

Peter Gordon's Outline of

***The Voluntary City:
Choice, Community and Civil Society***

David Beito, Peter Gordon, Alex Tabarrok, editors

This document is the outline of the presentation "The Voluntary City" given by Peter Gordon at The Independent Institute on February 4, 2004. A transcript can be found at: <http://www.independent.org/events/transcript.asp?eventID=96>

1. Themes:

- A. Rather than carving society into three sectors (private, public, non-profit), consider two: voluntary and coercive. The former includes voluntary exchange (markets) *and* all other-regarding activities (charitable and social). *How are the two human impulses manifested and channeled?*
- B. Re policy discussions, we want to expand our imagination of the range of options by examining historical precedents. Before there was a welfare state, there were private safety nets — *spontaneously established*. Before zoning there were rules for the use of real property — established on markets. Before there were public schools, there was decent education. Before modern governments, there was “infrastructure”.
- C. *The Voluntary City* examines episodes and aspects, past and present, that are bottom-up, rather than top-down — ones that can be seen as spontaneous orders. Studying these can contribute to an understanding of Civil Society.

2. What do people do when left with minimal top-down rules? They establish Civil Society. Specifically:

- A. They specialize, exchange and create wealth (and economic growth);
- B. They fashion various practical institutions (including common law, especially as applied to commerce);
- C. They form various communities (organized — and not; spatially defined — and not)
- D. They form voluntary charitable mutual aid associations and safety nets;
- E. They *do* supply “market-challenging” goods, including “public” infrastructure

— challenging the "market failure" idea;

- F. They create social capital. Beyond conventional economics (A), *The Voluntary City* looks at examples of B-F. Are these based on practical or moral choices? Can we tell?
3. **Most of the cited episodes, when successful, took advantage of rules *flexible enough to accommodate an open-ended future* — in contrast to popular "sustainability" approaches that seek to contain open-endedness.**
- A. In most of the 20th century, many bottom-up approaches were crowded out. In the early 21st century, pricey "compassionate conservatism" suggests that top-down (coercive) redistributionist policies (including proposed forced-saving Social Security reforms) are alive and well.
- B. But, also, some signs of a return to bottom-up action. Chapters of *The Voluntary City* suggests that, in some areas, we have come *full circle* with respect to some of the historical examples documented by Benson (*Lex Mercatoria, private arbitration*); Davies (private police), Beito, Green (private charities and communities); Tooley (private schools); Foldvary, Davies, Arne, MacCallum, Boudreaux-Holcombe, Nelson (urbanization and private land use); Klien and Beito (turnpikes and toll ways and private streets).
- C. People had formed groups and clubs to provide "public goods", long before textbook writers alleged that people left to their own devices would never provide, requiring governments to act. Generally, "market failure" prospects were creatively met via private action. Substitute "market-challenging" theory for "market-failure" theory? *Voluntary City* episodes counter market failure suggestions via "refutation by existence."
- D. Common law had evolved so that people could sue to have "type of use and nuisance" covenants enforced. This made land ownership plausible — before there was municipal zoning.
4. **In terms of the *built environment*, rules of property have always been there; They emerged spontaneously — because there is an understandable demand for such rules**
- A. Bottom-up rather than top-down land use and governance: Most people prefer that the most elaborate rules be the ones "closest to home." Home rule.
- B. Since 1970, private communities and private rules of property have been making a comeback — oddly, concurrent with increasing talk of tougher top-down land use controls (e.g., Portland).
- i. One of three major (domestic) U.S. migrations, the "quiet revolution". CID

growth rates surpassed suburban growth since 1970 (not just gated communities, not just condominiums); one-third of all new housing in past 30 years. Now accounts for 20 million housing units; 50 million Americans.

- ii. Voting with their feet, many people have been choosing this aspect of privatization in increasing numbers; more so than voting for "regional governance" and related proposals.
- iii. R. Nelson (and W. Fischel) claim there is little difference between small suburban town governments and homeowners associations; Nelson suggests they are substitutes; Fischel claims they are complements: residents feel that neighborhood quality protections require both because the latter can down-zone undeveloped areas *beyond* the neighborhood, e.g. NIMBY. What do voting data show? Also, most U.S. movers have been migrating to one and/or the other.

5. Land market institutions, including proprietary communities, have evolved to mitigate two of the standard “market failure” problems.

- A. Many "public goods" are *territorial* goods (Foldvary); their benefits are capitalized in land values; they are transacted; they are efficiently provided and managed on markets — in common interest developments, in shopping malls, in industrial parks, in hotels, in trailer parks, in BIDs.
- B. “Technological” externalities are similarly mitigated/internalized; mall owners set rents — and use patterns — *strategically*, to internalize externalities. Community builders are inventive, flexibly and creatively responding to high land prices by discovering marketable higher residential density site plans and designs.
- C. Most such developments include privately supplied "public" spaces and infrastructure — also privately supplied in the historical episodes documented by some *Voluntary City* authors. Community builders, mall and industrial campus developers have been inventive about creating open spaces — now and in the past.

6. Other land market privatization questions developed in *The Voluntary City*:

- A. A dynamic market for constitutional rules. What are the opportunities — for municipalities and for developers?
- B. The modern development *approvals process* already involves *transacting a public good*, the community's *neighborhood quality* property right. But, this typically involves two parties, regulators and developers, transacting a right that affects the third party, neighborhood residents. This is Nelson's

explanation of NIMBY. Is more private zoning a remedy?

- C. Some authors (Nelson) advocate privatizing older inner city neighborhoods. How? Ownership and enhanced exclusionary options would mitigate many inner city problems and inequalities. If BIDs can do this, why not denizens of old neighborhoods?
 - D. Privatized neighborhoods still include the problems of association politics. MacCallum suggests that this is why they are just a way station; the evolution will continue—towards an all-transactions model. He celebrates the hotel. Are we moving to a world of leasehold?
- 7. What next?**
- A. Will reform mayors and other leaders take note of these any of the trends and examples noted in *The Voluntary City*? It is in their interest — because they compete more than ever. Labor and capital are more mobile than ever.
 - B. Will scholars take a look at land use planning that comes from many sources, including “entrepreneurial planning” — as well as the interaction of bottom-up and top-down?
 - C. As the U.S. attempts to export not just democracy but market economics and civil society to places where it is novel, do the *Voluntary City* episodes help us to better understand the evolution and the history of our own civil society?
 - D. Consider Lifesharers.com, a new non-profit, invented and implemented by one smart individual, that saves lives — while Congress and state legislatures debate possible tax incentives to organ donors. As populations age, innovations like this may be auspicious. How many other examples will we see? *Voluntary City*-type episodes are all around us; can we better understand this evolving and open-ended dimension of civil society?