

Memo

Date: January 13, 2016
To: House Natural Resources and Energy Committee
From: Elizabeth Courtney

Re: Senate Bill 123

Thank you Chairman Klein and Committee Members.

I am here this morning to discuss with you the *context* rather than the *content* of S.123. I want to have this conversation with you because in my 45 years of experience with the planning and permitting process in Vermont, I have seen with frustration, the perennial efforts to modify the regulatory process, usually from a relatively narrow perspective and always out of context. Frequently, these efforts are either misguided or filled with missed opportunities.

S. 123 has a commendable and challenging goal to simplify the Agency's permitting process by consolidating 85 permitting procedures into five. The question is whether the means to reaching that goal will result in a fair and accessible process for Vermonters. Is the "on the record" appeal giving parties enough time up front to learn what the impacts of a project are, hire the attorney and the experts and raise the money to pay them? What does "on the record" review for ANR permits mean for Act 250 processes? Will there be a kind of mission creep that extends to Act 250? Is—and or should—our permitting process meet the original intent of its authors? Should Deane Davis' intent to "hold Act 250 hearings on the front porch of the general store" be honored today? And if not, then why?

I ask these questions because through my work I have learned to appreciate the value of the original intentions of the authors of our planning and regulatory policies. As an Act 250 Environmental Board Member for 9 years and Environmental Board Chair for 4 years, as an expert witness for parties in the permit process and as a landscape architect designing and planning projects for applicants—and more recently as an advocate for the planning and regulatory process and its integrity for the 14 years that I served as the Executive Director of

VNRC—I have seen first hand how we've chipped away much of the brilliance of the original work.

I can tell you that the Green Mountain State comes by its reputation for having a culture of conservation with a strong participatory democracy, honestly. And we should be very careful to protect that tradition as we try to improve the regulatory process.

The unexpected and chaotic growth of the 1960s led then Governor Phil Hoff to create the Central Planning Office—one of the first in the nation—to organize state, regional and local efforts to manage growth.

By 1969 Governor Deane Davis' response to the rampant growth brought on by the arrival of the Interstate was to convene a think tank known as the Gibb Commission on Growth. It outlined the framework for Act 250.

While Act 250 was the envy and wonder of the nation, providing for planning based comprehensive criteria with a highly accessible process for citizens, it wasn't long before the amendments started to surface.

Over the decades, we have seen minor and sometimes major tinkering with environmental regulation, planning and zoning law, Act 250 and more, that has resulted in a less citizen friendly process. Since the passage of Act 250, there has not been a comprehensive look at the individual roles of the players in the whole system of land use and energy planning and permitting in Vermont.

I'd like to see that change.

In addition to the piecemeal and uncoordinated amendments, a great deal of tinkering with these regulations and much "fixing what ain't broke", there has been huge change in the world. Climate change was not on the radar screen 50 years ago and we didn't link energy with environmental or land use issues.

Today, we cannot escape the fact that any environmental or land use issue in the foreseeable future must be addressed in the context of how we power our lives. We have statewide goals to build a renewable energy portfolio that satisfies 90

percent of our clean energy needs by 2050. That means ramping up on efficiency and conservation in a big way. And it also means responding to the land use and environmental implications of distributed energy generation—solar, wind, geothermal and hydro—that we will soon rely on as primary sources of energy to power our homes, workplaces, schools and vehicles.

The hotly debated siting challenges associated with these facilities, including the fairness of citizens' access in the process, must be addressed soon, so that we can meet our energy goals while at the same time honor the longstanding policies and regulation that protect citizen access and our natural and cultural resources.

It seems strikingly obvious that it is time to take a comprehensive look at the interrelationship between energy and environmental policies and how Vermont's land use regulatory framework can better serve these policies.

May I humbly suggest that this committee, in this legislative session, take the lead by creating a 21st century version of the Gibb Commission, taking the time to look at the big picture, while improving the effectiveness, efficiency and coordination of the planning and regulatory processes in Vermont. This might just be the best way to get us all on board and focused on protecting our natural and cultural resources while meeting our clean energy needs in a challenging age of change.

As the Gubernatorial campaign gets underway, we have an opportunity to thoughtfully address these challenges just as our visionary leaders did 45 years ago. To paraphrase the President in his State of the State address last night: This is Vermont! We should be making it easier for citizens to participate, not more difficult! Let's not squander this opportunity.

Thank you for listening.