

Testimony of Jaimesen Heins, Town of Shelburne Planning Commission
January 20, 2016

Good morning and thank you for this opportunity to testify. My name is Jaimesen Heins. I am here on behalf of the Town of Shelburne and serve as the Vice Chair of the Shelburne Planning Commission. My focus today will be on the Section 248 process specifically as it relates to solar energy facility siting applications as this is an area we've spent considerable time on as a Town and as a Planning Commission. From the Town's perspective, we see many parallels between our real world experience in the Section 248a telecom facility siting process and what many Shelburne residents perceive as an oncoming tsunami of future solar and wind facility siting applications that may have negative impacts on Shelburne's character, quality of life and reputation as a leading tourism destination in the State thanks in large part to Shelburne Farms and the Shelburne Museum.

I mention Section 248a since we recently lived through and experienced first-hand the imbalance of bargaining power between the Public Service Board as an institution and the citizens of Shelburne. Despite Herculean efforts on the part of a resident named Hope Johnson to have a voice in the siting process for a 75' cell tower adjacent to her property on a private road near the Shelburne Municipal Airport, it became clear to everyone on the Planning Commission that the decks are stacked against the average citizen in the Public Service Board process. While I recognize and appreciate that telecom siting is beyond the scope of today's hearing, we see many parallels and similarities with the Section 248 energy siting process. Based on our experience, it's become clear that it's time to rethink and restructure the Section 248 PSB process to allow Vermonters and municipalities to have a more meaningful voice in the energy siting process.

To be clear, Shelburne supports the promotion of renewable energy goals and the consequent shift away from fossil fuel dependence. Shelburne's Town Plan supports energy diversification and we are coming at this issue with a proactive mindset and a willingness to "do our part" to further the State's Comprehensive Energy Plan goals within reason. According to recent data provided by the Vermont Sustainable Jobs Fund, in Shelburne alone there are close to 70 solar energy installations and more than 2,700 kW of solar generating capacity.

It should come as no surprise that neighboring towns are seeing their aesthetics, sense of place and quality of life greatly diminished by the installation of community and utility scale ground mounted solar energy generation facilities in scenic view corridors, recreational byways and ridgelines. One only needs to drive south on Route 7 into Addison County to experience the pressures on open space and to see how our historic land use patterns are being disrupted by both community and utility scale ground mounted solar generation facilities. Preservation of Shelburne's scenic viewscapes and open space ethos are critical attributes for the Town to continue to defend, especially in light of Gov. Shumlin's recent statement that the number of solar installations in VT will double in 2016. While the minimum setback requirements and screening standards enacted in Act 56 were a step in the right direction, the Town's view is that there's more work to be done. Providing for PSB hearings to be held in affected municipalities and mandating that PSB decisions address each local recommendation and land conservation measure in adopted municipal plans are two straightforward recommendations that in our view can and should be implemented this session.

Enhanced local engagement in the PSB's CPG process will allow municipalities to more proactively site solar and wind installations. By way of example, we are actively discussing creation of a new map for Shelburne's Comprehensive Plan to designate "preferred locations" for future telecommunications towers and solar energy generation facilities. We are on the verge of enacting a Solar Energy Generation Facility Siting Ordinance and thank our friends in Rutland Town for their forward-thinking and pioneering efforts in this regard. However, we want to ensure that these efforts aren't all for naught. Without more concrete guidance as to what "clear written community standards" are and revisiting what it means to give "substantial deference" to municipal considerations in the Section 248 permitting process, we will be left with the status quo which has resulted in an adversarial, contentious, costly process that hasn't optimized outcomes for locating energy generation facilities and that has ignored local land use goals and objectives. Having experienced the PSB's recent definition review public hearing process for certain Section 248a standards which included revisiting the definition of "substantial deference," it became evident that there is a

clear conflict of interest with the process of asking a quasi-judicial agency to write its substantive standards of interpretation. Working with VLCT, Shelburne Planning Commissioners spent meeting time and personal time providing input and recommended changes to these key definitions as part of the PSB's public hearing process. Many other towns did the same only to see our suggested changes ignored without any explanation as to why our proposed standards were rejected. The Legislature needs to assert itself and revisit these critically important PSB standards and further ensure that the "*Quechee* test" isn't being watered down or otherwise reinterpreted by the PSB as these are Vermont Supreme Court precedents that only that body should be asked to reinterpret if and when that time comes. The recent *Cold River Road* decision is a case study in how the applicable standards can be interpreted to suit the PSB's will despite a community's best efforts to thoughtfully engage in the CPG process. As a State we can and must do better. We ask that the Legislature live up to its charge as the representatives of the citizens and restore a semblance of balance to the energy siting process.

Thank you.

Jaimesen Heins
Vice Chair, Shelburne Planning Commission