Local Official and Climate Change

Stephen R. Miller
University of Idaho College of Law, millers@uidaho.edu

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Stephen R. Miller

Stephen R. Miller is Associate Professor of Law at the University of Idaho College of Law.

Summary

It is well-known that land use patterns can affect climate change—particularly the relation between land use development and transportation infrastructure. Yet even the most aggressive efforts to address climate change have largely ignored land use. This disconnect was noted in the Intergovernmental Panel on Climate Change’s most recent series of reports, collectively known as the Fifth Assessment Report (AR5). This Article, adapted from Chapter 5 of Contemporary Issues in Climate Change Law & Policy (ELI Press 2016), seeks to make insights into land use development from the AR5 more readily accessible to the U.S. local official, with emphasis on issues facing local officials in fast-growth cities that have yet to establish a concerted response to climate change.

In all but the largest cities, including most fast-growth cities, local officials are volunteers that hold other jobs and typically receive little, if any, compensation for their governmental work. This fact is true even for those local officials, members of the planning commission and the city council, who most directly control the city’s development, making what are arguably the most important long-term decisions that will shape cities’ futures. For those commissioners and council members, merely reading the weekly staff reports that accompany individual projects that require adjudications and engaging in the more comprehensive legislative actions related to specific plans, neighborhood plans, or business districts can be an overwhelming task. Further, public meetings often begin right after work and can last into the wee hours of the morning.

It is in the hands of these local officials, however, that the task of forming the United States’ overall land use pattern rests. Indeed, because the country’s land use pattern relies so heavily upon this patchwork of volunteers, most of whom are not experts in development, there has long been a skepticism about whether the country can ever have a coherent land use policy. This potential problem is notable in the context of climate change. Although it is well-known that land use patterns can affect climate change—particularly regarding the relation between land use development and transportation infrastructure—even the most aggressive efforts to address climate change have largely ignored land use. For instance, California’s Global Warming Solutions Act of 2006, the most significant greenhouse gas (GHG) emission reduction strategy in force at present, places almost no importance on land use in GHG emission reduction strategy in force at present, places almost no importance on land use in GHG emission reduction strategy in force at present,
sions reductions, even despite the fact that the state had adopted the country’s most aggressive mandate to link land use and transportation planning.8

This disconcerting disconnect—that those with the power to alter land use patterns are those least likely to actually effect such change—found its way into the Intergovernmental Panel on Climate Change’s (IPCC’s) most recent series of reports, which are collectively referenced as the Fifth Assessment Report (AR5).9 All IPCC reports, of course, remain deeply scientific enterprises aimed at recording and determining the pace of climate change.10 In addition to this scientific investigation, however, the IPCC assessments have also provided detailed, worldwide analyses of major socio-ecological factors related to climate change and, in particular, addressed how those factors might assist with mitigation or adaptation to climate change.11 Among the socio-ecological factors considered in this latest AR5 was a substantial analysis of why the endeavors to change land use patterns, which hold such promise for addressing climate change, have failed.12 These sections, while global in scope, also offer substantial perspective and insight for the local official in the United States.

This Article seeks to make these insights into land use development from the AR5 more readily accessible to the U.S. local official and, in particular, will also place a special emphasis on issues facing local officials in fast-growth cities that have yet to establish a concerted response to climate change. The Article will first investigate how the IPCC can provide a common language for cities to talk about climate change as a global problem and, in particular, discuss several sections of the AR5 of interest to local officials. The Article will then investigate how the AR5 can provide a framework for working through the institutional problems that can cause local governments to fail in addressing climate change. While politics will always play a role in the effectiveness of governmental responses to climate change,13 the AR5 provides a much-needed framework for discussing how the functioning of government itself can also serve as an impediment. Perhaps the most succinct statement to this effect in the AR5 is that “[o]vercoming the lack of political will, restricted technical capacities, and ineffective institutions for regulating or planning land use will be central to attaining low-carbon development at a city-scale.”14 This Article will use this AR5 framing statement—addressed here in the order of technical capacity, institutional effectiveness, and political will—in investigating both global problems facing local officials and those that are specific to local officials operating under the U.S. land use legal rules.

Finally, while I write here in an academic capacity, my thinking is also informed by my service as a planning commissioner on Boise, Idaho’s Planning and Zoning Commission. Boise is a fast-growth city located in the American Mountain West, which is one of the United States’ fastest growing regions. This Article draws on that experience as a commissioner in considering how addressing climate change in emerging cities differs from the excellent work on climate change already being done in some of the nation’s larger cities.

I. Reading the Fifth Assessment as a Local Official

The AR5’s three content reports, each written by a working group of scholars and experts, comprise thousands of pages and are summarized in a fourth synthesis report that has its own heft.15 Few people are likely to read the AR5 in its entirety. For the local official tasked with addressing climate change in an urban environment, much of the AR5’s most relevant information can be found in reviewing just a few sections of chapters outlined here. For those seeking a general familiarity with the IPCC’s scientific conclusions, the synthesis report’s summary report for policymakers provides an excellent overview.16

The IPCC presents its detailed study of urban environments in several sections of two chapters. The first relevant sections are in the chapter addressing cities and climate change adaptation. That chapter appears in Working Group II’s report on climate adaptation, Climate Change 2014: Impacts, Adaptation, and Vulnerability, as Chapter 8: Urban Areas.17 Within this chapter, Section 8.4 specifically addresses urban environment governance challenges related to adaptation to climate change.18

The second relevant set of sections appears in the chapter addressing cities and climate change mitigation. That chapter appears in Working Group III’s report on climate mitigation, Climate Change 2014: Mitigation of Climate Change, as Chapter 12: Human Settlements, Infrastructure, and Spatial Planning.19 Within this chapter, Sections 12.5

10. For a summary review of the scientific data related to climate change, see 2014 IPCC Synthesis Report, supra note 9, at 2-16.
12. See infra Sections II, III, and IV.
15. See supra note 9.
18. Id. at §8.4.
through 12.8 specifically addresses urban environment governance challenges in mitigation.\textsuperscript{20}

While numerous other sections of the Fifth Assessment address urban environment governance to varying degrees,\textsuperscript{21} investigating just these several pages of the larger report provides the opportunity to focus on the legal and policy issues that most affect urban areas and through which local officials are most accustomed to taking action.

II. Restricted Technical Capacities

Many fast-growth cities do not have the technical capability to address climate change, an unfortunate reality because it is these fast-growth communities where the most impact can be made in creating land use patterns that provide mitigation and adaptation strategies.\textsuperscript{22} This section evaluates several legal structures discussed in the Fifth Assessment that fast-growth cities with limited technical capacities can implement without greatly increasing spending.\textsuperscript{23}

For cities with limited technical capacities, one of the most important first steps is simply to build a common language for discussion of climate issues, which can then be used to help establish a common vision for future planning.\textsuperscript{24} Building a supportive legal culture in which local officials feel able to frame this common language and common vision is especially important. For instance, many fast-growth cities find themselves resource constrained and thus use their limited legal resources to address the most immediately salient legal issues of the day, which might involve legal aspects of annexation, subdivisions, and applying existing land use regulations. That kind of focus, however, does not provide the necessary legal training necessary for local government attorneys to gain expertise in the process and substance of fitting climate change-based local legislation and adjudication into the legal framework of federal, state, and local laws. The result can be that, when faced with litigation, or even the threat of a backlash, by climate change deniers, property rights absolutists, and the like, local government legal staffs feel inadequately prepared to defend climate change policies and regulations. In turn, this failure to prepare for the legal arguments that surround climate change measures can encourage those advisors to recom-

\textsuperscript{20} Id. at §§12.5-12.8.
\textsuperscript{21} Both Chapter 8: Urban Areas, 2014 IPCC Adaptation Report, supra note 9, and Chapter 12: Human Settlements, Infrastructure, and Spatial Planning, 2014 IPCC Mitigation Report, supra note 9, are worth reviewing in their entirety for the local official seeking additional information.

\textsuperscript{22} See Executive Summary, 2014 IPCC Adaptation Report, supra note 9 (“Urban governments are at the heart of successful urban climate adaptation because so much adaptation depends on local assessments and integrating adaptation into local investments, policies, and regulatory frameworks (high confidence). [8.4]”); id. (“Urban centers around the world face severe constraints to raising and allocating resources to implement adaptation. . . [8.3, 8.4].”)


\textsuperscript{24} 2014 IPCC Adaptation Report, supra note 9, §§8.4.2.1.

\textsuperscript{25} These challenges often take the form of regulatory takings claims. See, e.g., Nollan v. California Coastal Comm’n, 483 U.S. 825 (1987) (exactions require a nexus with the project); Dolan v. City of Tigard, 512 U.S. 374 (1994) (exactions must be “roughly proportional” to the project); Koontz v. St. Johns River Water Mgmt. Dist., 133 S. Ct. 2586 (2013).

\textsuperscript{26} 2014 IPCC Adaptation Report, supra note 9, §§8.4.1.2., 8.4.2.1.

ments in a cost-effective manner. When San Francisco then moved to a reporting and mandatory compliance requirement within a year, it first started by requiring a relatively low level of regulatory compliance that gradually increased. This three-tiered approach—reporting, minimal compliance, and then increased compliance—could prove equally useful for fast-growth areas trying to increase the technical capacities of their staffs in addressing climate change.

Fast-growth areas should also consider engaging urban vulnerability and risk assessments for both existing urban areas and areas where growth is expected. Efforts to address climate change mitigation and adaptation need information about the local landscape. Because most states do not require individualized environmental review of private projects, local officials need to devise an efficient way to map vulnerabilities and risk, plan for them, and then hold the line against risk-prone development in the noted areas. Resources for such detailed analysis are often tight in fast-growth communities, but several legal approaches could facilitate better decisionmaking. For instance, areas of vulnerability and risk could take, as starting points, analysis from other federal or state agencies that provide general guidance on flood or fire risk. In those areas, and perhaps even in some reasonable buffer areas adjacent thereto, the local government could require a heightened showing from applicants, or a presumption against development that could be rebutted, to justify an entitlement.

III. Ineffective Institutions for Regulating or Planning Land Use

The Fifth Assessment identified “[t]he urban institution conundrum”: “rapidly urbanizing cities—cities with the greatest potential to reduce future GHG emissions—are the cities where the current lack of institutional capacity will most obstruct mitigation efforts.” The same is true with regard to adaptation efforts as well. This section looks at several aspects of why local development institutions are ineffective and what local officials can do with an eye towards addressing climate change.

Among the reasons urban development institutions fail is not only resources, but also organizational design. Three examples serve to illustrate these failures and their effect on climate change planning: ineffective commission structures; ineffective public participation structures; and ineffective alliance of staff professional goals with climate change goals.

A. Overcoming Ineffective Commission and Permitting Structures

The proliferation of land use controls in the last 100 years has led to the belief, in some cities, that there is a need for multiple boards or commissions to review different parts of a project. For instance, the rise of historic preservation has led many advocacy groups to create a specific historic preservation committee or commission. In some cities, these commissions give recommendations to planning commissions; in other cities, these commissions have equal status as planning commissions in determining whether a project obtains a certificate of appropriateness or similar entitlement.

Other commissions or committees common in many cities include design review boards that apply design guidelines, and transportation-focused groups that address traffic-related issues. Add to these approval complications the bifurcation of land use and building permits, and it becomes clear that decisions about any one project can become highly segmented. This fragmentation can cause problems that lead to either over-regulation—in which case the various regulatory bodies fail to see the burdens imposed by other regulators and duplicate regulation—or under-regulation, in which case the developer can segment the approval process in a manner that frustrates holistic decisionmaking and collective review of the project.

Such problems could affect climate change in a number of ways, several of which are discussed here. First, climate change factors should be integrated into permitting processes at the front-end of the development cycle. For instance, the building efficiency of a project should be a factor in whether it obtains a discretionary land use permit. However, in most American jurisdictions, the build-

28. Id.
29. Id.
30. 2014 IPCC Adaptation Report, supra note 9, §8.4.1.4.
31. Id.
34. 2014 IPCC Mitigation Report, supra note 9, §12.6.1.
35. 2014 IPCC Adaptation Report, supra note 9, §8.4.3.4.
36. For instance, Boise is a prime example of a still small but fast-growth city with multiple agencies. See, e.g., City of Boise, Idaho, City Code §§2-02-01 et seq. (Airport Commission); id. §§2-06-01 et seq. (Planning-Zoning Commission); id. §§2-07-01 et seq. (Development Impact Fee Advisory Committee); id. §§2-16-01 et seq. (Public Works Commission); id. at §§2-17-01 et seq. (Arts and History Commission); id. §§2-20-01 et seq. (Irrigation Commission); id. §§2-21-01 et seq. (Housing and Community Development Advisory Committee); id. §§2-23-01 et seq. (Foothills Conservation Advisory Committee); id. at §§2-25-01 et seq. (Boise City Accessible Parking Committee); Ada County Highway Dist., Policy Manual, http://www.achdhidaho.org/AboutACHD/PolicyManual.aspx (district controls all roads in Boise City).
38. Id.
39. See supra note 37.
ing permit, and compliance with efficiency codes, occurs in a typically ministerial review and against energy codes that are often not sufficient to meet climate change mitigation necessities. Decisionmaking could be improved by integrating even energy code compliance into land use entitlement processes, something easily done by placing such goals into the comprehensive plans with which most conditional use permits for larger land use projects must comply. If the project does not meet the comprehensive plan energy mandates, it might not receive the discretionary land use entitlement, even if it might otherwise meet the ministerial requirements of an outdated building code.

Second, local permitting should require demonstration of compliance with other state and federal laws prior to obtaining the local permit. Local land use decisionmaking is often not effectively coordinated with other state and federal agency processes that evaluate the project for compliance with other laws, which may currently include, or may come to include, climate change mitigation and adaptation. The facts of Sackett v. Environmental Protection Agency provide a useful example. In Sackett, local officials issued building permits for a project applicant's local code-compliant home near a lake; the applicant proceeded to build on the bases of those properly issued local permits. However, the U.S. Environmental Protection Agency issued an administrative compliance order to stop work when the project was already under construction because, the agency argued, the project was placing fill material into a jurisdictional wetland and thus needed a Clean Water Act §404 permit from the U.S. Army Corps of Engineers. While the outcome of the Sackett case ultimately turned on a procedural question of administrative law, the facts of the case illustrate important institutional issues regarding the lack of integration of local government and other permits. Many local governments issue land use and building permits with standard conditions, which typically include the requirement that the project applicant must comply with all other state and federal laws. Problems arise, however, where local government issues land use and building permits without verifying compliance with those other laws. As in the case of Sackett, the local government likely could have foreseen the necessity of a Clean Water Act fill permit for a home being built near a lake—even though the Sacketts as developers contested that requirement—but the local government did not require that the fill permit be on file or otherwise ensure compliance with other laws before issuing its building permits. This is poor institutional practice.

It is true that it can be difficult for local governments, especially those in states that do not require environmental review of private projects, to ensure compliance with the raft of potentially applicable state and federal environmental regulations. However, local governments need not shoot in the dark: the local government could simply have a policy of sharing all applications with local offices of state and federal permitting officials seeking their guidance, as is common with the lead agency and cooperating agency distinction under the National Environmental Policy Act (NEPA). By using the local government permit as the coordinating permit for compliance with other state and federal laws, local officials can ensure that a situation like that in Sackett is avoided, which also aids the project applicant in ensuring that the applicant does not necessarily spend money or time on a project that will run afoul of other regulations. This coordinated approach, while valuable for many land use and environmental purposes, would also prove useful in ensuring climate change mitigation and adaptation compliance. Further, it should be noted that this process should not lengthen the entitlement timeframe because the project applicant cannot properly begin construction until all permits are obtained in any case.

B. Overcoming Ineffective Public Participation

The last several decades have seen a great emphasis on public participation in local government decisionmaking. This has included, among other changes, increased participation for neighborhood groups, as well as increasing access to GIS tools that permit the community to offer their own project alternatives. Nevertheless, despite these additional procedural and technological tools to enhance community engagement, public participation routinely fails to prove effective in basic ways. Most importantly, public participation is typically focused on quasi-judicial proceedings against particular projects where the community shows up solely to oppose the project. In these situations, despite hours-long meetings in which tens or even hundreds of community members offer comments, there is typically no real discussion of project alternatives. Instead, public participation typically involves a litany of reasons that oppose the particular project.

41. See, e.g., 7 Miller & Stare Cal. Real Est. §25:25 (4th ed. 2015): As a general rule, the building official is required to issue a permit if the application is in order, the proposed use is one permitted by the zoning ordinance, the proposed structures comply both with zoning conditions and with the applicable building codes, and any other conditions imposed on the development or subdivision approval.
42. See supra note 40.
43. 2014 IPCC Mitigation Report, supra note 9, §12.5.3.
44. 132 S. Ct. 1367 (2012).
47. Id. at 1371 (holding that the administrative compliance order was a final agency action for purposes of the Administrative Procedure Act and thus petitioners could seek judicial review of the order under the Act).
48. Id. at 1370.
51. Craig Anthony Arnold, The Structure of the Land Use Regulatory System in the United States, 22 J. Land Use & Envtl. L. 441, 476 (2007) (noting that “increasingly neighborhood residents are actively participating in developing plans and land use regulations for their neighborhoods through techniques like design charrettes, scenario development, impact assessment, [and] participatory land use mapping”).
This is a poor use of the public process. Surely, in some cases, the project under review deserves wholesale rejection. However, if the project complies with the community’s basic land use documents—the comprehensive plan, zoning, and so on—then it is likely not without some merit. A better public participation process would address not only whether the project should be approved in its current iteration, but more importantly, how the project might be altered or otherwise provide mitigations that would make the project acceptable to the community.\textsuperscript{52} This broader analysis requires a far more searching review of community goals than simply rejection or acceptance of the project; indeed, it invites conversation between city officials, the community, and the developers as to what the future of the community invites.\textsuperscript{53} That conversation is seldom had in quasi-judicial proceedings, but it should be, especially in situations where climate change mitigation and adaptation are at stake.

Further, in many communities, public participation is simply not a component of those processes where the real planning for the future takes place: in the legislative determinations of how to structure the comprehensive plan and zoning. For the interested public seeking to make a difference with regard to climate change, participation in these legislative processes is instrumental to ensuring that the community’s development rules are climate-friendly.\textsuperscript{54} Local officials can make climate change part of the legislative process by actively engaging the conversation in a manner that is appropriate to the community.\textsuperscript{55} This engagement can include public meetings, but, increasingly, online and social media participation can be valuable. Many local communities have adapted climate action plans over the last decade, but many have taken the approach of primarily providing a common language for engaging climate rather than providing actionable regulatory compliance measures.\textsuperscript{56} The common language assists with the previously noted goal of providing a common vision, but ultimately communities will need to find a way to move climate compliance from policy to law.

C. Overcoming Staff Reluctance to Engage

While staff can be a great resource both for implementing existing policies as well as creating new policies, there are often significant barriers to staff effectively addressing long-term problems such as climate change. These impediments can be doubly strong in fast growth communities.

First, planning departments are often funded from fees paid by developers.\textsuperscript{57} This mandate for planning departments to “pay their own way” can create a culture in which leadership establishes a mandate to please its perceived customer—the developer—because the department’s continued existence is dependent upon such applications. Clearly, such a mindset can make it difficult to have hard conversations with developers; it can also obscure calls in existing plans to require or encourage types of development that may not be popular with the community’s extant development sector but that might assist with climate mitigation or adaptation. Staff who work under such conditions can find themselves evaluated on the basis of how they please the customer-developer rather than with respect to the verve with which they maintain the integrity of the code or exhibit creativity in assisting project applicants with climate-friendly alternatives.

Second, planning is an occupation in which there is continued ambivalence about professionalization.\textsuperscript{58} While many planning departments in major cities require some form of advanced graduate work in planning for their staff, fast growth areas often do not. As a result, many planners faced with the inordinate challenges of fast growth have no formal training in the history of land use regulation, much less regarding cutting-edge strategies for addressing long-term issues like climate change. What training that does occur in fast-growth areas tends to focus on assisting processing of applications—making the day-to-day business of the department function smoothly—rather than on contemplating alternatives that could improve a community’s mitigation of and adaptation to climate change. In these circumstances, with project applications piling up and pressure from developers to get to a hearing, finding time to learn about climate change, much less draft language and engage departmental leadership on the issue, can feel like trying to shoot the moon.

D. The Fifth Assessment’s Contributions

Into the midst of these failed institutional structures, several potential approaches discussed in the AR5 could show promise. First, an emphasis on learning to bundle tools

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\textsuperscript{52} Some have argued that the current air of uncertainty created by Koontz would make such consideration of alternatives more difficult. See Lee Anne Fennell & Eduardo M. Peña-Aguirre, Exactions Creep, 2013 S. Cal. Rev. 287, 287-88 (2014) (“By beating back one form of exactions creep—the possibility that local governments will circumvent a too-narrowly drawn circle of heightened scrutiny—the Court [in Koontz] left land use regulation vulnerable to the creeping expansion of heightened scrutiny under the auspices of its exactions jurisprudence.”). On the other hand, it is ironic that environmental review statutes typically require the presentation of project alternatives and thus, in those states with mini-NEPA’s, the environmental review process necessitates that the land use process also envision alternatives. See Cal. Pub. Res. Code §21002 (2015) (California Environmental Quality Act requires that “public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects” of the project.).

\textsuperscript{53} 2014 IPCC ADAPTATION REPORT, supra note 9, §8.4.2.2.

\textsuperscript{54} See Maarten K. van Aalst et al., Community Level Adaptation to Climate Change: The Potential Role of Participatory Community Risk Assessment, 18 GLOBAL ENVTL. CHANGE 165 (2008).

\textsuperscript{55} See, e.g., California Jurisdictions Addressing Climate Change, CAL. OFFICE OF PLANNING & RESEARCH (July 7, 2014), http://www.ca-ilg.org/sites/main/files/file-attachments/california_jurisdictions_addressing_climate_change_pdf_0.pdf (list of local governments in California that have adopted plans “to address climate change and/or to reduce GHG emissions”).

\textsuperscript{56} See, e.g., Facts, City & Cty. of San Francisco Planning Dept., http://www.sf-planning.org/index.asp?page=3419 (noting that, in 2012, total revenue was $24,604,399 and fees accounted for $19,630,295 of costs with just $1,905,311 in General Fund support).

\textsuperscript{57} Becoming a Planner, AM. PLANNING ASS’N, https://www.planning.org/aboutplanning/becomingaplanner.htm ("In 2004, 43 percent of all APA members (note: approximately one-sixth of the APA members are planning commissioners, officials, or students, who do not have a degree in planning) had earned a master’s degree in planning.").
could prove valuable.\textsuperscript{58} In this approach, rather than asking staff and commissions to view climate change as an overwhelming monolithic problem to tackle, the emphasis becomes on helping the staff and commissions to start with a tool here or there that, perhaps, might have a co-benefit with an existing need of the community.\textsuperscript{59} For instance, reducing the urban heat island effect with shade trees on streets can prove popular from an urban design perspective even absent climate change adaptation goals.\textsuperscript{60} With this incremental approach, the institutional components of the city familiarize themselves with tools slowly over time but at a pace where it does not feel overwhelming.\textsuperscript{61}

Another approach recommended by the AR5 is the use of pilot projects and sectoral approaches.\textsuperscript{62} Pilot projects provide a similar sense of incremental change and also minimize the potential risk because, should the pilot fail, the status quo would be restored.\textsuperscript{63} Sectoral approaches, such as first addressing impervious pavement in commercial building, makes sense because they can seek out projects that might have a desire for green building mandates.\textsuperscript{64}

Finally, while most efforts at regionalism have failed over the past several decades, there is still good reason for fast-growth institutions to think regionally, even if governance is not regional. For instance, it is well-known that opportunities to reduce vehicle miles traveled have been lost where land uses around regional rail stations are not zoned to require close residential and mixed-use developments that would permit pedestrian access to the station.\textsuperscript{65} Achieving this kind of zoning, however, requires coordination between local land use planners and the typically intergovernmental rail agency. While such coordination would seem natural, the number of failed opportunities around rail stations indicates that even basic collaboration on land use planning at the regional scale remains complicated.

\section*{IV. The Lack of Political Will} 

This section addresses how local officials in fast-growth cities can engage climate change in a meaningful way while still addressing those pressing concerns that are foremost in the minds of some elected and appointed officials. The greatest concern of local officials in addressing climate change should be to provide the public space required to facilitate the ongoing conversation necessary to create a common vision around action, noted previ-ously.\textsuperscript{66} Achieving this common vision at the local level would have several components.

First, in many locations local government is not a partisan office, and that status has a valuable contribution to make to climate change politics.\textsuperscript{67} Where local officials are not bound to party allegiances, they should feel freer to speak openly about climate change without concern for the talking points of their respective political parties.

Even where local official elections are partisan, a second component to providing meaningful space for discussion of climate change would be an open embrace by all local officials, no matter what the party allegiance, of the existing scientific consensus regarding climate change—that it is occurring, and that human emissions of GHGs are a significant cause. For instance, a conservative politician concerned about the effects of climate change regulation should limit concern to precisely that—the effects of regulation—rather than maintaining an unhelpful obfuscation about the facts on climate change. Embracing the scientific consensus would permit even conservative local politicians to realistically represent their interests and, potentially, seek out novel solutions that do not rely so heavily on command-and-control regulation but which might instead use the market to make the changes that the climate needs.

Third, politicians should not sacrifice climate policy, or the environment generally, on the altar of economic development. Many fast-growth areas have propelled their rise by offering low-cost living and a low cost of business operations. Where that strategy proves successful in luring development, local officials can feel hemmed in by what may feel like a tenuous balance and believe that any amount of raising taxes or costs would threaten the whole development scheme. Local officials need to provide a rhetoric true to the local community that emphasizes both environmental stewardship and economic development. Those cities that have done so, while they have missed out on some major low-end manufacturing facilities, have found themselves attracting high-wage earners and the companies that seek to employ them, ultimately proving that climate stewardship can be a valuable component of sustainable growth.\textsuperscript{68}

Fourth, it is not uncommon that local officials will offer to take on the costs of environmental compliance for large companies through economic development agreements, a fact that further undercuts the importance of the environment to business because it permits corporations to place all of the costs of their externalities onto the local community's tax base. In essence, this strategy forces the local community to pay for a clean environment while the polluting corporation pays nothing. These types of deals should not be permitted because they take away from the corporations

\begin{itemize}
  \item \textsuperscript{58} 2014 IPCC Mitigation Report, supra note 9, §12.5.3.
  \item \textsuperscript{59} Id.
  \item \textsuperscript{60} See also LAWRENCE SUSEKIND ET AL., MANAGING CLIMATE RISKS IN COASTAL COMMUNITIES: STRATEGIES FOR ENGAGEMENT, READINESS AND ADAPTATION (2015) (providing numerous examples of same).
  \item \textsuperscript{61} Id.
  \item \textsuperscript{62} 2014 IPCC ADAPTATION REPORT, supra note 9, §8.4.1.2.
  \item \textsuperscript{63} Id.
  \item \textsuperscript{64} Id.
  \item \textsuperscript{65} ROBERT CERVERO ET AL., BART @ 20 SERIES: LAND USE AND DEVELOPMENT IMPACTS 2 (1995), http://www.uctc.net/papers/308.pdf (noting that the Bay Area region's regional rail, BART, "largely failed to attract high-density residential development around stations").
  \item \textsuperscript{66} 2014 IPCC ADAPTATION REPORT, supra note 9, §8.4.2.1.
  \item \textsuperscript{67} Partisan vs. Nonpartisan Elections, NAT'L LEAGUE OF CITIES, http://www.nlc.org/build-skills-and-networks/resources/cities-101/city-officials/partisan-vs-nonpartisan-elections ("According to a 2001 survey, 77 percent of the responding cities have nonpartisan elections, and 23 percent have partisan elections.").
  \item \textsuperscript{68} See, e.g., Development Agreement, City of Twin Falls, Idaho (constructing a waste water facility treatment for yogurt company free of cost to the company) (on file with author).
\end{itemize}
the price signal of the social costs of their businesses, which would otherwise encourage the companies to operate in climate friendly ways.

Fifth, local officials should focus on co-benefits of climate change tools; for instance, a climate adaptation strategy that focuses on hazard mitigation might lead to less development in floodplains. Those same non-developed floodplains could potentially be used for a greenbelt or other public amenity that ultimately raises property values of nearby non-floodplain properties. Through such a strategy, the local government obtains both a climate adaptation benefit and the new amenity, the bike path through a local park, which is a benefit shared by the developer through higher housing prices on nearby lands.

Sixth, local officials in fast-growth communities routinely find themselves short of resources for even some of the most basic functions. Under such circumstances, it is easy to ignore long-range planning, which is the kind of planning most likely to mediate the urban community’s response to and effects on climate change. Local officials can illustrate the importance of climate change, as well as long-range planning, by protecting funding sources for positions within the local government that address these issues from cuts that may seem more expedient. The specifics will depend on each local government’s budget structure; however, consider a situation, as discussed previously, where a planning department is funded by developer fees. Such a department might find it difficult to justify giving even one employee the time to consider climate change impacts arising from the city’s growth, especially where developers are unlikely to reward the department for doing so. A local government can illustrate the importance of climate change by securing such a position from another funding source—whether through the general fund or another department with an alternative funding mechanism—that gives that position some autonomy and the ability to speak with some independence.

In addition to taking the above steps to create the space for a common vision around climate change, local officials should take several additional steps that would prove useful both in addressing climate change as well as in improving land use policy in a fast-growth region. First, building a forum for local governments, business leaders, and community groups to work together on growth is an important objective. Despite planning’s rise over the last century, many of the country’s most notable places—even comprehensive plans—have come about as a result of the efforts of either individual private businesses or coalitions involving private businesses. For instance, Daniel Burnham’s 1909 Plan of Chicago was not written at the behest of the city, but rather for the Commercial Club of Chicago, a collection of the city’s largest business interests. San Francisco, often considered a prime example of the regulatory planning approach, obtained the outlines of its modern form after World War II under the guise of the Bay Area Council, another collection of the city’s most prominent business leaders. Today, the proposed revival of Las Vegas’ historic downtown is occurring not under the direction of city planners, but through the largesse and vision of the founder of a global shoe company with its headquarters located nearby. Salt Lake City has engaged a public-private approach, Envision Utah, which has provided a regional forum and changed the relationship to planning in a town not known for its acquiescence to regulation. These examples illustrate that great planning does not need to be adversarial to business interests and, in the United States, is more likely to succeed when it engages those interests to create a coherent regional vision.

These past experiences with business interests assisting planning efforts are not without their faults. Chief among them is that historically marginalized groups, whether they be racial minorities or low-income individuals, have been treated poorly and often had to deal with environmental justice concerns. By bringing representatives of those communities into the conversation about climate change planning early on, the planning group could ensure that such regional visions also provide an equitable distribution of opportunity and environmental protection for all residents.

V. Conclusion

Land use patterns develop incrementally and under supervision of thousands of local bodies with small jurisdictions. It is easy, then, to imagine the result of such decisions as equally local and small and without import to global problems like climate change. If the AR5’s sections on socio-ecological factors, and land use in particular, do anything, they should end dismissive attitudes toward the local factors in climate change. In Thornton Wilder’s mid-20th century classic, Our House, a little girl receives a letter addressed

69. 2014 IPCC Mitigation Report, supra note 9, §12.8.
70. 2014 IPCC Adaptation Report, supra note 9, §8.4.2.1.
71. 2014 IPCC Adaptation Report, supra note 9, tbl. 8-4.
73. Marvin T. Brown, Corporate Integrity: Rethinking Organizational Ethics and Leadership 153 (2005):

The Bay Area Council in the San Francisco Bay Area provides a good example of the business leader type of corporate/city relationship. It not only participated in urban renewal during the 1960s, but continues to be active today. Founded in 1945 by business leaders, the Bay Area Council began developing plans and policies for the whole San Francisco Bay region, from San Jose to Santa Rosa. Its strategy has been one of funding research and providing proposals for local government to implement.

75. Mission and History, Envision Utah, http://envisionutah.org/about/mission-history ("As a neutral facilitator, Envision Utah brought together residents, elected officials, developers, conservationists, business leaders, and other interested parties to make informed decisions about how we should grow. Empowering people to create the communities they want is still our goal.
to her, and then to ever-expanding measures of social life until, at last, the address spirals toward space, placing her in “the Universe, the Mind of God.”\textsuperscript{77} In that moment, the little girl sees her place in the world and, moreover, the interconnectedness of big and small. That moment in \textit{Our House} is both profound and common, and it may be that bringing the AR5, and climate change, to local governments beyond our major cities will require a similar approach. The AR5—along with the climate change mitigation and adaptation measures it proposes—invites local officials to link big effects to small decisions and to provide a profound but common language for climate change. In this spirit, all local officials should shoot for the moon with their feet on the ground.

\textsuperscript{77} Thornton Wilder, \textit{Our House} Act 1 (1938).