It's very easy to get along with yourself."

Salvucci says it is possible to attract good people to government service jobs at lower pay if those being hired have the backing of top officials and feel they can really accomplish something, which he says didn't happen with all the second-guessing surrounding the Big Dig. He says the T's Davey is a good example of top-notch talent working for less. "He was attracted into a very tough job because of the excitement and the challenge of the mission. It makes it harder, but it is possible to do," he says.

Unlike Levy and Salvucci, Crosby has never run a state authority. But he has served in the job Jay Gonzalez now has, as the state's chief budget official, and he has proba-

bly studied government pay issues more than anyone else in Massachusetts. He played a central role in producing three reports on various aspects of government sector pay, in 2007, 2008, and 2009. The first two reports raised concerns about a growing gap between private and public sector pay, a gap that was making public service difficult for anyone except the wealthy or those already serving in government. The third report was from the commission appointed by Patrick to study whether compensation at quasi-public authorities was out of line.

Sitting in his office at UMass, Crosby—who is paid \$171,000 as a university dean—remembers sitting down with Patrick prior to being appointed to head the commission. “Even at that point, I said to him, ‘I think you come into this with a predisposition that their salaries are too high and in general that salaries are really out of line. And I’m not sure I agree with you on that.’ I said that to him right up front. Frankly, I think they would have loved it if I came to that same conclusion.”

He says he and the other commission members were expecting to uncover a lot of sweetheart deals, but that’s not what they found. “There were a few freak things, but there really wasn’t much that was out of line,” he says.

Which is why Crosby has done a slow burn watching the Patrick administration as it slashes salaries and benefits while citing his report. He takes issue with the notion that authorities should be trying to hire people willing to accept less than the job is worth. He says Davey could take the job at the T because he can afford to; he has no kids and his wife is a partner at a big law firm. But Crosby asks what will happen when Davey leaves and everyone else across the country doing a similar job is making \$300,000 to \$500,000.

“You may have a good deputy in Massachusetts who’s making \$115,000 for whom this job would be a raise, but it’s kind of an inherent market function,” he says. “In due time, there’s got to be a relationship between talent and compensation. There ought to be a relationship between authority, responsibility, accountability, experience, and compensation. That ought to be the measure.”

Crosby also worries about the administration’s control of quasi-public authority boards that are supposed to be independent. “It’s like enlightened dictatorship,” he says. “It’s fine if you’ve got a dictator who’s a good guy, but there’s no check and balance if he isn’t.”

As for what’s motivating Patrick, Crosby says he’s mystified. “I think he just wants control of the agencies. It’s about having his own people in the agencies,” he says. “I don’t know whether he genuinely believes that these people are paid too much or whether it’s punitive going with the times. That’s not really his style. It makes me think he thinks they are being paid too much, which puzzles me.” **CW**



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INBOUND



Delays in service

Every governor from William Weld to Deval Patrick has been pulled into the quest to build a commuter rail line from Boston to Fall River and New Bedford. Will the pledge to do right by a long-neglected region of the state trump questions about whether South Coast commuter rail makes sense in a budget-strapped era?

BY GABRIELLE GURLEY | ILLUSTRATION BY LAUREN SIMKIN BERKE

LATE INTO A May evening in New Bedford, commuters told three stone-faced federal officials about their daily 90-minute plus treks up Route 24 to Interstate 93 toward Boston, a stressful gumbo of traffic bottlenecks, distracted drivers, and too many fatal accidents. State lawmakers and local officials chimed in with appeals to economic justice and opportunity. The message from more than 40 speakers to the US Army Corps of Engineers was crystal clear: Build the long-delayed commuter rail line between Boston and the South Coast now

The laments over long drives to Boston and the region's economic distress are hardly new. Nearly 20 years ago former Gov. William Weld went to the South Coast promising to ramp up passenger rail, declaring, "Sue me if it doesn't happen." His successors kept the dream alive, but

never got it built. Now it's Gov. Deval Patrick's turn, and he's made South Coast commuter rail one of the transportation priorities of his administration.

Many residents in the region believe that Patrick's enthusiastic embrace of the project has finally given the proposal real momentum. When asked about the initiative, Patrick ticks off his administration's accomplishments: acquiring rights of way from freight company CSX, rebuilding the rail bridges in New Bedford, and getting the Army Corps to weigh in on the routing of the line and environmental issues. "I want the project to happen," Patrick says.

The economic growth fueled by the state's knowledge economy over the last three decades, which drove up incomes in Greater Boston, did not reach New Bedford and Fall River. Southeastern Massachusetts has "a special claim" on a new commuter rail line given the fact that it has been chronically one of the state's poorest performing economic regions, says former governor—and inveterate rail enthusiast—Michael Dukakis.

Ken Hartnett, the retired editor of *The Standard-Times*, the New Bedford area newspaper, has followed the issue for decades. "Rail is the way of ending the economic isolation of this area," Harnett says. "It's a very important point, psychologically."

Hartnett actually makes two very different points, and captures some of the conflict over the project. As he points out, there are both economics and emotions in play: the claims of tangible economic benefits commuter rail would bring and the psychic wounds it would heal in a region that often feels left behind.

The argument that the South Coast should get its just due is compelling. But it's far from clear how the state can pay for a project whose economic benefits are uncertain and whose cost could approach \$2 billion. With the state in a multi-year budget crunch and the MBTA struggling to run the trains it already has, the governor and his top transportation aides act as if they're running their leg of a long relay race that has been going on for 20 years. It's a race that never seems to end. When it comes to extending commuter rail to the



New Bedford Mayor Scott Lang favors building the line in three stages, if necessary.

South Coast, governors can't quite deliver the bad news that Massachusetts simply can't afford it.

THE LAST FRONTIER

The tentacles of the commuter rail network extend out in all directions from Boston, reaching every major city in eastern Massachusetts—except Taunton, New Bedford, and Fall River. To get to Boston, South Coast commuters currently have several options: the highways, driving and parking at a MBTA commuter rail station about 20 miles

“We’ve been promised for umpteen years, the time has come,” says New Bedford City Councilor Denis Lawrence.

away, or a bus. “We’ve been promised [commuter rail] for umpteen years, the time has come,” says Denis Lawrence, the vice president of the New Bedford City Council, who has done it all, commuting to his office near Boston’s South Station for 15 years by car, by driving to catch the commuter train in Lakeville and, now, via the commuter bus. Residents fume that the capital of Rhode Island has bet-

ter links to Boston than they do. Last year, the expansion of the MBTA's Providence/Stoughton Line to TF Green Airport, built with Rhode Island and federal funds, irritated the South Coast even more. "You don't know what salt in the wound that was," says Robert Mellion, president of the Fall River Chamber of Commerce.

But more often than not, politicians are looking to appease, not antagonize, South Coast residents. Appealing for votes in the region means passing the commuter rail litmus test. Deval Patrick certainly got high marks; Charlie Baker, who opposed the project in last year's race for governor, not so much. Outside the region, the issue barely registers, but the pressure from regional leaders is relentless. South Coast commuter rail has become the political football that governors carry for a few years and then hand off to the next corner office denizen.

"Politically, it becomes difficult for governors to walk away from it and say, 'No, we are not ever going to be able to afford it,'" says Michael Widmer, president of the Massachusetts Taxpayers Foundation. "In the case of the current governor, it becomes irresistible to say, 'Yes, we think it makes sense.'"

To demonstrate some progress on his commuter rail pledge, Weld and his successor, Paul Cellucci, did some

early work on rail bridges. But Big Dig construction soon sidelined that and other transportation projects statewide. More than a decade later, Mitt Romney decided to temporarily freeze all MBTA capital projects, including South Coast Rail and the Greenbush Line extension to Scituate, which was already underway, until transportation officials could do a cost-benefit analysis using a scoring system for all state transportation projects.

Despite Romney's doubts, the \$534 million Greenbush project, mandated by Big Dig clean-air mitigation agreements, got the go-ahead to resume construction. But Romney, who was skeptical of commuter rail expansion generally, apparently thought that South Coast commuter rail actually had more merit than Greenbush. State Sen. Robert Hedlund, a Weymouth Republican, remembers a conversation with Romney about South Coast commuter rail at the governor's Belmont home. "I said, 'All things being equal, governor, if Greenbush hadn't started before your scoring system, which project would rate higher: Fall River-New Bedford or Greenbush?'" According to Hedlund, who opposed Greenbush, Romney laughed and said that Greenbush came in dead last of all the transit projects.

Romney eventually declared that South Coast commuter rail was "going to get done," according to a Fall

"Young people are the future of our democracy, but they won't just wake up one day and know how to run this country."

— Sandra Day O'Connor

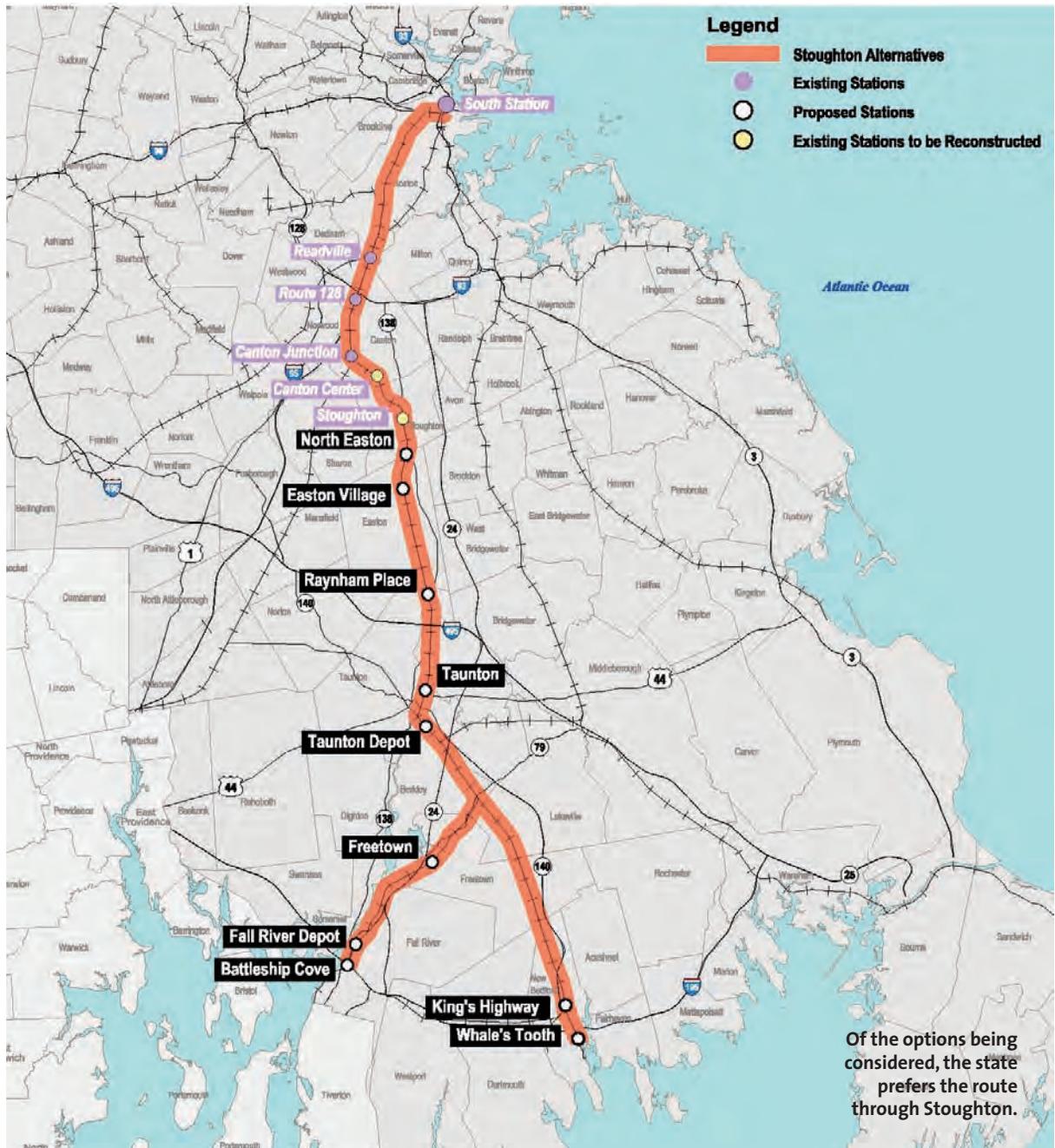
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River *Herald News* timeline. But not before his plum transportation project, which involved connecting Route 3 directly to the Sagamore Bridge and eliminating the traffic-choking Sagamore rotary. South Coast lawmakers thought the governor was pulling a fast one, putting the so-called “flyover” project to benefit Cape Cod vacationers ahead of their commuter rail project.

The governor got approval from the Legislature for the flyover, but only after agreeing to mollify local lawmakers by paying for environmental permitting and additional development studies for the South Coast Rail project, a move Romney called “blackmail.”

PATRICK’S PLAN

In 2007, four months into his first term, Patrick laid out his to-do list for the South Coast Rail project with goals like acquiring rail rights of way and expanding track capacity at South Station. He hired Kristina Egan, a former head of the Massachusetts Smart Growth Alliance, as the first South Coast Rail project manager. By 2009, Egan had helped spearhead the creation of a smart growth-influenced “South Coast Rail Corridor and Economic Development Plan” to push communities along the line to think about new business and residential development opportunities, particularly around the train stations, while pre-

servicing open spaces. The plan called for construction to start in 2012, with trains running by 2016.

Three commuter rail routes are under consideration: one through Stoughton, Raynham, Easton and Taunton; another that goes around Taunton; and an option via Attleboro. A fourth option, express bus service using a combination of dedicated and existing lanes, is also on the table as a less expensive alternative. Because the project would affect wetlands and other water sources, the Army Corps determines the final route and issues a permit. In March, the Massachusetts Department of Transportation announced that the Stoughton route was its preferred course, a stand that may be based on state officials reading of a draft Corps report that seems favorable to the Stoughton option.

Whatever route they take, commuter trains to Fall River

To what degree commuter rail stations spur local economic growth is not well-documented.

and New Bedford won't come cheap. The MBTA has priced out two options for a Stoughton route: an electric train, pegged at about \$1.8 billion, and a diesel train costing nearly \$1.5 billion

In the past year alone, the Patrick administration spent more than \$150 million on South Coast Rail-related projects, acquiring track from CSX (the deal also included commuter rail service improvements north of Boston), and securing federal grants to rebuild rail bridges in New Bedford and to expand South Station in Boston. (Trains cannot run to the South Coast until South Station expands by adding new platform berths and other improvements.)

STAYING ON TRACK

South Coast Rail boosters argue that rail would put the region into Greater Boston's economic orbit, opening up southeastern Massachusetts to businesses and residents priced out of the Boston area. State officials and South Coast leaders are also careful to stress that while commuter rail provides economic benefits, trains are not the panacea for persistent economic troubles, failing schools, or crime. It's hard to deny, though, that South Coast Rail has taken on a life of its own—even more than a long-sought after destination resort casino—and is pegged as *the* economic development project the region needs to spur its renaissance.

According to the South Coast Rail development plan prepared by the state, rail service will create \$500 million in new annual economic activity. Construction is expected to generate up to 8,000 jobs, while 3,500 to 3,800 new, permanent, non-construction jobs are projected by 2030. However, only 2,500 of these are projected for the South Coast region itself. By way of comparison, new business and industrial parks planned for Fall River and Freetown are projected to bring up to 11,000 jobs to the communities.

Egan, who stepped down from her post at the end of June, says although the numbers may be low for a job market like Boston's, they constitute "important job growth" for smaller cities like New Bedford and Fall River. However, many critics suggest the South Coast would be better off with direct investments in job-creating projects and boosts to public education rather than a rail project.

"Thirty-five hundred jobs is an incredibly small number of jobs against a \$2 billion investment," says Widmer, the Massachusetts Taxpayers Foundation president. "What else can you do with \$2 billion? That's the piece that's always ignored."

To what degree existing commuter rail stations have spurred local economic growth in Massachusetts is not well-documented. No studies of the question have been done by the MBTA or the Executive Office of Housing and Economic Development. Fitchburg, Brockton, and Lawrence have had commuter rail for years, yet each city continues to wrestle with drawing workers to their more affordable housing options and finding the right mix of businesses that will put long-time residents to work. Leaders in Worcester say commuter rail has been an unquestionable boon to their city. Commuter rail service "has been a major factor in private sector investment in central Massachusetts, in downtown Worcester, and also towns like Grafton and Shrewsbury," says Lt. Gov. Tim Murray, who served as Worcester's mayor for three terms.

INBOUND TO BOSTON

For all of the debate over the economic benefits of South Coast Rail, it is first off a transportation project. From a transit perspective, however, ridership projections are hardly overwhelming. An electric-powered train on the proposed Stoughton route, the most expensive option at \$1.8 billion, is also the option favored on South Coast. It provides the fastest trip to Boston, 76 minutes, and is projected to attract 4,790 riders. Slower diesel trains would take nearly 90 minutes, and attract 4,070 riders.

The Army Corps found that, from 1990 to 2000, work trips from the South Coast to Boston or Cambridge increased by nearly 40 percent. In 2000, however, those

commutes still only represented about 4 percent of all work trips from the South Coast. (More than half of the region's workforce is employed in greater Fall River or New Bedford.)

According to David Luberoff, executive director of Harvard's Rappaport Institute for Greater Boston, there isn't much evidence that commuter rail is a major economic tool for cities like Fall River and New Bedford, which are 50 to 60 miles from the regional economic hub in Boston. "The state's own numbers say that the project will have very few riders and an extremely small impact on employment," says Luberoff. "That doesn't mean that we shouldn't provide transportation alternatives for the South Coast, but it does open the question of whether it might be possible to provide the needed alternatives in a more cost effective way."

Recent experiences with the Greenbush line have fueled further doubts about projected ridership for what promises to be a long daily commute. Opened in 2007, the Greenbush extension draws just over 1,900 riders during the morning peak compared to original projections of 3,230 inbound peak commuters

Before any trains roll, South Coast Rail will have to clear environmental review hurdles, a step that is by no means a mere formality. The proposed Stoughton route involves constructing a trestle through the Hockomock Swamp, the largest freshwater wetland in Massachusetts.

Mass Audubon supports commuter rail improvements, but wants to see more information about the project's costs and mitigation for wetlands. Longtime foe Kyla Bennett, the director of the New England office of the Public Employees for Environmental Responsibility, announced in May at an Army Corps hearing in Mansfield that her group intends to sue the Corps if the Stoughton route gets the nod over an express bus, which she says is the option that would have the least environmental impact. The Corps' final report is expected early next year. Not surprisingly, on the South Coast, where residents say they've long been treated like second-class citizens, the bus option is regarded as more of the same

US Environmental Protection Agency officials in the Boston regional office, however, appear to share some of Bennett's concerns. According to a recent letter to the Army Corps, the agency currently sees the bus as "less environmentally damaging" and believes that the Corps may have understated the environmental impacts to "aquatic resources" of the Stoughton route and the route that would bypass Taunton, while overstating the impacts of a rapid bus.

As the courts sort out the inevitable challenges, years and dollars will get tacked onto the project. Greenbush, Cape Wind in Nantucket Sound, and the Hoosac Wind

project in the Berkshires were each delayed by roughly a decade of court challenges by environmental groups or local residents. Some local governments also plan to fight South Coast Rail. Stoughton officials have allocated more than \$200,000 to pursuing litigation. Easton and Raynham officials are pursuing mitigation projects after voters backed that strategy rather than going to court.

ADDING IT ALL UP

Of all the obstacles facing the project, however, the cost and financing of a new commuter rail line loom as the largest. State officials say they are waiting for word on a final route before laying out a plan to pay for the line. Massachusetts could issue bonds to raise money for South Coast Rail, but transportation officials cannot finance sums large enough to build the line without running up against the state's annual bond cap and jeopardizing other capital projects.

This "underscores the obvious," says Widmer. "The administration doesn't know how to pay for this. The reality is the rest of the state would find it very difficult to accept putting this much money into South Coast Rail and would fight strongly against it."

There are 34 pending MBTA capital projects to keep the existing system running, totaling a staggering \$4.5 billion, which should beat out South Coast Rail, according to Paul Regan, executive director of the MBTA Advisory

Recent experiences with the Greenbush line have fueled doubts about ridership on a long daily commute.

Board. These include replacing the middle-aged Red and Orange Line cars in the MBTA subway system. Another big-ticket expansion project, the nearly \$1 billion Green Line extension to Somerville and West Medford, is mandated under the Central Artery mitigation agreement. The T doesn't currently have the money to pursue any of these. Nor is it clear how the T could afford the estimated \$14 to \$15 million in net annual operating costs of a new South Coast Rail line once it is completed.

"We have people who have lacked courage to be honest with the South Coast," says Hedlund, the Weymouth state senator. "I don't believe that it is ever going to get built."

But the arithmetic jujitsu needed to make South Coast

Rail work does not faze MBTA General Manager Richard Davey. "South Coast Rail is not going to make or break the MBTA," he says. Transportation officials point to "value capture," which rests on the idea of a dedicated tax on future economic development spurred by the line, as one approach to covering costs of a project. Yet debt service payments and operating expenses will not wait for housing and business opportunities to grow around stations, and the potential revenue from a "value capture" plan comes nowhere close to covering the project's price tag.

State Transportation Secretary Jeffrey Mullan is mindful of the conundrum faced by state leaders. "It would be foolish of me to ignore the financial realities, but it also would be foolish of us to ignore an entire segment of the Commonwealth," he says of the administration's vow to make good on the promise of South Coast commuter rail.

Looking for a way to move the project forward despite those "financial realities," New Bedford Mayor Scott Lang wants to revisit a plan that's been kicking around for several years to build the line in three stages to divide up the cost and the construction. But Mullan is not interested. "We're not backing down from our proposal to build the line as has been presented in the environmental documents and that's where we're focused," he says.

Some rail supporters want Washington to save the day. But there seems to be little awareness that top federal officials aren't keen on the project. Last year, Peter Rogoff, the head of the Federal Transit Administration, told a MassINC-sponsored forum on transit issues that the federal government would not fund a rail expansion project if the transit agency involved could not afford to run its existing network, a thinly veiled reference to the MBTA. Indeed, in 2003 the T's teetering finances effectively killed federal interest in funding the Silver Line III connection between South Station and the Tufts Medical Center.

Federal officials like rail projects that have dual uses, so they did award \$20 million to reconstruct three century-old rail bridges in New Bedford, a project that benefits existing freight lines as well as the would-be commuter rail. Davey says the rail project could also be eligible for specific federal grants, such as ones for new vehicles or those directed at specific environmental or economic development goals. But any of those opportunities may be jeopardized by Washington politics: The Obama administration is transit-friendly, while the Republican majority in the US House is not. Meanwhile, Beacon Hill has assiduously avoided debating new revenues for transportation projects. New Bedford state Rep. Antonio Cabral has cham-

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pioned the idea of a Massachusetts Rail Transit Fund to pay for statewide projects, including proceeds generated through a “green fee” on car registrations, but it has drawn little support.

FINAL STOP?

A study released earlier this year of rail transit in major US cities by the Victoria Transport Policy Institute, a Canadian research organization, says commuter rail can do the things that officials claim it would do for the South Coast, such as promote economic development, increase tax revenues, and give new transportation options to non-drivers. However, the report sounds a number of significant cautionary notes, warnings that read like they could be written for Massachusetts officials contemplating the wisdom of investing in commuter rail to New Bedford and Fall River. If rail is not “cost effective due to inadequate demand or unusually high construction costs,” officials should consider other transit options, says the report. The institute also frowned on seeking rail “simply for prestige.” Or, some critics here might add, simply to make up for past slights.

As the regulatory review plods ahead, the lawyers

rehearse their arguments, and the clock ticks toward the next election for governor, time is likely to run out on Deval Patrick’s South Coast Rail promise. It will be up to whoever follows him to take up the cause—or quietly push it aside—with political calculations sure to be a healthy part of the mix, as they have been all along.

With ridership estimates low, job numbers slim, and costs that are potentially stratospheric, the South Coast commuter rail project seems, at best, a big gamble. But the push for the commuter rail line is not simply a battle over whether numbers and projections really add up. It has become as much about promises to people who feel that they’ve been shut out of their chance at prosperity and treated like a regional afterthought. So far, those pledges have kept the project alive, even if it’s been limping forward more than chugging most of that time.

Whether the line should get built is debatable. Meanwhile, whether it will get built is something those on the South Coast have learned to stop counting on, notwithstanding the recent promises that the state means business this time. Hartnett, the 76-year-old former New Bedford newspaper editor, does not expect to see the line built in his lifetime. “My youngest son is 25,” he says. “I’m not sure it will be built before he’s 50.” **CW**

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Private businesses are cashing in on public waters while boat owners wait years for affordable mooring sites

**BY JACK SULLIVAN
PHOTOGRAPHS BY MICHAEL MANNING**

Robert Guimond is like a lot of retirees who stay in Massachusetts. The biggest attraction for him is the ocean, which is why the former salesman for General Motors and his wife left New Hampshire and took up residence in their one-time vacation home in Bourne.

Guimond's pride and joy, aside from his family, is his 30-foot Mainship motor boat that he uses for fishing and pleasure trips. He spends weeks waxing it, cleaning it, and getting it ready



Robert Guimond and his
30-foot Mainship, tied up
at his mooring in Bourne.

Mooring mess



for the relatively short New England boating season.

About the only thing that he dislikes about boating is the mooring he ties up to each night. Moorings are like city parking spaces for boats. You have to have one and there aren't enough of them to go around. Bourne assigns about 1,800 moorings to the public and charges an annual fee of \$70 apiece for them, but they rarely turn over and people wait as long as 10 years to get one. Guimond has moved up to No. 13 on the town's waiting list for his area since he put his name on it three years ago. He's not alone. There are nearly 500 boaters on Bourne's waiting lists.

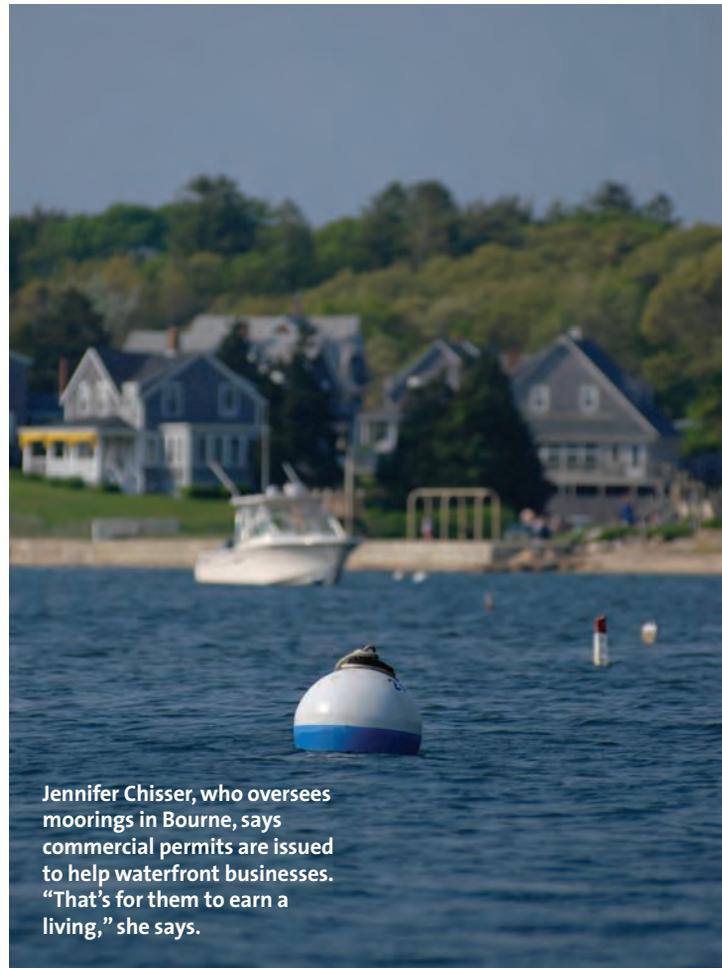
While he waits, Guimond rents a so-called transient mooring for the four-plus months his boat is in the water, where he pays a \$1,200 lump sum based on a daily usage rate. It's a lot more expensive than the standard public fee but not as costly as renting a mooring from one of several private boatyards, yacht clubs, and marinas. They operate a little like ticket scalpers. The town grants about 650 moorings to them at a commercial rate of \$150 apiece, but the businesses turn around and re-lease those moorings for whatever the market will bear—typically \$1,800 and up.

Parker's Boat Yard in the town's Cataumet section has about 130 mooring permits, with about 85 or so that are leased out seasonally for \$2,300 plus tax, plus the \$150 town mooring permit fee. A woman named Cathy in the office at Parker's who did not want to give her last name says the boat yard has about a dozen moorings available. If someone on one of Bourne's 34 waiting lists—one for each public mooring field along the town's coast—wants to lease one, she says, all they have to do is write a check.

"How is that fair to a guy like me when I'm waiting for a mooring?" Guimond asks in exasperation. "That's not right. We pay our taxes and everything else. We should be entitled to something. It seems like there's favoritism."

Jennifer Chisser, who oversees mooring permits in Bourne's harbor master office, says the favoritism is by design. She says commercial moorings are issued to help waterfront businesses. "They can rent them out. That's for them to earn a living," she says.

But should private waterfront businesses be allowed to cash in on their access to public moorings? That question goes to the heart of a public policy debate taking place between the Patrick administration and Inspector General Gregory Sullivan. The Patrick administration takes a laissez-faire attitude on moorings, leaving it up to local harbor masters whether they want private businesses to make a profit on moorings. By contrast, the inspector general says state laws mandate that the waters along the coast be open and accessible to the public and not parceled out to



Jennifer Chisser, who oversees moorings in Bourne, says commercial permits are issued to help waterfront businesses. "That's for them to earn a living," she says.

private interests. Moorings, the IG says, should be distributed on a first-come, first-served basis with reasonable fees.

The policy split is visible up and down the state's 192-mile coastline. Plymouth and Gloucester do not issue com-

The Patrick administration takes a laissez-faire attitude on moorings, leaving most decisions to local harbor masters.

mercial mooring permits or allow private entities such as yacht clubs to dole out moorings, but many other communities do, including Bourne, Duxbury, and Beverly. There are other irregularities as well. State regulations clearly say that individuals cannot transfer their moorings to anyone other than immediate family members, but websites such as Craigslist and eBay are full of listings of mooring sites for sale. And even though state law prohibits



“It seems like there’s favoritism,” says Robert Guimond of Bourne.

it, many communities along the coast charge nonresidents more for moorings.

It’s a system where one harbormaster says he can give away publicly-owned property rights for a private business to cash in on, while the town next door says it won’t allow such a practice because it’s against state law. It’s a process where the state insists everyone is equal yet does little to ensure it. It’s a mishmash of interpretations of the law and regulations that in the end means the average boater is left adrift and, in many cases, upstream without a paddle.

FAIR AND EQUITABLE

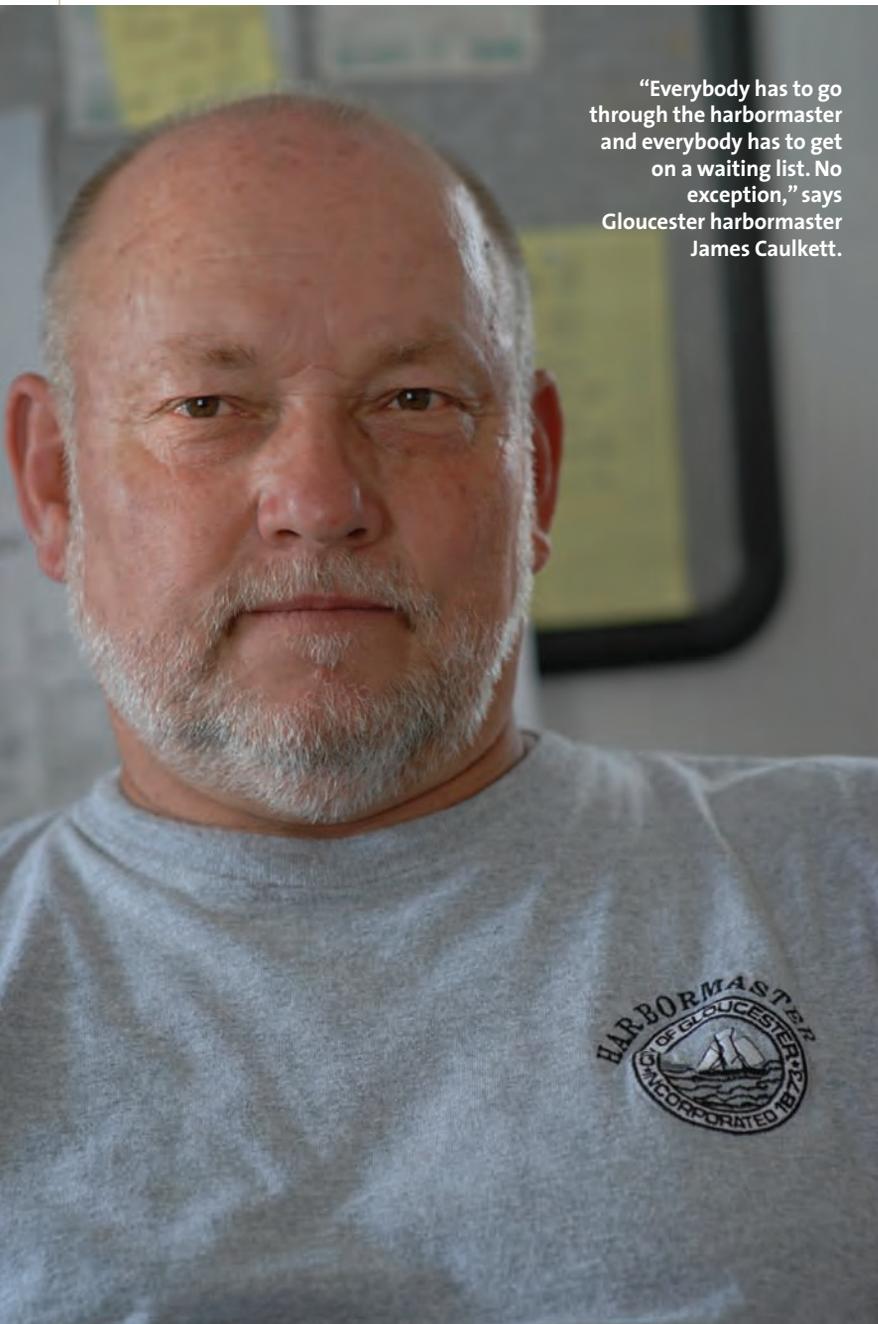
According to state law and regulation, moorings are supposed to be granted in a “fair and equitable” manner. Cities and towns are allowed to collect “reasonable fees,” which for the season generally range from \$1 per boat foot to several hundred dollars. Boston collected \$171,133 in mooring fees in fiscal 2008, the most recent data available, while Duxbury, with about half the number of moorings, raked in nearly \$135,000 in 2009. Barnstable, which has the most registered recreation boats of any community in the state with nearly 4,700, reported about \$200,000 in mooring and waiting list fees last year.

When all moorings are taken, regulations require harbormasters to keep a waiting list and update it regularly. Moorings cannot be sold or leased by individuals and transfers can only occur among members of an immediate family. In most towns, there are people who have been on waiting lists as long as 20 years, with the average generally being 12 to 15 years. Marshfield has two people who have been waiting for nearly 40 years for moorings in the popular Green Harbor section of town.

Moorings, unlike the more expensive slips and docks, are “blue collar,” with far more people like Robert Guimond manning the helm than trust fund babies. According to Boat Owners Association of the US, registration data show three out of four boat owners have a household income of under \$100,000.

Unlike slips, where boats can tie-up to land-based docks or piers for much higher fees, moorings are located offshore. Indeed, mariners need a boat ride to get to a boat that is secured on a mooring, which is usually identified by a large ball floating on the water’s surface. Moorings are secured to the bottom by a heavy anchor or concrete block.

The law and regulations are largely silent on the issue of commercial moorings. They don’t say whether moorings can be leased for a profit, although they do say that nothing in the regulations should be read to prohibit



“Everybody has to go through the harbormaster and everybody has to get on a waiting list. No exception,” says Gloucester harbormaster James Caulkett.

on those waterfronts that contribute to the local economy,” he says. “Many of them are reliant on having some guaranteed access to the local waters.”

The inspector general’s office acknowledges the authority of local harbormasters, but says that if they violate the law the state must step in. Citing a Supreme Judicial Court decision from 2000 and long-standing legal principles, the inspector general argues that the waters off the coast belong to the public, and that private businesses cannot be allowed to parcel out those waters for personal profit.

Jack McCarthy, a senior assistant inspector general, casts the debate in class terms. He says private yacht clubs and marinas tend to sell moorings to well-heeled boaters while average Joes get stuck for years on waiting lists. “Not every boater’s got that kind of money to burn. Not everybody has a yacht,” he says.

A report this spring by the inspector general found the town of Newbury, where there are scores of boaters waiting as long as 20 years for a mooring, had granted nearly 100 mooring permits for little or no money to four private businesses on the waterfront. The investigation found that at least one of the boatyards offered a mooring to people who purchased boats from it. It was similar to previous investigations in Harwich and Chatham that also found private businesses with mooring permits offering them

private entities from granting moorings to customers or members.

The state’s Department of Environmental Protection concludes “fair and equitable” is determined by the harbormaster in each town. Ben Lynch, head of the Waterways Division of the DEP, says the statute expressly delegates authority to harbormasters in each town.

“It’s kind of a classic home-rule situation,” he says. “For me, it seems like a very practical and good regulation because authority should rest locally. Due to the wide variety of different kinds of harbors, it makes sense to let them handle it rather than to have one overarching regulation.”

Lynch says it’s perfectly OK for a community to allocate moorings to businesses so they can sell them and turn a profit. “There are a lot of active waterfronts and businesses

to customers without regard to others who had been waiting for years.

James Caulkett, the harbormaster in Gloucester, says his community views the law the same as the inspector general. He doesn’t give preferential treatment to waterfront businesses or allow them to resell moorings at a profit. “Everybody has to go through the harbormaster and everybody has to get on a waiting list. No exceptions,” he says.

But moorings go hand in hand with waterfront businesses in many other communities. Many boatyards in those communities view their mooring permits as their own personal property. In Mattapoisett, the Aucoot Cove Boat Yard is up for sale with an asking price of \$1.3 million, and the owners say 30 moorings are part of the deal. In Marshfield, the private boat yard Mary’s Boat Livery is

on the block for \$3.8 million, and the sales pitch includes about 100 moorings. At an average of \$1,500 per mooring for the season, the moorings alone are worth \$150,000 a year.

Marshfield Harbormaster Michael DiMeo says whoever buys Mary's should not bank on automatically having the moorings transferred, a fact he says he has conveyed to the owner, who did not return a call for comment.

"It's illegal," says DiMeo, who is also a patrolman in the town police department. "The moorings cannot go with it. All those moorings he has out there are not his moorings, they're the town's moorings. He's fully aware of that."

Many of the private businesses and yacht clubs that control moorings do not maintain waiting lists as required by law or offer the moorings to those on local harbor-masters' waiting lists. Some, such as the Squantum Yacht

Many boatyards view their mooring permits as their own personal property.

Club and Wollaston Yacht Club in Quincy, advertise quick and easy—but not cheap—access to moorings.

"Join now while mooring space and membership are not wait-listed!!" Squantum Yacht Club declares on its Craigslist ad offering memberships and mooring for \$1,075 for the first year. Memberships alone are \$475.

Norfolk County District Attorney Michael Morrissey, a former state senator and an avid boater, says he believes communities should be allowed to give moorings to waterfront businesses. To clarify the law, he introduced a bill in 2008 that would have given harbor-masters the power to grant mooring permits to private for-profit or not-for-profit entities. The bill died in committee.

Morrissey says the waterfront businesses are part of the economy and rely on mooring income to maintain profitability. He said their moorings should not be taken away without compensating them. "If you want to take them away, I'm all for it," says Morrissey. "Just pay them for their loss."

MOOR FOR ME

It's not just businesses that treat mooring permits as their own property. Many individuals look to cash in on their permits by either selling them when they get rid of their

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boat or move, or offering to sublease them. Despite regulations prohibiting such transfers, some individuals say they have the backing of local officials.

Since early April, I have found a number of mooring sites along the Massachusetts coast put up for sale or lease to the highest bidder on Craigslist and eBay. Posing as a potential buyer, I contacted many of the sellers and inquired as to how the moorings could be purchased while the city or town had scores of people waiting for moorings.

“The harbormaster told me when I sell it to come to the office with the new owner and he would collect the city mooring fee, which for me was the \$130,” says one boat owner in an email. He was selling his spot and its accompanying mooring hardware in Salem Harbor near Beverly for \$1,800. “When the fee is paid, he will transfer your information to the mooring ownership,” he says.

Including the mooring hardware in the sale is how most sellers justify their high prices. The mooring fee that communities charge covers just the space itself; to actually moor a boat at that space the boat owner needs a block anchored to the bottom as well as a chain and float to which the boat can tie up. The cost of mooring gear can vary considerably, but typically runs about \$600.

A New Bedford boater named Ken, who did not want

his last name used, charged considerably more for his gear. He says he sold his anchor, chain, and float for a mooring in the protected Pope’s Island area for \$2,000. He says his buyer separately purchased the mooring spot itself for \$150 from the city’s assistant harbormaster. The

People selling their moorings say they are technically selling their gear, not their moorings

buyer wasn’t on the waiting list for moorings in that area.

“It was the gear that I sold,” says Ken. “All you own is the gear. I sat down with the guy that bought it along with the assistant harbormaster and did all the paperwork.”

Tommy Vital, the acting New Bedford Harbormaster, conceded that Ken’s story may be true. He says his oversight of moorings has been lax. “I started with the moorings and



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I kind of just got away from it," he says, explaining his lack of involvement in the process. "I don't really like to deal with it. . . We were a little more loose with the regulations."

Harbor attendant John Anderson, who took over the mooring permitting duties from Vital in 2009, says because of the prior lax oversight and lack of local regulations along with the increasing popularity of New Bedford's harbor, the city has begun enforcing mooring regulations more strictly. He says the waiting list has been updated, unpaid mooring fees have resulted in revoked permits, and moorings are no longer transferred to people not on waiting lists.

"They used to call it the Wild West down here," he says. "We're coming a little more of age."

Christopher Sanborn, the Danvers harbormaster, requires boaters seeking a mooring to purchase the mooring gear from the previous owner. Sanborn says someone looking to unload a mooring in his community is given the names of the top three people on the waiting list. Sanborn says the owner is allowed to negotiate the best deal he can with one of those people, but he says the owner is technically selling his gear, not the mooring site itself.

Asked why buyers can't just buy the mooring permit and install their own gear, Sanborn says: "We could

throw out hypotheticals all day long. The laws, they're interpreted differently in different towns. I think we have a good grasp of it here in Danvers."

LAND HO

Dating back to the early Roman days, there is a legal principle commonly referred to as the "public trust doctrine." Simply stated, the doctrine says the air, sea, and shore do not belong to any one person but rather the general public and, as such, restrictions cannot be placed by individuals claiming ownership.

The state's courts and Legislature have consistently upheld the public's right to access the coastal waters, whether through beach access or navigation. During colonial times, the laws were written to codify the so-called "public trust doctrine," and in 1866 Massachusetts enacted the nation's first laws regulating and licensing activities in the tidal areas.

State law prohibits coastal communities from discriminating against inland residents when it comes to accessing the water. But dozens of communities, including Boston, ignore that mandate and either charge a higher mooring fee for nonresidents or charge them higher fees



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for related permits or services.

“The statute says you can’t discriminate on basis of residence,” says Morrissey, the district attorney and former state senator from Quincy. He should know because, when he was a state senator, he wrote the law covering access to public waters. “People [in other towns] say it’s their shores, their waters, they can limit access to their residents. I tell them, ‘Fine. Just don’t travel on my streets in Quincy when you come up to Boston.’”

In 2006, in an appeal by a Truro resident who was charged a higher price than local residents to moor his boat in Provincetown, the Department of Environmental Protection ruled that a higher nonresident fee was illegal and ordered Provincetown to cease charging it.

Despite the ruling, many coastal communities continue to discriminate against nonresidents. A review of local regulations by *CommonWealth* found more than two dozen cities and towns are either charging nonresidents higher mooring fees or charging them more for related services and permits.

Boston, for example, charges its 849 residents with mooring permits \$1 per foot for the season. The 876 nonresidents who have mooring permits pay \$4 per foot.

Danvers makes it much harder for nonresidents to

obtain a mooring permit, restricting them to every fourth mooring that becomes available. Nonresidents and residents pay the same amount for a mooring permit, but nonresidents pay twice as much as residents for a waterways fee.

In Marion, locals and out-of-towners pay the same \$60 fee for stickers verifying that a boat is legally tied to a mooring plus \$1 per foot for the mooring site, but nonresidents are charged an extra \$100 for a “privilege permit.” In neighboring Mattapoisett, the mooring fee is the same for all, but nonresidents pay four times more per foot for a sticker. In addition, the town has racks for dinghies that boaters can use to access their moorings. There are 35 racks for town residents, but only five for nonresidents, which are assigned by lottery, and the fee for nonresidents is twice as much.

“It’s a shame that [communities] are choosing to flaunt this,” says Patrick Donovan, a Quincy attorney who has represented boat owners in appeal actions. “Boat owners at first blush are not the most sympathetic kind of class, but moorings are working class—people who don’t belong to yacht clubs or marinas. For towns to be charging [nonresidents] five times as much, it’s terrible what they’re doing.”

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The Wollaston Yacht Club in Quincy offers quick and easy—but not cheap—access to moorings.



APPEAL CONFUSION

There are roughly 30 appeals of harbormaster decisions to the DEP each year and in nearly every instance the DEP sides with local authorities. “We look at the facts, ask the harbormaster and give him a chance to respond, and then we act,” says Lynch of the DEP. “Our regulations presumptively find in favor of the harbormaster.”

Even when the state rules against local officials, sometimes little, if anything, changes. Jim Fiset of Duxbury has a mooring for his 27-foot Catalina sloop, but it is far offshore, and he has been on a waiting list since 1992 to get one of the coveted deep-water basin spots in the inner Duxbury Harbor. He says he has watched as people who were not on the waiting list received moorings while others delinquent on their payments were given extra time to make good, a violation of town and state regulations.

He documented his concerns with mooring numbers and dates and filed an appeal with the DEP. In 2006, state officials informed the harbormaster that if the town did not offer Fiset the next available mooring, the agency would audit the dozen moorings Fiset cited in his appeal. In essence, they said, we won’t investigate potential illegal actions if you give this man his mooring.

“If the Harbormaster elects to continue the appeal process, the DEP will require written support to explain the rules used to assign each of these permits versus the permit denied James Fiset,” according to a letter in the appeals file.

But no one at the DEP ever told Fiset about the deci-

sion. DEP records indicate no appeal was ever filed so officials presumed Fiset got his mooring and the case was closed. The Duxbury harbormaster, who did not return calls for comment, did offer Fiset a mooring suitable for a 25-foot boat last year but Fiset could not take it because his boat is two feet longer, a fact the harbormaster had to know because the boat’s length is on the waiting list next to Fiset’s name.

Fiset says he is still waiting for an inner harbor mooring, sitting at No. 2 on the list. But he also did not want to rock the boat any more out of fear of losing his spot. He says he took a lot of flak when he took on local officials with his initial complaint.

“It is uncomfortable,” he says. “When I went through this, I didn’t have a lot of friends.”

Lynch concedes there is no consistent rule of law when harbormasters and towns make their own decision about what parts of what law applies to them.

“Enforcement is discretionary as well,” says Lynch.

The inspector general’s office says the state needs new mooring regulations and more uniform enforcement of existing rules. At press time, McCarthy and other officials from the inspector general’s office were planning to sit down with Rick Sullivan, the secretary of energy and environmental affairs, to discuss the situation.

“It makes sense for the DEP to let harbormasters enforce the regs, but when they don’t do their jobs, that’s when DEP has to step in,” says McCarthy. “And so far, they haven’t.” **CW**



As the former Army base searches for its identity, a group of residents wants to form the state's 352nd town

BY PAUL McMORROW | PHOTOGRAPHS BY MEGHAN MOORE

Divining Devens

MASSACHUSETTS HASN'T CREATED a new municipality in nearly a century, since East Brookfield and Brookfield divorced in 1920. Five years ago, it looked like Devens would displace East Brookfield as the state's newest town. Commercial construction at the old Army base on Route 2 had been speeding along for a decade, and it had recently been buoyed by the arrival of a few hundred new homeowners. These early residents fashioned themselves as pioneers of the state's 352nd municipality. They were the first wave, they believed; they'd be followed by thousands of others.

State officials also believed. They saw Devens as a rare opportunity for Massachusetts. The base straddled Harvard, Ayer, and Shirley, but it had few physical and cultural connections to those towns. It had its own infrastructure in place and the local forces that normally impede large-scale development didn't seem to be in play. It was as close to a blank slate as exists in a state where many communities date their founding to the 1700s or even earlier. In Devens, planners saw the chance to create a new community from scratch, and to do so using all the best planning ideas of the 21st century.

But the effort foundered on the usual obstacles of money and political power. Businesses flocked to Devens faster than anyone expected, but politicians couldn't seem to agree on what Devens should be. Today, the area is in a state of limbo. Devens isn't its own town, but it's not quite part of its host towns, either. The territory at Devens falls within the historic borders of all three communities, but it's governed and largely owned by MassDevelopment, a quasi-public

state economic development authority. Right now, Devens is an economic development zone in search of a permanent future.

The statute that has guided Devens since the base closure was written to promote rapid development, while leaving big-picture decisions about its governance for another day. Now a group of Devens residents, frustrated at the towns' inability to get to that day and come to an agreement on Devens's future, is asking the Legislature to step in and seize control from the three squabbling towns.

"Self-government is one of the basic principles of this country, and we don't have it," says Tom Kinch, a Devens resident since 2005. "It's a fundamental right to vote for the people who represent you. Harvard and Ayer control us. We pay property taxes to MassDevelopment. We have our own fire department and State Police barracks. We're operating as a town, but we're not recognized as such."

BOMBS AWAY

Devens operated as an active Army base for nearly 80 years. In 1917, the Army used eminent domain to purchase 9,100 acres in Harvard, Ayer, Shirley, and Lancaster and established the site as a training post for doughboys bound for France. The fort later served as the Army's New England headquarters.

In 1991, the Defense Base Closure and Realignment Commission (BRAC) announced the closing of Fort Devens. Roughly half the fort's acreage, which lay south of Route 2 in Lancaster, would be transferred to the Army Reserve after the closure was finalized in

1996. However, the 4,400 acres north of the highway would be decommissioned and sold off.

The BRAC announcement came at the bottom of a severe banking and real estate downturn. The closure pulled 8,000 military and civilian jobs out of the region, removed 9,000 residents from the base, and cut Ayer's school population in half. "The sky was falling in 1991," recalls Jim Fay, a Dorchester native who was stationed at Devens for eight years, and now serves as a selectman in Ayer. In the aftermath of the Army's pullout, Fay says, "people didn't know what to do with Devens."

The base's environmental condition complicated a foreboding economic picture. Former Army buildings weren't built to code, and were covered in asbestos and lead paint. Seven landfills had to be capped. The ground was soaked with pesticides and oils. "You didn't want the land back the day the Army left," says Chip Guercio, a former selectman from Shirley. "It was a mess. There's no way the towns could have handled it."

The Army and the federal Superfund program paid for much of the environmental cleanup, but Harvard, Ayer, and Shirley faced enormous challenges in redeveloping Devens. Assuming the three towns could agree on a common redevelopment vision, municipal boundaries ran through buildings, raising the prospect of overlapping bureaucracies. Utilities were outdated. Roads had fallen into disrepair, and they didn't run in any logical pattern. Residents of the three towns were clamoring to reclaim local jurisdiction over their portions of the former base, but the carrying costs were so great that local rule would have bankrupted the towns within two years.

"The downside was so strong, it was almost insurmountable if Devens was redeveloped in a piecemeal manner," says Jeffrey Simon, the real estate executive whom Gov. William Weld tapped to lead the redevelopment effort. "We realized we needed an entirely different approach to capitalize on the opportunities."

Weld and the municipalities decided that the quasi-public Massachusetts Government Land Bank would take ownership of the former base and head up redevelopment efforts. Harvard, Ayer, and Shirley signed off on a master plan allowing 8.5 million square feet of commercial and industrial construction. They agreed to cede development authority to a central body with the ability to fast-track permits, and the Land Bank took charge of local governance. In exchange, the Legislature gave the Land Bank \$200 million in bonding capacity to pay for site preparation. The Land Bank closed on the \$17 million purchase of Devens in 1996; two years later, it merged with another state agency and was renamed MassDevelopment.

The towns were also given surety that the deal they agreed to would be followed: The governance and zoning for Devens was written into state law in 1993, and the en-



abling statute, known as Chapter 498, can only be changed by the Legislature. The three towns agreed to the parameters of a redevelopment program ahead of time, while the assignment of Devens's redevelopment and governance structures to a single well-capitalized government body streamlined decision-making at the former base. As a result, construction has sped along.

Chapter 498 envisioned a 40-year period for building out Devens's 8.5 million square feet of commercial space, but MassDevelopment hit the halfway mark just 10 years after taking deed to the property. The old base now hosts more than 75 businesses employing 2,750 people. Companies have come (American Superconductor and Bristol-Myers Squibb) and some have even come and gone (Evergreen Solar). MassDevelopment invested heavily in the base's infrastructure, upgrading utilities and laying miles of new roadways. Those investments essentially make the balance of the old base development-ready.

Devens isn't the state's only shuttered base currently under redevelopment, but it's by far the most advanced. The former South Weymouth Naval Air Station closed in 1997, a year after Devens, but construction just began last year. The Navy has yet to turn over two-thirds of the site to the base's master redeveloper. Feuds between the Navy, the base's redeveloper, and the local governmental authority have been raging for years. They've been at each other's throats over financial shortfalls and the snail's pace of redevelopment at that property. By contrast, the uncertainty surrounding Devens is caused by the presence of a large, attractive tax base. The question for Devens is whether the old base is just a pot of money, or whether it becomes something more.

Simon, who now heads the office coordinating the state's federal stimulus spending, attended a cabinet meeting at Devens last year after not visiting the site for many years. He got lost as soon as he turned off Route 2. "I thought, I worked here every day for four years, how



Facing page: Army Reserve trucks roll through Devens on Patton Road. Left: Empty barracks in Vicksburg Square. Lower left: Devens Common Center. Below: Space for lease in the Devens Industrial Park.



can I not know where I am?” he says. “Rarely in government do you have the opportunity to come back to a project 15 years later, and totally get lost because everything we envisioned is happening. The old landmarks have all been replaced.”

VOTING TOWN DOWN

Bette Barbadoro owns one of the 106 homes at Devens. Like most of the 300-odd inhabitants of the former base, she’s technically a Harvard resident. She votes in Harvard, although she pays property taxes to MassDevelopment. The two neighboring towns, Ayer and Shirley, essentially hold a veto over the way her neighborhood will be developed. The direction that development takes will depend on the three towns and MassDevelopment agreeing on what the finished product at Devens will look like, and who will ultimately control its real estate. There’s no consensus on those questions right now. The governance structure at Devens favors unanimity, and it doesn’t handle conflict and changes of direction easily. And as the three towns and MassDevelopment have jostled over the former base’s future, residents such as Barbadoro have gotten caught in the middle.

“When the base closed, the towns looked at it like a black hole that would suck them in,” says Barbadoro. “Now that we’re successful, they see us as a source of income.”

The Devens community—MassDevelopment, the three

host towns, and Devens’s residents and businesses—last tried tackling the question of Devens’s future in 2006. Representatives for the six groups agreed on a plan that would have returned some real estate to Harvard, Ayer, and Shirley, and turned the bulk of the former base into the state’s 352nd municipality. MassDevelopment envisioned the creation of a high-density, mixed-use development zone at the center of Devens. The push for an independent Devens acknowledged the anxieties Harvard, Ayer, and Shirley felt toward density and new residential construction, and it also explicitly linked the success of commercial ventures at Devens to the creation of new moderately-priced housing.

The 2006 plan was the only option that all sides believed they could potentially agree on. It returned taxable real estate to the three towns, allowed growth where it could be supported (residents of Devens proper lined up behind MassDevelopment’s bid to add 1,300 housing units), and restricted it where it couldn’t (Harvard residents, in particular, worried about losing their town’s rural character). But Harvard and Ayer both said no at town meeting.

The 2006 incorporation vote, along with a second failed 2009 vote to permit the construction of apartments at an abandoned barracks complex, threw into sharp relief the fractured relationship between MassDevelopment and Ayer, in particular. The town voted down both proposals.

This strained relationship weighs heavily on how Ayer approaches the question of what Devens will ultimately

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become, once MassDevelopment's redevelopment efforts have concluded. Ayer's town meeting rejected the 2006 incorporation plan largely on the grounds that it didn't hand the town all of the real estate within its historical boundaries. That real estate includes most of the vacant barracks at Vicksburg Square, a historic quadrangle that was the subject of the failed 2009 housing vote, and the old Army parade grounds, which MassDevelopment has turned into a lucrative swath of playing fields. It also includes some active military properties and an abandoned 220-acre airfield that will need significant infrastructure improvements before it can be considered for redevelopment. "The fact of the matter is, most of the so-called Ayer land isn't revenue-generating," says Paul Bresnahan, one of Ayer's representatives in the 2006 disposition planning. "It was historical. People were saying, 'It's ours, give it back.'"

The problem is, Ayer's desire to turn back the clock to before the Army's arrival in 1917 is at odds with Shirley and Harvard. "I have no burning desire to get all my acreage back," says Guercio, who served as a selectman in Shirley at the time of Fort Devens's closing and during the 2006 disposition negotiations. Shirley was the only one of the three towns to back an independent Devens. "The historic boundaries are a negative liability," Guercio says. "There's more infrastructure and property to take care of, more roads, and more students."

At the moment, Harvard is agnostic. "Some people want nothing to do with it, and some want to take the whole thing back," says Harvard selectman Ronald Ricci.

Harvard's stance is important. It has more real estate within Devens than Shirley and Ayer combined. Most of the zone's large commercial properties fall within Harvard's historic town boundaries. It stands to gain or lose huge property tax revenues, depending on the ultimate fate of the real estate currently within MassDevelopment's jurisdiction. MassDevelopment collected \$4.5 million in property taxes last year, and Harvard's portion of Devens contains \$194 million in taxable commercial property. For that reason, the town has been reluctant to push a quick agreement on phasing MassDevelopment out of Devens.

"It's not done yet, so we don't know yet whether it's a lump of coal or a diamond," says Paul Green, a Harvard resident who is part of a group examining the financial ramifications of a theoretical resumption of jurisdiction over all of Harvard's historical real estate. "If it's going to be a money pit," Green says, "we have enough problems."

Harvard's stance—it wants as much of Devens as possible, provided that taking control of the old base will be a money-maker for the town—exposes the downside of the state's plan, hatched nearly 20 years ago, to get Devens up and running first and figure out what to do with it later. The first half of the strategy worked. The abandoned



A pond near Red Tail Golf Course on Patton Road.



Former officer housing, now residences, on Walnut Street.

military base, which could have bankrupted the towns it occupies, became a vibrant commercial hub. But even though the state delivered on its promise to return jobs to the region, it never said definitively what would happen to the property tax revenues attached to those jobs.

For Harvard, Devens is a revenue proposition. It will push to exert control over its portion of Devens if doing so would generate positive cash flows, but not if it drained cash out of its budget. And until the town knows which one of those scenarios will play out, officials are exerting pressure to maintain the status quo.

Victor Normand, a Harvard resident and former MassDevelopment employee, was recently asked by Harvard's town meeting to run numbers on Devens's potential impact on the town's budget. At the moment, Normand says, resuming control over Harvard's portion of Devens would result in a net loss for the town of \$1 million per year. New taxes wouldn't keep pace with the cost of extending fire, police and public works services. "It would be very risky to take it back now," Normand says. However, since Devens isn't fully developed yet, the potential for significant revenue growth exists.

Harvard is holding out for that growth. The town has almost no commercial tax base, so the burdens of education and health care spending fall almost exclusively on homeowners. The town is wealthy (in 2010, Harvard's median single-family home sales price was \$499,000, compared to \$226,000 in Ayer and \$247,000 in Shirley). But when it comes to balancing the budget, Green says, "We have just as many problems as anyone else. We don't have Route 20 or the big industrial and shopping centers. We felt the benefits of Devens were promised not just to the region, but to the towns."

The math behind Harvard's search for property tax relief only works under certain parameters, terms that many Massachusetts towns favor when it comes to new development. Commercial real estate is the town's friend; residential real estate, which brings in kids that have to be educated, isn't. Harvard's public school system attracts

young families and keeps housing prices elevated, but the property taxes associated with newly built housing units don't cover the costs of educating the children that come with new houses. So Harvard, which is sizing up Devens with an eye on its municipal balance sheet, has a vested interest in ensuring a very specific vision of Devens's build-out—one in which the old Army base is just another office park along the Route 495 belt, and little more.

HOUSE RULES

Driving around Devens isn't always the easiest prospect, and that's by design. The Cold War theory of base design held that, in the event of a Soviet invasion, circular roadways would slow the Communist advance. But the Soviets never showed up at the front gate to Devens, so all those meandering roadways did was frustrate the Americans who did have to drive from one end of the base to the other. One of the top priorities for officials at the Land Bank and MassDevelopment was updating the infrastructure.

Not all the streets from the old base got ripped up, though. Turn off one of the new arteries, and you're soon meandering through the old sections of the base. Some are winding, tree-lined streets stacked with brick colonial homes, where Army officers once lived. Several roadways, though, go nowhere. They twist and turn through the woods and eventually dead-end in cul-de-sacs.

Scores of these ghost roadways run through Devens. They once led to thousands of military housing units, but those homes were torn down after the base closed down. Now the weed-choked avenues serve as a testament to Devens's fractured relationship with housing.

Housing has been a divisive issue at Devens since the days when the Army still occupied the base. When the BRAC closure notice came down in the early 1990s, Massachusetts was battling a banking crisis and a steep real estate-driven recession. The prospect of piling several thousand new housing units onto a falling housing market incited swift action by area homeowners and real estate agents.

They successfully lobbied Beacon Hill to eliminate virtually all existing housing at Devens.

Weld's team didn't fight the locals on housing because their first priority was spurring commercial development and replacing jobs lost to the base closure. A master development plan that Harvard, Ayer, Shirley, and the Land Bank agreed to back in 1994 envisioned Devens as being dominated by manufacturing, office, and research space. Zoning arising from the 1994 master plan was written into Devens's governing legislation. It capped housing at 282 units. The number was somewhat arbitrary: Planners counted the homes they wanted to maintain for historical preservation reasons, and drew the line at that number.

The vision of Devens that Harvard's budget writers have happens to line up within the confines of the 1994 master plan. It's heavy on commercial development, and it puts a hard freeze on residential construction. Only an act of the Legislature can change that mix, and lawmakers will be loath to act without all three towns signing off on any change. Two failed town meeting votes in the past five years show that's no easy task. In both instances, the residential makeup of Devens was a flashpoint.

"Trends in development have evolved over the past 15 years," says Simon, the state recovery czar and longtime base developer. "The focus is on creating much higher density, more open space, and walkable communities."

New urbanism, the design school that preaches broad overlaps between commercial and residential spaces, hadn't risen to dominance when Devens's 1994 master plan was being written; today, Simon says, it's a best practice in base redevelopment ventures. Modern base redevelopment efforts rest on heavy concentrations of residential units around downtown zones, and count on the vitality from residential zones to spur activity in the surrounding commercial spaces.

Robert Culver, MassDevelopment's former CEO, despised sprawl and isolated office parks. In Devens, he saw open acreage sitting along an active rail line, with infrastructure already in place, and close to a growing cluster of jobs. He argued that new residential construction would reinforce MassDevelopment's commercial development work. He rejected one bid to use up the room under Devens's housing cap to construct large-lot suburban homes, and instead pushed for a dramatic expansion of housing at Devens under the banner of new urbanism and smart growth. (Culver initially wanted allowances to build 2,700 new units, but settled for 1,800—a proposal that was rejected as part of the failed 2006 vote.)

"Housing has always frustrated me," says Peter Lowitt, director of the Devens Enterprise Commission, the base's

permitting authority. "The 282-unit limit was arbitrarily arrived at. The communities were rightly concerned about being able to sell their own units in 1994, but in the intervening years, there has become a jobs-housing linkage."

"I think we made a mistake on housing," Simon adds. "We didn't allow for one of the strongest markets in the region, the housing market. At the time, there was the fear that if you allowed new housing, it would severely impact the local markets. That was probably a short view."

BREAKING THE LOGJAM

Culver and MassDevelopment lowered their ambition level after the failed 2006 disposition vote. Culver handed the towns a zoning petition that would have allowed MassDevelopment to develop up to 400 multifamily housing units at Vicksburg Square, the historic quadrangle adjacent to Devens's old parade grounds. Vicksburg served as the base's center of gravity during Devens's Army years; it was zoned for technology and business incubator space after the base closing, and has sat vacant for years. For Culver, the appeal of developing housing at Vicksburg was twofold: It would preserve important historic structures that were slowly crumbling, and it would advance his vision for increasing the size of the residential community at Devens.

Shirley and Harvard's town meetings accepted the 2009 Vicksburg petition, but Ayer rejected it. Not long after,

Weld's team didn't fight the locals on housing because the priority was commercial development.

MassDevelopment engaged with Trinity Financial and asked the Boston developer to quarterback a housing proposal for the site. Trinity, which has navigated its share of politically complex public approval processes, pitched 250 rental units, with significant allowances for working-class residents, veterans, and seniors. Its housing proposal goes to town meeting this fall. The vote's outcome will speak volumes about the prospects of ever significantly amending Devens's zoning.

"From a historical perspective, I want to see Vicksburg developed, and from a housing perspective, I think it makes sense," says George Ramirez, MassDevelopment's executive vice president in charge of Devens. "It has been on the market for many, many years as a technology park. Financially, it isn't making sense."



George Ramirez,
MassDevelopment's
executive vice president
in charge of Devens,
speaks cautiously about
the pace of growth.

Ramirez represents an intriguing change of pace from Culver, who once threatened to take a sizable increase in Devens's housing cap right to the Legislature if the towns didn't approve his 2006 Devens incorporation plan. Ramirez backs housing at Vicksburg Square, he talks of the need for the 1994 zoning to evolve, and he has a 10-foot tall facsimile of the 2006 Devens site plan (the one that pitched 1,800 new housing units and an independent Devens) on the wall of his office. At the same time, he speaks cautiously about the pace of growth. He wants to build new housing slowly. And he's in no hurry to initiate a new discussion on the ultimate disposition of the real estate at Devens.

On the other hand, if Trinity's Vicksburg Square proposal passes town meeting this fall, it will ratchet up the pressure not to wait until 2033. Adding residents may represent best practice for economic development and planning for growth, but it also exacerbates problems inherent in operating Devens under an interim regime.

Devens resident Bob Eisengrein says he doesn't think the three communities will ever come to an agreement. "This isn't going to be solved locally—we've tried that twice already," he says. "The Commonwealth supplied the money for Devens. The three abutting towns didn't supply anything. They just get in the way. They seem to get greedier and greedier." Eisengrein admits that self-government is "a big thing to ask of the Legislature. But if you don't ask, you don't get."

"I empathize with the residents," says state Sen. Jamie Eldridge, who filed a legislative petition on behalf of Devens residents who want to incorporate their own town. "They pay property taxes, but they're not able to vote on where their money goes. They want more security and predictability." Eldridge isn't supporting their push for independence, but he does say the governance at Devens has to change. "I'm not exactly sure what the future is, other

than to say the status quo is not working."

Jim Fay, the Ayer selectman, calls the Devens residents' petition "a fine goal," but he believes "it's not realistic. Why cut the pie 352 ways if you don't have to?" Fay says it's possible that MassDevelopment will wrap up its redevelopment work at Devens within five years. With that in mind, he's also pushing for dramatic changes in the governance of Devens. The boards of selectmen of Harvard, Ayer, and Shirley are once again beginning to discuss what to do with Devens when MassDevelopment makes its exit. And in the interim, Fay says, he wants the towns to take more control over Devens's day-to-day

operations. "All three towns want the same thing, which is to be part of something, rather than having an appointed magistrate," Fay says. "MassDevelopment did an excellent job developing the property, but let the community run the community."

Fay's long-term vision is for Devens to operate as a super-regional economic zone, with the three towns sharing the costs of municipal services, and all three taking cuts of the property tax revenues. It's along the lines of an idea advocated by Kinch, the Devens resident: Instead of carving Devens up, Kinch wants to use Devens as a carrot for regionalizing two or three of Devens's host communities into a single municipality. "I actually think Massachusetts needs fewer towns," Kinch offers, before quickly adding, "That's beyond the reach of the people here."

That remains to be seen. Harvard, Ayer, Shirley, and Devens are in the early stages of small-scale regionalization talks. Ramirez hopes those collaborations will lead to wider cooperation. Ramirez is facilitating talks on a regional home hazardous waste disposal program, as well as on a regional emergency dispatch center. (Harvard, Shirley, Lancaster, and Lunenburg are part of the latter effort; notably, Ayer is not.) There's considerable disagreement on the bigger-ticket items, though. Harvard wants its police to displace the State Police who patrol Devens, while Ayer would like contracts to handle the former base's fire and DPW services. Ramirez indicates that Devens would rather become a provider of regional services for which it would be paid, not a purchaser. Naturally, that stand is not too popular among the three towns.

Ramirez knows a solution won't come quickly, and he's taking the long view. "You're going to get to a critical mass on the commercial side, critical mass on housing, it may evolve organically," Ramirez says. Noting that state law says nobody has to make any decisions until 2033, he adds, "We've got some time to have that discussion." **CW**

Contract dispute

Boston's fiscal watchdog and the city's schools tussle
over the use of unadvertised, no-bid contracts

BY COLMAN M. HERMAN | PHOTOGRAPH BY FRANK CURRAN

WHEN OFFICIALS AT the Clarence Edwards Middle School in Charlestown needed someone to work as a lunch and hall monitor, they did what often happens in the Boston Public Schools. They hired someone they know—a retired teacher who used to work at the school—without advertising the position.

Such contracts are commonplace in the Boston Public Schools. The system spent about \$84 million—or about 10 percent of its entire general budget in the just-completed fiscal year—on unadvertised contracts worth \$10,000 or more. The 257 unadvertised contracts handed out by the city's schools dwarf the 35 issued by the Boston

“Their attitude is, ‘If it’s not broken, don’t fix it.’ But it is broken,” says Matthew Cahill, executive director of the Boston Finance Commission.



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Police Department, the city agency with the second-highest total.

These no-bid contracts are the focus of an often contentious behind-the-scenes public policy debate. School officials say the unadvertised contracts fully comply with state bidding laws and offer a cost-effective way to provide services. But the Boston Finance Commission, a city oversight agency that must sign off on each of the contracts, says many of them are unnecessary and prone to abuse. The standoff hasn't translated into contract gridlock: For all its professed concerns, the city's fiscal watchdog, which operates on a shoestring budget with a two-person staff and limited clout, rejects only a handful of the unadvertised contracts—and most of those rejections are overridden by Boston Mayor Thomas Menino, who has final authority over all contracts.

The unadvertised contracts issued by the Boston school department come in all shapes and sizes. The biggest chunk of money—about \$43 million—goes to 95 special education vendors. Boston College has a roughly \$1.3 million contract to improve collaboration between city schools, community agencies, and the university. And there are numerous smaller contracts with individuals like Jessica Correia of Medford, who was awarded a contract worth \$18,837 at a daily rate of \$273 to teach dance at the Winship School in Brighton.

Many of the individuals hired as consultants are retired Boston school officials. Retired teacher Maria Ciampa was paid \$12,000 to work with underperforming third-grade students at the Joseph Lee Elementary School in Dorchester. Valerie Shelley, a former dean of discipline at Charlestown High School, was awarded a \$15,000 contract to provide guidance services at the school. And her colleague, Peter Law, a former guidance counselor at Charlestown High, was brought back with a \$15,000 contract to help out in the registrar's office.

School officials say their use of consultants saves money because the department gets the services it needs while avoiding the added health care and other costs associated with hiring full-time workers. They also say using retirees makes sense because their past work experience allows them to hit the ground running.

“We believe that contracting with former teachers can, more often than not, be the most efficient use of precious taxpayer dollars,” says Matthew Wilder, a spokesman for the school department.

But Boston City Councillor Charles Yancey, chair of the Post Audit and Oversight Committee, says he worries that too many of the contracts are being steered to insiders and the school system is not getting the biggest bang for the buck. “It's not so much the small contracts that concern me. It's the big ones that go into the thousands and thousands of dollars that trouble me,” he says.

Boston's charter mandates that contracts issued by the city must be put out to bid if they exceed \$10,000. Exceptions to the bid process are allowed, however, for contracts with individuals and nonprofit organizations as well as for employee training and special education. In Boston, contracts exempted from the bid process must still be approved by a variety of officials up and down the city's chain of command, from the school principals themselves right up to Superintendent Carol Johnson and Mayor Menino.

But there is one person who must approve the contracts who doesn't like what's going on. Matthew Cahill, executive director of the Boston Finance Commission, says the Boston Public Schools hand out way too many unadvertised contracts to way too many retired school officials.

Cahill contends that some people in the school department are prone to taking care of their old pals, referring to it as "an unfortunately common theme." He adds: "There are times when someone who's retired is hired back for a job that didn't even exist before, but all of a sudden the job is so necessary they pay him \$40 an hour to come back and do it. It's the only city department that does this kind of thing to such an extent."

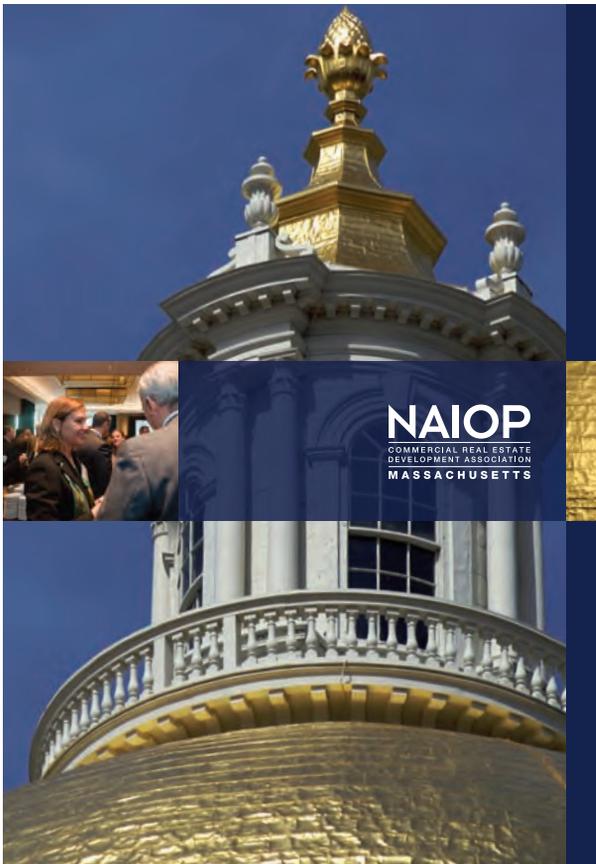
Cahill says he'd prefer the school department fill these

jobs by paying stipends to existing employees or bringing in volunteers to do some of the work. For example, he says it would make more sense to pay teachers extra money to teach debate rather than contracting the job out to the Boston Debate League for \$54,500. He also thinks volunteers could handle the duties of three former students of TechBoston Academy who, according to documents filed in support of their hiring, are paid \$25,000 apiece to work at TechBoston as assistant managers for school communications and reception.

Wilder says many of the job descriptions provided to the Finance Commission for the unadvertised positions don't fully explain what the consultants will be doing. He says the three former TechBoston students, for example, do outreach work for the school but also work with students to help them overcome obstacles in their lives so they can succeed academically. As former students at the school, Wilder says, they "connect with students in a way others cannot."

But Cahill isn't convinced. "They just don't want to look for new and different ways to do things," Cahill says of school officials. "Their attitude is, 'If it's not broken, don't fix it.' But it is broken."

Surprisingly, Cahill's passionate opposition to many



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unadvertised contracts hasn't led him to reject many of them. This past fiscal year he rejected just 10 of the 517 unadvertised contracts awarded by the city. The 10 contracts were all issued by the city's school department, and they had a combined value of \$208,740. Cahill has also put one school department contract on hold for an extended period of time.

Cahill says he is reluctant to reject contracts because he and his lone aide don't have the time to drill down into the details of each consultant's work. He also worries that rejecting unadvertised contracts could end up hurting students. "I honestly don't want to feel guilty about rejecting something for a student, especially in some of the deprived areas of the city," he says. "I don't want to deny them."

Even when he does reject a contract, though, the rejection doesn't have much of an impact. Three of the ten contracts rejected by Cahill were scrubbed by the school department—one with the Museum of African-American History to run teaching institutes and two contracts with individuals—one to provide assistance in adult education and the other to train cafeteria workers.

But six contracts rejected by Cahill were overturned by Menino. A seventh hadn't reached the mayor's desk at

press time. The rejections include a \$30,590 contract with food service giant Sodexo to cater a three-day program for teachers, with \$1,796 allocated for an ice cream sundae bar and \$916 for table cloths. The mayor also reinstated a \$25,000 contract for a former teacher to serve as the "face of TechBoston Academy," a \$20,000 contract for a grant coordinator, a \$29,250 contract for Northeastern University to offer a six-week course in precalculus, and a \$21,000 contract for a former school teacher to serve as the lunch and hall monitor and provide other services at the Edwards Middle School.

Cahill also rejected one of two \$18,000 contracts awarded to retired Boston school teachers to help run the city's science fair, pointing out in a letter to Menino that it was the fourth year in a row the former teacher had been hired and arguing that such "business as usual is not acceptable." The mayor ignored Cahill's plea and reinstated the contract.

The seventh contract rejected by Cahill but awaiting review by Menino is for a retired principal from California to provide professional development services at the Dearborn Middle School in Roxbury. Cahill says he rejected the \$24,300 contract because its \$243 hourly rate is excessive and it was filed seven months late.

Cahill put on hold a \$12,000 contract with Roberta

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D'Antona of Saugus, who runs an anti-bullying consulting firm. D'Antona, whose son committed suicide after being bullied, would be paid at the rate of \$1,000 a day for each day of training and \$100 per school per month for follow-up technical assistance. Cahill says the \$1,000-a-day cost is too high, even though D'Antona claims she is taking \$500 off her regular daily rate. Cahill also says the school department is already paying retired Boston principal Edmund Donnelly \$40 an hour to do anti-bullying work.

Despite Cahill's hold, D'Antona says she was given the go-ahead to begin conducting training sessions back in January by Maggie Drouineaud, assistant director of support services for the school department, on the assumption the contract would eventually be approved. But after inquiries from *CommonWealth* in May, D'Antona says she was told by Drouineaud to immediately stop doing any work on the contract because the school department is concerned it is going to be embarrassed.

Sam Tyler, executive director of the business-backed Boston Municipal Research Bureau, an independent watchdog that is not part of city government, says the Finance Commission's history helps explain why it tends to work behind the scenes for change in city government, and why it is not always the most fearsome check on

municipal operations. The commission was created by the state Legislature in the early 1900s, a time when Brahmin Yankees on Beacon Hill were concerned about the Irish takeover of Boston's political establishment. Its board is appointed by the governor, yet its skimpy \$180,000 budget, which only provides enough funding for two positions, comes from the city budget, meaning the mayor and city council control its purse strings. As Tyler notes: "It's not a 100 percent watchdog."

City officials don't inform Cahill when the mayor overrides his contract rejections, and he typically doesn't follow up on his own. He learned about the mayor's approval of the contracts he had rejected from *CommonWealth*.

Told that the mayor approved the contract with retired teacher Francis Borelli to serve as a lunch and hall monitor and provide other services at the Edwards Middle School, Cahill shared an email exchange he had with David Waterfall, a lawyer in the city's law department, about that contract.

"What does it say about contract controls when a hall monitor is making \$40 hourly and a principal is making \$60 hourly?" Cahill asks in his email.

"Wow," Waterfall responded. "Maybe I should become a hall monitor." **CW**



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The poster features a green background with a map of Massachusetts in the center. The map is divided into sections, with the word "MASSACHUSETTS" written across it in large, white, block letters. Above the map, the text "VT" and "NH" is visible. Below the map, the word "CONNECTICUT" is written in large, white, block letters. The text "PLANS ACROSS THE BORDER" is written in large, white, block letters across the map. At the top left, the logo for the Pioneer Valley Planning Commission (PVPC) is shown, consisting of three orange chevrons and the text "PVPC Catalyst for Regional Progress". To the right of the logo, the text "Pioneer Valley Planning Commission www.pvpc.org" is written in white. At the bottom, the text "Making the Interstate Connections to Realize the Full Potential of New England's Knowledge Corridor" is written in white.



Higher ed cheerleader

Robert Caret, the new University of Massachusetts president, wants to increase the investment in the state's university system — both emotional and monetary — of taxpayers, elected officials, and alumni.

The University of Massachusetts matters. It matters for a lot of reasons and to a lot of people — parents, students, lawmakers, government officials, and taxpayers with no connections except that their money supports the system and they all want a bang for their buck.

More than 68,000 students, full- and part-time, mostly Massachusetts kids, attend one of UMass's five campuses, and nearly 14,000 graduated last year. Nearly 300,000 UMass alumni live in Massachusetts. You'd think with those kinds of numbers, fiscal, physical, and civic support for the system would be

PHOTOGRAPHS BY FRANK CURRAN

CONVERSATION

easy to find. But when you're sharing the education spotlight with the likes of Harvard, MIT, Tufts, and other world-renowned institutions, you struggle for attention and support and carry something of an inferiority complex.

Robert Caret knows that. Caret, who took over as UMass president from Jack Wilson on July 1, has spent his entire professional life in the public higher education world: as a professor and administrator at Towson State University in Maryland for two decades, followed by nearly a decade as president of San Jose State University in California, and then the last eight years back at Towson as president.

Caret, who earned a PhD in organic chemistry at the University of New Hampshire, has a booming voice that complements his oversized persona and assertive and confident manner. He's part politician, like past UMass president William Bulger, and part academic, like Wilson, the man he is replacing. He's been recognized for his success in growing Towson and San Jose State in size, academic scope, and diversity, while at the same time increasing minority graduation and retention rates. At Towson, Caret eliminated the gap between minority and white graduation rates, one of only 11 colleges or universities nationwide that can claim such success. It's that national stature that made him Gov. Deval Patrick's choice as Wilson's replacement. The perception that Caret can also till the rocky terrain of Massachusetts politics like a pro—without having the baggage of actually being one—is a bonus.

Caret, 63, hails from Biddeford, Maine, a hardscrabble industrial town 20 miles south of Portland. He was one of the first members of his family—indeed, he says one of the first in his town—to go to college. His journey has made him a passionate advocate for the role publicly funded colleges and universities play in educating the country's students. It's that passion that UMass trustees and Patrick hope can tap the minds, souls, and wallets of potential supporters, while competing against some of the world's most highly regarded private

institutions.

One area Caret sees as essential as a top administrator is ensuring the school blends in with the community where it resides. In San Jose, he developed numerous “town-gown” committees to address the needs of the area's diverse residents as well as those of a school going through growing pains. His approach upon returning to Towson was similar, trying to become a magnet for the majority-minority population in Baltimore.



Sitting in his temporary office in Post Office Square one morning in early May prior to taking the presidential reins, Caret marvels at his water view in a city he first became familiar with as an undergraduate at Suffolk University. More than four decades later, Caret is coming back to Boston on a mission to energize support for five very different campuses that make up one system that's never received the kind of recognition and support its backers think it deserves.

Recent years have been particularly brutal, with student fees soaring to offset declining state aid. Tuition has remained virtually flat over the last decade, a little over \$1,600 per year. But fees have gone up more than 300 percent in that same period, from \$3,069 in 2001 to nearly \$9,500 this year. With the fiscal 2012 budget of \$429 million the same as last year—but down from nearly \$480 million just a few years ago—and with the loss of federal money, the system is facing a \$55 million deficit. To cover half that gap, UMass trustees just approved another 7.5

If you go to a public institution, you will find it is much more diverse because it has many more pathways into it.

percent hike in fees for the upcoming school year, an average increase of more than \$800. Layoffs and other reductions are being eyed to cover the remainder.

Where the state once picked up nearly half the cost of educating UMass students, the burden now falls squarely on the student. That is one major area that Caret emphatically says he will change. He says it in a way that precludes doubt. But Caret is no Pollyanna, and he did not come into this situation blind. He knew the state of the economy nationally and familiarized himself with UMass's funding struggles before accepting the job. He says he's had general conversations with Patrick and Education Secretary Paul Reville about "shared responsibility," the idea that the burden for educating students be spread more equally among many shareholders as a public obligation.

I sat down with Caret to talk about his educational philosophy, football, his knowledge of UMass, and his goals. Over the course of our conversation, a number of subjects were addressed two and three times. I've rearranged the order of some of his answers to avoid jumping around too much for the reader. We began by talking about why he's remained committed to public education all these years. (Suffolk was his only foray at a private school.) This is an edited transcript of our conversation.

— JACK SULLIVAN

COMMONWEALTH: When you look at public versus private higher education, outside of the positive affordability factor that most state schools have, is there a broader value to public institutions?

CARET: You hit the obvious point—the price differential. The less obvious is the quality of the educational environment, or the climate, the ambience, the environment itself. If you go to a public institution, in general, you will find an institution that is much more diverse because it has many more pathways into it, and it is often taking many more students from many more walks of life. So the peer group is a much broader peer group, much like the peer group you will be dealing with in the real world when you go to work, as opposed to, sometimes, a subset of that peer group that all group up in the same private, preparatory schools and wind up in the same country clubs and the same board rooms. And there are pluses to that, I think, in terms of the society we are trying to create. I don't say all privates are one way and all publics are the other way. But just in a general sense, you are going to get a much more diverse peer group [in public higher ed institutions] that represents the diversity of ideas, race, ethnicity, and sexual orientation that you find in society. There's an excitement to that. Our job as a public university is to provide the alternative choice to the private universities. Public universities are not just chosen because of affordability but are chosen because of quality and a different ambience than you would get at a private school. We don't want to compete with them, but to complement them in terms of civic society.

CW: When you first went to San Jose State as president and then Towson State, did you find that kind of diversity in those schools or was that something that you had to create? You said that at both of those schools one of your goals was to increase the minority graduation rate and retention rate, and at Towson State, one of the ways you did that was to recruit more high-performing, high-achieving minorities.

CARET: Well, they are very different schools. San Jose was an extremely diverse environment when I arrived. So you had an extremely complex ethnic, racial, cultural background there, and we had to put in structures to really deal with the complexity of that population. In California, you have this liberal, open society, but the African-American students at San Jose State, because they're only about 4 to 5 percent [of the student population], really felt, to some extent, disenfranchised by the campus and the community because they just didn't have enough voice. So what you do in those kinds of situations is make sure these organizations, these student groups, have a voice. And I did that

CONVERSATION

through creating ethnic town-and-gown committees. I had an African-American town-and-gown committee, an Asian-American, and a Hispanic-American committee.

Towson was, when I arrived, probably 90 percent, 95 percent white. We kept opening up the doors more and more and now we're probably only 80 percent white, but it's still largely a white campus. When I first got back, I'm asking a thousand questions and one of the questions was, "We just took in 2,200 freshmen, how many came from the Baltimore city public schools?" Out of 2,200, 25 came from the Baltimore public schools.

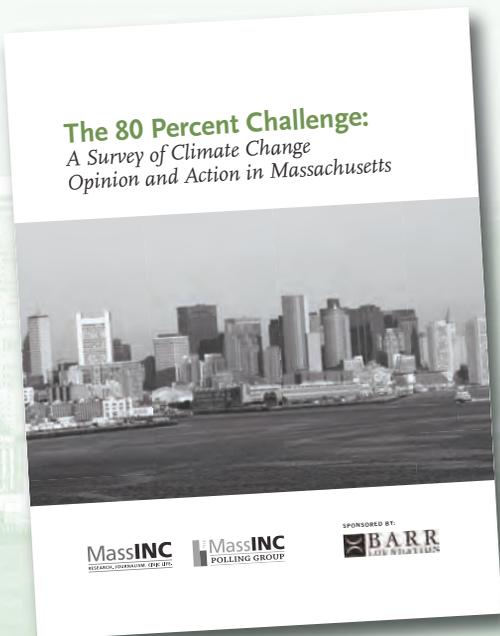
CW: Not 25 percent?

CARET: No, 25 students. We had a lot from Catholic schools and religious schools in the city, private schools, but not the publics. We're only a quarter mile from the city line and only four miles from downtown [Baltimore], and I said, "That's crazy. Is anybody doing anything about this?" They said, "Well, we don't need to. We've got 20,000 applicants. We don't do town halls down there, we don't do college fairs." I said, "It's the nucleus of the state. It's the political hub of the state. We've got to reach out to the city." So we opened up and we did a top 10 percent program—

we guaranteed the top 10 percent of the high school kids in the city and in the county no charge to apply and up to a \$4,000 scholarship, if you needed it, to match the financial aid. And guaranteed admission, regardless of your grades—if you were in the top 10 percent, you were in. And we went from 25 to 200 in one year, and that process has continued up until today. If you're in a region that's 30 percent, 40 percent African-American, and you've only got an 8 percent African-American campus, you're not doing your job. We need to get ready for the world that's coming as opposed to the world that's here.

CW: What was the draw for you with public versus private higher ed?

CARET: When I got out of grad school—every grad school in the country has niches that it's developed—and UNH in chemistry had two large niches: one was people went on and became faculty someplace, and the other one was the pharmaceutical industry. I had taught high school, I liked teaching, so I decided to go the faculty route. Most of the positions I was offered were non-tenure track, so I wound up taking the position at Towson, which was also non-tenure track. But Towson was growing like crazy at



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the time and I just felt I had a really good shot there as a tenure track. The next year, they had two positions open up and I applied and got one of them, so I just started off there, and 21 years later, I'm still there. So I just wound up being in the public sector. It wasn't necessarily planned.

CW: So you are not one of those people who thinks that tenure is a bad thing?

CARET: I am one of those people who can argue both sides. There's a part of me that understands, because of all the legal protections we have, that tenure is not as necessary as it was 100 years ago. But on the other side—and I unequivocally can give you examples to prove this—what tenure does is protect universities from outside intrusion. The example I like to use is when [Ronald] Reagan was governor of California, and Clark Kerr, who is considered one of the gurus of higher education in all of history, was in charge of Berkeley and the students were protesting the Vietnam War. Reagan fired Kerr because he didn't think

We need a place in society where government can be criticized without fear of retribution, and universities have often played that role.

he was hard enough on the students. Kerr left, but Berkeley never changed because you couldn't fire the faculty and you're not going to change a university by just changing the president. I can assure you that if Reagan could have fired the faculty, he would have, and Berkeley would have changed. We need a place in society where government can be criticized without fear of retribution, and universities have often played that role. But I do believe if we continue tenure, which I think is important because of the protection it provides us, we need to be substantively involved to make sure that faculty are living up to what we expect them to do, both pre-tenure *and* post-tenure. So post-tenure review, on a periodic basis with substantive outcomes, is something that I think is necessary and desirable.

CW: So what would be the value of tenure if you do that?

CARET: Well, [dismissal of a tenured faculty member would] require a substantive negative [finding]. It's not just that you don't like the person's personality or you don't like their political point of view, but that it's actually destruc-

tive to the educational environment, in the classroom, and in our buildings. I think the main reason for tenure, from an institutional perspective, is to protect the institution, but the way you are protecting the institution, what you're doing there, really, is protecting the academic freedom to speak your mind within the framework of your discipline. And that's where it's most important.

CW: Your two prior jobs were at places that were, for the most part, single campuses. How do you apply the singular vision that you've had for the universities you previously ran to this much wider, multi-campus audience?

CARET: I think each of them will be somewhat unique, so that, together, the system is serving a variety of needs as well. I do think both Lowell and Boston, and Boston in particular, want some housing and want to have some critical mass of students so it's not just everybody comes [to campus each day] and everybody leaves [at the end of the day].

CW: From the beginning, UMass Boston was opened for the minority student and the low-income urban student who can't afford room and board, who can't afford going away to school, who has to work nearby. And also for the single parent who wants to finish their degree, for the older student who wants to return to college. It would seem to me that the building of residential halls is going to take away from that mission.

CARET: No, I don't think so. I think what will happen will be much like what happened at San Jose—it was a bicameral campus. Half the population was traditional age, the other half was average age of 22, 23, largely commuter, largely working, coming to school sometimes full-time, sometimes part-time. I think you'll see at UMass Boston the same kind of thing. They unequivocally understand their history, if you talk to the faculty and staff there. I don't think you'll ever see them give up on their original mission because they all too intimately believe in it, which is the access mission for those broad populations you just described.

CW: You have a history at San Jose State and Towson State, especially at Towson, of being a very big supporter of the athletic department and the sports teams. UMass Amherst has just announced that it is going to be going 1A with its football program, moving up from the championship subdivision to the bowl subdivision. Is it coincidental that this is happening with your arrival?

CARET: Yeah, it's just coincidental, but I am supportive of it. I'm really a social animal—I'm not a jock *per se*. I go to a lot of athletic events just like I go to lots of other events

where I socialize with people. I like athletics, I don't live and breathe it. I can't quote you names and numbers. That's not my thing. I like going to games. Amherst is the flagship campus, and people hate that term, but it is the flagship campus and it is the primary public research university in the state. We need to develop it so that it's better and better at what it does. And part of that is going to be characteristics of the campus, including what sports it plays and at what level and what peer group is it in. The move to the FBS [Football Bowl Subdivision] level from FCS [Football Championship Subdivision] is a move that I fully understand for that school.

CW: But if they're going to play their home games, as was announced, at Gillette Stadium in Foxborough, which is 95 miles from Amherst, how does that benefit the campus and how does that make a connection to the campus?

CARET: Everybody would prefer to have a 30,000-seat stadium on the campus. If you made that a criterion for doing this, it wouldn't happen because there's no way we could afford to do that—because that is done largely with auxiliary money and, hence, largely on the backs of student fees. We're just not in a situation, budget-wise, to take on that kind of debt. So the reality of the situation is, Gillette becomes a necessary partner in the mix in order to get the kind of stadium we need. Lots of the students at Amherst go home on weekends, so a lot of them are already in the Boston suburbs on weekends. There's a huge alumni base, 265,000 alumni, many of them in the Boston metropolitan region. So what the school is doing is drawing on the alumni base, drawing on students who are already in the region on weekends, and we'll use busing as we have in the past to get students from the campus back and forth. If it's successful, maybe a stadium comes someday in the future. But it can't be a fixed variable today because it would just end the discussion, so I think it will either be successful or it won't.

CW: When you spoke with Gov. Patrick about the budget, were you given any commitments?

CARET: No, no commitments. I've talked to the governor a couple of times, I've talked to [the education] secretary, Paul Reville, several times, and there are no commitments. I don't think you're going to see, in Massachusetts, any precipitous funding change in where we are. My job is to continue to educate the governor and the Legislature as to how important UMass is. I've been using the term, what is our "shared responsibility" to the citizens of Massachusetts and to the Commonwealth itself. By shared responsibility I mean, what do we think is an appropriate mix of expense to the student and to his or her family, to

the state, and to the federal government. I don't think Massachusetts is where it needs to be. I don't think 20 cents on the dollar, for the UMass system, is an appropriate level of funding from the state. My goal for the last 10 years has been to get the states back to at least 50 cents on the dollar and then we can move from there. But I'm open to that debate. What is the appropriate percentage? The three primary funding sources for a student are the state, the student himself or herself with their tuition, and the federal government behind the scenes providing financial aid to the student that comes to us. Those are the three big pieces of revenue that we use. The feds have been, even though it's diluted by inflation, pretty constant, the state has decreased and therefore tuition has increased, but that's pretty much the mix we have today. I have pointed out that I do think we need to look at that shared responsibility piece and see where Massachusetts used to be, where it would like to be, and can we get there. I'm

I don't think Massachusetts is where it needs to be. I don't think 20 cents on the dollar is an appropriate level of funding from the state.

pretty sure, other than because of the budget crisis, Massachusetts is not where it thinks it should be. It's where it has to be at the moment, and we need to get it back to where it should be.

CW: Do you believe that college campuses, as one way to raise funds, should be in competition with the private sector, for instance, in research and development and patents? UMass Worcester has a nonprofit corporation, Commonwealth Medical, that does audits and analysis of pharmaceutical purchases for Medicaid and Medicare. They also provide prison health care, and they are in competition with private companies that are bidding for it. Is that the purview of a college, to get state funds to go into a state entity?

CARET: I'll answer that two ways. One is, I think absolutely we need to be involved in research and consulting. The state invests \$500 to \$600 million in us every year on the operating side, not counting on the capital side, and there's no reason they shouldn't benefit from the expertise on the campuses. I think having us there as a research arm, as a consulting arm, is an important tool. It gets touchier when you start to compete with private business. I understand if I had a private business and I was compet-

ing with a state entity that is being subsidized and so their costs are much lower, that I would have trouble competing. So what I've tried to do—and I haven't had this dialogue in Massachusetts, this is one of those things where people could start yelling at me—but what we've always tried to do in the states that I've been involved in is that when we get involved with that kind of enterprise, we do it with an educational mix to it, too. As one of my mentors used to say, just because you can make money selling cars on a campus, it doesn't mean you are going to make money selling cars on a campus. Because our job is not to make money, we need to be doing things on campus, whether they are for profit, or not for profit, for the benefit of the education and the research mix that goes on on campus.

CW: Where does the endowment picture fit into this? UMass has the 142nd largest endowment in the country [\$520 million]. For a system this size, it is undersized. What do you do to engage UMass alumni, because they're really not an engaged group?

CARET: If you go back and really look 40 years ago, 50 years ago, when people started fundraising [at public colleges and universities] for the first time, states didn't want us to do it because they felt companies and people are paying their taxes and those taxes are underwriting these campuses at 70 cents to the dollar, and we don't want you to go hassle them for more money. A lot of the companies in those days, because I was raising money in those days, actually had policies in place where they didn't give to publics, because they felt that their tax dollars were going to the publics and their endowment dollars or their foundation dollars should go to the privates. What you've got to do is, from the day you bring [students] in, develop strong orientations, a strong belief and understanding of the campus that they're becoming part of, and, for the traditional students at least, tell them about the history of the campus, teach them the fight song. The most important thing is to get them attached to the campus, whether it's through a student club or a major, or through volunteerism. What we need is to ramp that up by several thousand percent and get more kids engaged so that when they do leave its not just, "Hey, I paid you, you gave me a decent education, I liked a couple of my faculty, I'm off with my life," but that when it's homecoming time, or when you get a call to come back to the campus for some kind of an alumni event, they want to be there. And that's the beginning. The biggest piece is that 4- to 6-year period that they're with you, to give them the kind of experience that they reflect back and say "That was fun, I'd love to do that again, I'd love to be part of that again." **CW**

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Down the drain

Infrastructure needs a cheering section

BY PAUL F. LEVY

INFRASTRUCTURE DEGRADES SLOWLY, indeed imperceptibly. The bus arrives a little less frequently; the subway breaks down a bit more often; the water pipe loses water through leakage; the sewer system adds a bit more pollution to the environment. For the most part, there is no political consequence from a deteriorating infrastructure.

In contrast, investment in infrastructure occurs episodically, with direct political consequences. It often requires a vote to increase taxes or fees, which go into effect immediately. Yet the investments that result from that vote take years to be felt in improved services or facilities. Those who vote “yes” get no credit. Indeed, they are likely to be assigned blame and criticized for raising taxes or fees by a public that does not trust they are necessary.

Kevin Harrington, the former president of the Massachusetts Senate, once gave a detailed description of the mechanics of this dynamic on Beacon Hill. Harrington was elected in 1959, when the Metropolitan District Commission was in charge of the region’s water and sewer system. At the time, all MDC expenditures approved by the Legislature would be assigned to the cities and towns in the district and collected from the public through property taxes. Harrington related how engineers from the agency would come before the Legislature’s Natural Resources Committee seeking money because the plants taking care of sewage were obsolete.

“And then politics raised its ugly head,” Harrington said when I sat down with him more than a decade ago to try to make sense of how the political establishment deals with infrastructure projects. “It’s so simple, so plain, and so sad—the representatives and senators that were inside of the MDC district would come to those of us who

were not in the district, and they would say, ‘Please don’t vote for this money. Our local mayors, our city councilors, and alderman and selectman don’t want their property taxes to go up.’ So I would say in my stupidity, ‘Of course, I’ll vote with you.’”

The metropolitan area transit system is the current poster child for this built-in dynamic that leads us to put off infrastructure investments. The MBTA is severely underfunded with regard to maintenance and upgrades of the regional bus and subway system. On the Orange Line, 120 cars built between 1979 and 1981 need to be replaced. On the Red Line, 74 cars from 1969 are well past their useful life. More than half of the MBTA’s 82 commuter rail locomotives date to the 1970s, and nearly all are at or past the manufacturer’s recommended lifespan of 25 years.

Public officials, having depleted one-time financial fixes, lurch about for long-term funding solutions, while the system deteriorates more each year. Michael Widmer, president of the Massachusetts Taxpayers Foundation, describes this as an “exploding structural gap between revenues and expenses.” Talk of system enhancement is at a standstill, even though lines like the Green Line need to be expanded to handle the expected travel-to-work demand of the coming decade. Beyond transit, there are also insufficient funds available to maintain the recently completed Central Artery and Ted Williams Tunnel.

THIS IS NOT a new phenomenon in our state. Decades of underinvestment by the MDC led US District Court Judge A. David Mazzone in 1985 to order a substantial upgrade to wastewater treatment facilities to undo years of neglect and end

the pollution of Boston Harbor. Michael Deland, then the regional administrator of the EPA, called the chronic underinvestment that necessitated the harbor cleanup “the most expensive public policy mistake in the history of New England.”

Over a decade ago, after I left my position as executive director of the Massachusetts Water Resources Authority to teach infrastructure planning and development at MIT, I researched the state’s largest infrastructure failure. Many of the people I interviewed are now deceased, but their words live on as a record of the past that has value today.

The story offers two lessons for the future. First, as Deland suggested, if we neglect infrastructure, we will always pay more in the long run. But an equally important—and far less widely appreciated—lesson is that building a political constituency for infrastructure investments is a job that must be taken on by the public agencies themselves, a role often neglected by those appointed to run those agencies.

The MDC sewer system was once considered an “important advance in sanitary engineering,” meriting a front-page story in *Scientific American* in 1887. This was a public health investment that, by eliminating cholera and typhoid epidemics as well as terrible odors along the Charles River and elsewhere, helped fuel the economic growth of the region. The system was upgraded and expanded over the decades, culminating in 1968 with construction of the largest component of the wastewater treatment system, the Deer Island sewage treatment plant. But by the early 1980s it was showing its age in ways that were impossible to ignore.

When I spoke with him over a decade ago, former MDC Commissioner Bill Geary gave me a sense of the state of the system in 1983 by describing the view of Deer Island from his office in downtown Boston. He said the diesel engines that ran the sewage pumps were breaking down and spewing diesel fuel into the air. “There were ponds of diesel fuel on the roof of the building, and then the stack would get so hot it would ignite the roof,” he said. “I cannot tell you how many fires I used to see from my office. I’d look over and see the sky was black and say, ‘Deer Island is on fire again.’ The whole system was on the verge of collapse, and at any point, a catastrophic failure could occur.”

That catastrophe occurred on Mother’s Day in 1983. A heavy rubber gasket in one of the inlet sewage lines broke, with the butterfly valve leading to the number seven pump in an open position, discharging millions of gallons of wastewater into the pump level of the treatment plant, 12 stories below ground. The sewage reached a

level of about 40 feet above the floor, and the pumps had to be shut down. Millions of gallons of sewage were discharged into Boston Harbor and the Charles and Mystic rivers, as the upstream headworks facilities in Chelsea and Boston were forced to “choke back” the flow of sewage that would otherwise head through tunnels to Deer Island.

Steve Kruger, the plant manager, stood on a metal stairway above the flood and gave instructions to MDC scuba divers who, using their hands and ropes to guide them, found their way under the dark water to conduct the repairs. Junior engineer Charles Lombardi witnessed the divers washing their mouthpieces in the raw sewage—the natural and unconscious act of scuba divers in a pool of water. Geary summarized the situation for the divers, who suffered terrible diseases for months and years to come: “They did the unthinkable and accomplished the impossible.”

That the plant suffered from inadequate budgets and staffing from day one was no secret to those at the plant or at the MDC, or in other parts of state government. As Dianne Dumanoski recounted in a three-day series in the

The MDC itself failed to make a persuasive case for additional funding.

Boston Globe in 1982, the breakdowns were “tragically predictable—a result of well-known equipment and staffing problems that had plagued the plants. With monotonous regularity, these problems had been cited again and again in special studies and dozens of treatment plant inspection reports over the last decade.”

The MDC’s inability to secure even the bare minimum of operating funds was sometimes the result of budgetary pressures but often legislative disinterest. Lawmakers were more interested in projects important to their constituents. As Howard Whitmore, who served as an MDC commissioner in the late 1960s, told me: “Every member wanted a skating rink, and they got quite a few.”

But the agency itself often failed to make a persuasive case for additional funding. Charles Foster, Gov. Francis Sargent’s Secretary of Environmental Affairs until 1974, noted a disconnect between the agency’s needs and its budget requests. “The MDC people were so good at putting chewing gum in the holes and things like that, that everybody said, ‘Let’s go on that way for another 10 years,’” he told me.

The situation persisted through the early 1980s. John Bewick, Gov. Ed King’s Secretary of Environmental Affairs, said the agency did a poor job at selling itself. “They could

never articulate the case,” he told me. Then Bewick hit on the real issue: “Strangely enough, the MDC did not have a strong political constituency.”

There can be a constituency for maintaining and improving infrastructure, but there has to be an informed public that is alert to the consequences of a degradation in that infrastructure. How could that not have been the case here, where raw sewage was being discharged into coastal waterways that were sites for recreation, fisheries, and commerce? Where were the natural constituencies? The short answer: They had not been engaged.

That included the press, which has a lot of power to set the public agenda through its coverage selection. Tom Winship, long-time editor of the *Boston Globe*, told me that, before their 1982 series, the paper had simply not paid attention to the problem. “We at the *Globe* didn’t get turned on to the environment or any other regulatory laxes that were existing—such as the MDC. We just didn’t care about raw sewerage.”

Doug Foy, who took over as head of the Conservation Law Foundation in 1977, and who eventually filed the lawsuit leading to the Boston Harbor Cleanup, admitted he was late to the issue, “We didn’t pay any attention to Boston Harbor until Dianne Dumanoski wrote her series

in the *Globe* in 1982. That certainly got our attention. I suppose we can take some of the blame for not waking up earlier.”

But the major reason the MDC did not have a constituency for its own infrastructure needs was because it did not try to create one. “The MDC never really had an information delivery service as part of it,” said Foster, the environmental affairs secretary in the Sargent administration. “They were so busy doing the functions that they forgot about translating the functions into terms a constituency could understand. The MDC really did not use its natural constituency base.”

Dumanoski told me public infrastructure managers need some PR savvy to draw the attention that is necessary to build public support for their efforts. “If I were an agency head running a sewer system and I wanted to prompt the press to write stuff that would help me build a constituency to get the money to repair my system, I would have to be willing to make an issue of things or grandstand in a certain political way to get attention when they were trying to cut back on budgets,” she said. “If you had somebody who was politically astute and cared, there might have been specific times when you could have gotten coverage.”

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IN THE END, it took a federal court order to do what state government had failed to do and get Boston Harbor cleaned up. That is hardly a public policy model for how we ought to ensure that attention and resources are paid to public infrastructure needs. It may be hard to accept the idea that government agencies themselves should work to develop political constituencies that will support their efforts. But infrastructure may be an important exception. Infrastructure is not policy. It is not a social service program. It is physical stuff in the ground on which we all rely, on which the health of our economy depends, and it only gets built and maintained when it has been designed, financed, and put out for bid.

Though one hopes that we learn from our mistakes, I fear we are repeating today the same shortsighted approach that cost us so dearly with regard to our water and sewer infrastructure and the horrific despoliation of Boston Harbor. Well-intentioned public servants are tip-toeing around the need for major investments in the regional transit system, using terms like “reform before revenue” to delay action. But the delays that result from the lack of investment are substantial and growing. The

leaders of the relevant agencies must lay out the consequences of these delays—unsafe equipment, delayed bus and train service, unpleasant riding conditions—to force action by the body politic.

The public expects infrastructure to exist and be in service when they need it. But you cannot expect them to think about its maintenance when they flush the toilet,

I fear we are repeating the same mistakes today.

or get on a bus, or go through a turnstile unless those charged with running an infrastructure agency view themselves as the champions for its mission. Unless they are skilled in tapping the latent constituency that exists in the community, their facilities will inevitably go down the drain. **CW**

Paul F. Levy was executive director of the Massachusetts Water Resources Authority from 1987 to 1992 and chairman of the Massachusetts Department of Public Utilities from 1983 to 1987. He was adjunct professor at MIT's Department of Urban Studies and Planning from 1992 to 1998.

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Transparency missing from government

MuckRock finds Public Records Law isn't working

BY MICHAEL MORISY

LAST NOVEMBER I received an email from an attorney working at the Department of Transitional Assistance informing me that if I didn't remove from my website information I had received from his office through a public records request, I could "be fined not more than \$1,000 or imprisoned not more than 1 year, or both."

I was surprised. Public records requests are about the dullest form of journalism, involving a mix of bureaucratic judo, boundless patience, and lots of stamps. I had created MuckRock.com, where the data were posted, to take as much of the tedium out of the process as possible and encourage more citizens to exercise their right to access public records. Rather than having to draft their own letter from scratch, look up the agency contact information, and constantly remind the government that the request was overdue, users could simply click a template, type in what they wanted, and let us handle the rest.

The data in this case were simply the amount of money the government had reimbursed stores throughout the state under the Supplemental Nutrition Assistance Program, commonly known as the food stamp program. There was no personal identifying information; it was just stores and dollar amounts.

But the state insisted that the data had been "erroneously released," and that I was obliged to remove the material. After consulting with Rob Berstche, a nationally known media lawyer who offered us *pro bono* assistance, we decided to share the emails with our readers, leave the information up on the website, and wait to see what would happen. We were never contacted by the Department of Transitional Assistance again.

Looking back now, after having filed more than 500 public records requests on behalf of myself and others throughout Massachusetts and the rest of the country, I'm surprised that I received any response to my request. In my experience, most valid public records requests are simply shelved and ignored.

The opacity carries a very real cost. In the past

few years alone, Massachusetts has paid a terrible price for a lack of transparency in the form of patronage, kickbacks, payoffs, and the implosion of one of the Commonwealth's largest investments in a private company, Evergreen Solar. Despite occasional rumblings otherwise, the state of transparency here is about as grim as the long winter we endured.

I didn't expect an easy road when I cofounded MuckRock. As a reporter, my requests typically met with mixed results. Occasionally, documents would trickle out, almost invariably late and arbitrarily redacted by agencies that rarely complied with, or even understood, the public records laws. Traditionally, the only recourse in these cases has been to sue, an expensive proposition.

We take a new approach: By making the process as transparent as possible, we highlight agencies that violated public records rules (including how many days, exactly, a given request was overdue). Instead of selectively cherry-picking the results, we also publish records in full, to allow people to see what reporters were seeing when they wrote their stories. Such a radical notion of accountability was appealing to a lot of groups, including the Pioneer Institute, which signed on as an early partner.

But government officials were not always as receptive. Of 94 requests MuckRock has helped users file at the state and local level in Massachusetts, only 36 have been fulfilled at the time of this writing.

Two requests, originally submitted March 9 to the Office of Medicaid for department cost estimates, have gone completely unanswered despite repeated follow-up voicemails requesting a response.

Another request, for a copy of the most recent contract between the Executive Office of Economic Development and private lender MassBusiness, was submitted on Jan. 15. I finally received an update on April 6 saying the request had been received and the department would "respond as soon as possible." As of the end of May, I still hadn't heard anything.

In Massachusetts, agencies are required by statute to respond to a public records request within 10 days, but in my experience that rarely happens. A request seeking information on state layoffs broken down by department took 99 days to fulfill from first submission to final response. At the federal level, such delays would at least mean copying and other fees would be waived, but state officials charged Pioneer \$368, or \$61.33 per page, for a six-page spreadsheet. To make matters worse, despite repeated requests for the responsive information to be provided digitally, the department mailed me a printed copy of the spreadsheet, making it needlessly difficult to analyze and sort.

The lack of responsiveness to public records requests is almost endemic in Massachusetts. On Sept. 28, 2010, freelance reporter Kate Chappell filed a request seeking information about why the Boston Redevelopment Authority gave a \$200,000 loan to the failing *Bay State Banner* newspaper, a move that raised eyebrows nationally for its ethical implications. Despite repeated acknowledgements of the request, no information has yet been provided.

More recently, in a masterstroke that Orwell would appreciate, the *Boston Globe* was forced to sue the Patrick

administration over blacked-out documents detailing gag agreements with former state employees who received severance agreements. In other words, you can't see who was paid with your tax dollars not to talk.

We asked the Massachusetts Technology Collaborative and then the Massachusetts Clean Energy Center—two agencies that invested millions of tax dollars and incen-

The lack of responsiveness is almost endemic.

tives in Evergreen—for resumes and other documents indicating staff experience with the solar energy industry or consultation with industry experts. The answer from the Clean Energy Center was terse and dumbfounding. “MassCEC does not possess the records you have requested.” None of the other seven requests I made regarding the state's solar energy investment policy have received a substantive response yet.

The problems with public records compliance stretch the breadth of state government. Pioneer filed a request with the Department of Elementary and Secondary Education more than a year ago, only to be met with stone-

“Public discussion is a political duty; this should be a fundamental principle of American government” –JUSTICE LOUIS BRANDEIS

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walling and demands for document production costs that have almost tripled to \$17,000 from the initial estimates.

And these are all requests to agencies that are subject to the Public Records Law. In Massachusetts, unlike many other states, the judiciary, the Legislature, and governor's office are all exempt from public disclosure rules, as are personnel files, deliberative process materials, and materials covered under attorney-client privilege. This last exemption has led to the questionable practice of officials copying their lawyers on sensitive emails to avoid public scrutiny.

The state hasn't had much success releasing its own data directly to the public. The Open Data Initiative was launched with great fanfare a year and a half ago as a way to promote transparency by allowing the public to view and analyze raw government data. Today, however, the initiative consists of a few outdated Excel files here and there coupled with a lot of links back to agency websites, but very little to entice the software developers, entrepreneurs, or journalists the site ostensibly caters to. The site's blog has not been updated since May 2010. When I tried to sign up for the site's mailing list, I received the following message: "Because this mailing list is private, you must be approved by a mailing list administrator before you

can become a member of this mailing list."

The information being sought by MuckRock isn't part of a fishing expedition, nor is it likely to turn up any "smoking guns" that result in a string of public firings, reforms, or political grandstanding. It is, generally speaking, simply asking to see the details of how taxpayer money is spent, particularly when there is an indication that the money is being wasted with little oversight (in the case of Evergreen Solar) or of very broad public importance (in the case of health care reform).

It's exactly the kind of necessary, wonky material that is receiving less scrutiny in the media as news organizations work to untangle their own revenue issues. But rather than embracing the idea of an eager volunteer pool of citizen auditors, overseers, and strategists, the state of Massachusetts seems determined to keep the doors of policy and power as closed as possible, despite the repeated costs incurred to both the state's coffers and the electorate's trust. Both are in perilously short supply these days. **CW**

Michael Morisy is the cofounder of MuckRock.com, a website dedicated to helping people request, track, and recover public data and documents. MuckRock and Pioneer Institute are partnering on a project on state government spending.



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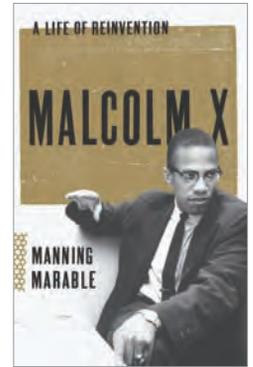
Change was the one constant in a complicated life

Malcolm X: A Life of Reinvention

By Manning Marable

New York, Viking, 594 pages

REVIEWED BY KEVIN C. PETERSON



DURING THE FINAL weeks of his life, Malcolm X, the voluble and acerbic American Muslim evangelist, was in a veritable tailspin. No longer tethered to the Nation of Islam and the Honorable Elijah Muhammad, Malcolm's tragic end was attended with much trouble: He was being accused of adultery by his wife, Betty Shabazz; men whom he had mentored now openly reviled him; mainstream Civil Rights Movement leaders eschewed him; he was homeless after his house was firebombed; he was mired in financial difficulties; and he was being hotly pursued by a coterie of religious zealots determined to see his death.

These extraordinary details form just one slice of the most extensive and fact-rich biography to date of Malcolm X's life since his assassination more than four decades ago. In *Malcolm X: A Life of Reinvention*, Manning Marable gives readers an intimate and honest assessment of a man who, at the height of his popularity, still found himself in the daily struggle of constructing a full political and moral identity.

While serving as a leading social protest voice, especially among a disaffected, northern, urban, and increasingly cynical generation of blacks, Malcolm X, in his final days, was searching for new intellectual and spiritual foundations. He was pursuing pathways from his former role as a racially conservative Islamic minister to a human rights leader who embraced pluralism and full democratic engagement.

A work in progress for more than two decades, this latest biography on Malcolm X is the final, masterful expression of Marable, the venerable Columbia University scholar who had long been recognized as perhaps the leading academic interpreter of black leftist political movements. Marable, who died just three days before the book was released due to complications related to a double lung trans-

plant, has produced a distinctive and honest biographical portrait of the leader whose improbable life led him from humble beginnings in Nebraska, to stints in Detroit, Boston, and then New York, where, at his demise, he was one of the most recognized people on the planet.

The book alters our understanding of Malcolm, whom generations of high school and college students have come to know mainly through reading the highly glossy *Autobiography of Malcolm X*, on which he collaborated with Alex Haley, the future author of *Roots*. Compared to the *Autobiography* and even Spike Lee's movie treatment of Malcolm in 1992, *A Life of Reinvention* is an act of deconstruction wherein Marable objectively strips the subject of all romantic patina. Marable portrays a man with a calm, steadfast humanity, exposing his great inclinations along with his vanity and many foibles.

The book is supported by healthy doses of previously unreleased FBI files, previous scholarship, and more recent interviews of people who worked closely with Malcolm, including the current Nation of Islam leader, Louis Farrakhan. That access allowed Marable to produce a book of intellectual sophistication and previously unachieved detail regarding Malcolm's highly complicated life and his sometimes chameleon-like and constantly morphing identity.

Malcolm Little was born under humble circumstances in Omaha, Nebraska. His parents, followers of the black separatist Marcus Garvey, suffered the pangs of poverty as well as the stings of the racial terrorism being propagated by the Ku Klux Klan, which was then at the height of its influence. Malcolm's boyhood home was firebombed at least once by the Klan. And there exists some evidence that yet another racist group, called the Grand Legion, murdered Malcolm's father.

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Having his family dispersed by unforgiving state agencies after his mother suffered a nervous breakdown, Malcolm was transformed by his circumstances and settings as he crisscrossed the country, surviving with siblings and sympathetic relatives. In Michigan, Malcolm was called Red for the bright, attractive color of his hair as well as his hot temperament. In New York, he became the accomplished street hustler, a cocaine and reefer user, and a pimp. While serving time in jail in Boston, and perhaps under the hallucinogenic sway of intense highs induced by a nutmeg-sniffing habit, he was called Satan for his misanthropic and anti-Christian views.

It was while serving jail time in Massachusetts that Malcolm transformed himself yet again. This time he morphed into a committed Muslim, a tireless autodidact, and a racist firebrand ready for service in Elijah Muhammad's little noticed Nation of Islam. For 12 years he lived an austere Muslim lifestyle, eating only one meal a day, marrying, fathering four children, and transforming an inauspicious urban Islamic sect founded in Detroit into a nationally recognized religious hotbed. During the final arc of his life, he transformed himself from Malcolm X to El Hajj Malik Shabazz, a sign that he was adapting to a more traditional form of Islam. He had also begun to shed much of the racial separatist doctrine taught to him by his Garveyite parents and the American Muslim sect.

The different reincarnations Malcolm experienced during the course of his life are the theme at the center of Marable's book. Marable prompts his readers to marvel at the tenacious ambition that fueled his subject's search to transcend the racial constraints that characterized America's apartheid culture.

Malcolm's impact was felt keenly within the mainstream political and social establishment. His strident and accusatory nationalist positions on race relations, and his boasting about engaging in retaliatory violence, often stood in stark contrast to Rev. Martin Luther King's moderate stances, causing the broader white community to sympathize with King as the lesser of two evils. In these instances, Malcolm provided the moral and political leverage that King needed as he attempted to accelerate the integrationist policies emanating from Washington, DC, during the Johnson administration. In this light, the 1964 Civil Rights Act and the 1965 Voting Rights Act may belong as much to Malcolm as they do to Martin.

In some way, Marable suggests, Malcolm's successive personas, which he describes in greater detail than one finds in the *Autobiography*, were the distinct products of his incessant need to make sense of the vast racial landscape that boiled around him and sometimes inside him. America defined Malcolm as much as he defined it and its values.

Describing Malcolm's protean nature, Marable asks

that we take note of Malcolm's "ability to reinvent himself in order to function and thrive in a wide variety of environments. He carefully crafted his physical presentation, the manner in which he approached others, drawing upon the past experiences from his own life as well as from African-American folklore and culture."

Marable's work is not without its shortcomings. There are instances where the author makes sweeping statements but fails to back them up. He refers to one of Malcolm's last speeches as one of his greatest, but fails to explain why. And then there are what seem to be attempts to grab headlines with the author's speculation that Malcolm was bisexual, an effort that proved successful if measured by press reports on the book. Marable's slim evidence rests only on veiled disclosures that Malcolm enjoyed a friendship with a wealthy, white Boston socialite named Paul Lennon and that his "coolness" toward his wife was indicative of lack of interest in women.

Towards the end of his life, Malcolm had rejected the coarse version of black racial separatism he had assumed as an American Muslim under Elijah Muhammad's tutelage. He repudiated the concept that non-whites stood on a natural spiritual high ground. He also rejected such ideas as black Americans founding their own country within

the confines of the American Northwest. Moreover, Malcolm was inclined toward a moral salubrity and expressed regrets of all kinds. To Boston-born Louis Farrakhan, he lamented that he had not married a woman whom his mentor, Elijah Muhammad, would eventually impregnate as Muhammad led the sect into a full-blown sexual scandal. He would also regret his racist jeremiads with the Nation of Islam, when he often described whites as "devils" who could play "no role" in ending American racism.

Relentless in the days leading to his assassination, Malcolm was constantly on the road speaking and crafting a highly integrated world view which Marable details with extraordinary clarity. To Alex Haley, Malcolm one night admitted his evolving social philosophy and theology: "I believe in religion, but a religion that includes political, economic, and social action designed to eliminate some of the [world's suffering] and make a paradise here on earth while we are waiting for the other."

Days after uttering these words, the harried Malcolm X would be dead. **CW**

Kevin C. Peterson is founder and director of the New Democracy Coalition, a Boston-based organization promoting civic literacy, civic policy and electoral justice.

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Mixed media

Dueling documentaries underscore the great divide in American education

THE TREND AT first seemed heartening. The problems in the US education system had become so compelling that filmmakers recently produced several documentaries on the topic, with some even enjoying commercial success at theaters. It suggested that the critical issues facing schooling in America might finally be registering on a broad scale. But after attending screenings of two of the new education documentaries, I found myself more dispirited than uplifted.

My education double-feature, with viewings separated by a few months and a few miles, started at the Loews Boston Common theater, where Citizen Schools, a Boston-based nonprofit that operates after-school programs, sponsored a screening of *Waiting for Superman*. The film was produced by Davis Guggenheim, who won an Academy Award for his documentary on Al Gore's battle against climate change, *An Inconvenient Truth*.

The movie focuses on the dismal prospects facing American students in large, urban school districts. For the students profiled in the film, hope comes in the form of a numbered ping-pong ball being drawn from a drum, the method used by many charter schools to conduct lotteries when demand for their seats exceeds the supply. The families in the movie have given up on dysfunctional district schools, and feel that admission to a higher achieving charter school represents the only hope that their child will get a quality education that will prepare him or her for college.

Several months later, I was at the Belmont Studio Cinema for a showing of a very different documentary. *Race to Nowhere* paints a picture of a high-pressure, achievement-oriented school culture that is destroying our kids, stealing their childhood, and causing everything from stress-induced stomach illnesses to suicide among teenagers who are running faster than ever on the rat-race treadmill that US schooling has become. We hear from students who could never take enough AP courses to satisfy their maniacal helicopter parents and from those who literally made themselves sick throughout high school by working day and night to get accepted at the "right" colleges.

The film was met with knowing nods from parents in the affluent Boston suburb, who shared worries during a

discussion session after the screening that their children were suffering from the same sorts of pressures.

I had an entirely different reaction, however. I was struck by the fact that these parents—and the film—were decrying a high-achievement culture that families in *Waiting for Superman* were desperate for their children to gain access to.

There is certainly plenty that's wrong with American schools, and the pressure on students and obsession with grades, college rankings, and SAT scores clearly is over-the-top in some communities. It mainly seems to be a problem in affluent suburbs, however, and it is as much the fault of

US children go to school each morning in two disconnected worlds

parental pressure and the broader culture as it is of the schools themselves. But these are problems that millions of American schoolchildren will never have to contend with. They are consigned to school districts where 15-year-olds are struggling with basic math and reading skills, and where the question isn't who got into which top college but whether graduating students are prepared to handle introductory courses at a community college.

It is that grim reality that has inspired school reformers to insist that we create schools of excellence that set high standards for poor children and provide them with the support to reach that bar. George W. Bush was not known for his eloquence, but he captured the essence of the challenge in his 2000 speech on education to the NAACP, in which he decried the "soft bigotry of low expectations."

American children may all head off to school each morning, but they arrive at two entirely disconnected worlds. Which one they are in almost invariably depends on their zip code. There is perhaps no more powerful reminder of this than the fact that one world seems to be suffering from a gluttonous excess of achievement-focused competition, while families in the other would give anything for their children even to be able to sip from that cup. **CW**

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