

Act 250 Rutland Public Forum

Commission Debrief

Franklin Conference Center

September 5, 2018

6:00 PM – 8:00 PM

Rep. Amy Sheldon, Chair

Sen. Christopher A. Pearson, Vice Chair

Sen. Brian Campion

Rep. David L. Deen

Rep. Paul Lefebvre

Sen. Dick McCormack

FACILITATOR WORKSHEET

STATEWIDE PERSPECTIVE

- Settlement patterns make the community
- Act 250 has views by people that are either pro-environment or pro-building
- Ecosystem Protection is already addressed – not another act to complicate Act 250
- Not enough people to handle the Act 250 process
- Looking for support – Act 250 doesn't always handle the situation
- Protecting property rights
- Permitting overlap – local versus statewide growth plans
- Limited to no jobs, growth in central and southern Vermont
- Ambulance services have been cancelled due to lack of funding – Vermont cannot sustain economic development practices
- Act 250 Property – What happens when the project impacts historic sites? – Grandfathering for Act 250 properties?
- Projects are being brought to Act 250, but there is no follow-up
- Currently not clear whether Act 2450 applies to a given recreation trail
- Legislative jurisdiction can be problematic
- Incentivize review of elderly housing; concentrate in one living area; related to settlement patterns
- Economic Development – “The plans are in place; someone has to take the bull by the horn and get it done”
- Use of prime agricultural soils for solar development – no similar requirements to PUC
- Logging permit? Keep it local because Act 250 does not recognize it

STATEWIDE PERSPECTIVE + CLIMATE CHANGE

- Need a *Comprehensive Plan* to enforce the process (no one is in charge)
- Economics of Vermont is based on vacationing – not concerned about in-migration
- *Efficiency Vermont* should take lead on projects that are designed for the climate
- There are less bike paths on new roads – biking can decrease carbon emissions; however off-road biking can be dangerous
- Vermont doesn't need to solve everyone else's problems
- Continued concern about adding multiple layers of regulation
- Federal requirements VIZ bridges for snowmobile/bike trails since Irene: it appears as if other agencies may use Act 250 to block projects
- More places to plug in cars
- Tax incentives to shift farming from animals to produce farming
- We are a small state and our impact on climate change is small

STATEWIDE PERSPECTIVE + INFRASTRUCTURE

- Animal habitats being disrupted by economic development
- Need animal corridors across roads
- Trail re-routes for snowmobiling – too much red tape?

- Electric generation should be covered by Act 250
- Culverts on property (high-speed waterways) that were placed by the highway department, has led to gravel in their pastures – There needs to be training for water processes
- Roadways where towns are converted is a town issue, however Select Boards should be more aware of these changes and how they impact the community plan
- Pittsford's annual budget – 65% of the budget is for roadways and <1% of the budget is for planning
- Problem with multiple layers of review – local, Act 250, ANR
- Solar should be on existing rooftops, not filling up open land
- Critical erosion of town (dirt) roads; training is needed
- Electric grid – Act 250 should have a say

IMPACT PERSPECTIVE

- Exemptions for Public Utility Commission projects is bad
- It's hard to know if you have ridge permits (Act 250 as well as others needed)
- Act 250 should provide a lawyer or ombudsmen to help with the citizen process
- Permitting and appeals should be timely
- Where does the town plan start and end?
- We need to get rid of DENOVO
- Exemptions of agriculture and forestry should stay exempt (Vermont Farm Bureau)
- Appeals Process – Could not finish Act 250 at the District level until they received the Agency of Natural Resources Board and DEC permits
- Act 250 process should continue to move forward without the need for district permits (the Environmental Court is comprised of two people and has to look at all legislation)
- Solar development should move from Section 248 to Act 250
- Sometimes grant of party status is too easy
- Difficulty getting party status on projects not covered by Act 250; failure to provide temporary replacement for District Coordinator when she was out for 8 weeks (not enough staff)
- Go back to when citizens had a real voice; Environmental Court conducts de novo hearings
- Has Rutland County public policy request to change Act 250 been read?
- More attention needs to be paid to everyone's individual application
- There needs to be consistency between coordinators across the state

GENERAL COMMENTS

- The concept of Act 250 is great, but there need to be follow through
- Act 250 needs to rely on town plans – People who appeal are in it for the money
- Town government needs to designate Act 250 process
- *Towns should be able to enforce some state laws* – Select people
- Act 250 is a gift from Governor Deane Davis, but it has not done what it's supposed to
- We're "exporting our children"
- Act 250 should have continued to be a citizen-based process
- Depending on the business "there is not equal treatment of the law"
- Too many people are involved, but no one is accountable (spoken from longtime Chicago residents)

- Every town has their own bylaws
- There should be a punishment for serial offenders
- De novo is challenged by timeliness – Abutter did not appeal until the Environmental Court received the case/report
- Act 250 needs to be responsive to the public – There need to be a process at the lower levels
- Why doesn't Act 250 have jurisdiction over the Select Boards?
- Quarries are not controlled – exempted from Act 250, denying citizens a course of action
- Appeal process should be improved so that all presented to District Commission remains valid, is accessible to citizens going forward with an appeal as those are “de novo” and discourage citizen participation. Citizen funding should be available.
- There will always be a place for Act 250. The towns do not have the expertise, money, or the will to protect the environment.

NOTE CARDS

- 1) “Be fair and evenhanded to all applicants. Equal before the law is still a goal to be sought.”
- 2) “How are all the stats for permitting broken down by district?”
- 3) “How will the state improve enforcement? What happens where there are admitted/proven violations of Act 250 Permit conditions? Repercussions?”
- 4) “What are the numbers on what Vermont did for the state versus what it cost?”

INDIVIDUAL PREFERENCES SHEETS

Written comments & those who would like to be contacted:

Written Comments:

- 1) “Root cause issues me with ANR inconsistencies/ Act 250 process fair and smooth. One person’s party status with funding as opposition is Achilles heel.”
- 2) “Remove all criteria for which an ANR permit is needed.”
- 3) “Act 250 is still too subjective and labor intensive – needs to be more consistent across the state.”
- 4) “Act 148 mandates universal recycling and compost, but Act 250 need to restrict less compost facilities. Compost should be regulated by DEC only – not Act 250.”
- 5) “Less regulations.”
- 6) “Think more of small towns not just shire towns.”
- 7) “The question cards seemed to support more regulation; there should be less. The application should be simplified and less expensive, especially for small projects.”
- 8) “Act 250 needs less oversight ANR/VTRANS/Municipal should be dispositive (criteria 1-5). I have been consulting on Act 250 since 1975, I’m a civil engineer.”
- 9) “Electronic applications are a positive step, need to be more predictive as a process.”
- 10) “Keep things local, look at power infrastructure.”
- 11) “Regarding question 3, already is administered regionally.”
- 12) “Efficiency VT and small windmill manufacturing in E. Dorset, ect. Are already doing this without government. However, Act 250 needs to be administered fairly and evenly for all.”

- 13) "The process should have one stop shopping for the natural and cultural resource data, such as, a more comprehensive ANR Natural Resource Atlas. While one of projects create jobs for environmental professionals, it is complicated and inefficient to execute the assessments independent of each other."
- 14) "Act 250 needs to be reduced. It is restrictive for Vermont's future in jobs. Regulations are choking our economic future."
- 15) "Application process should be more streamlined and timely. Permits should be cost reasonable."
- 16) "Regarding question 4, I believe citizens already have opportunities to engage."
- 17) "The process must be streamlined to work effectively."
- 18) "We need more evenly applied and streamlined systems."
- 19) "District commissions should have one publicly elected position – exemption loopholes need to be closed particularly when it comes to forming and public utilizes."

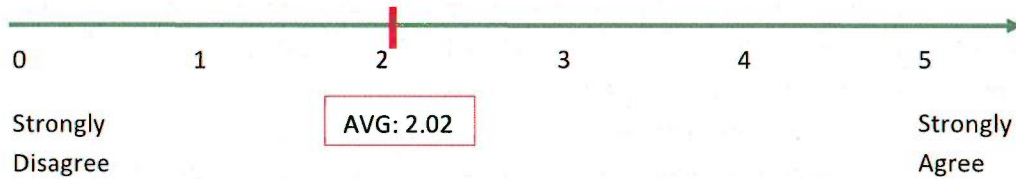
Those Who **Would Like to Be Contacted:**

- 1) "It sounds like the biggest problems are rigging details for relatively small business owners. Takes way too long and too much money to resolve problems. Need much more individualization. Not fair that I homeowners can hold up part of a permit when others in neighborhoods don't object as long as vote major departure. Could you do case studies of businesses that tried to start here, left because of cumbersome Act 250 process and where the eventually went and how well they faired? Need more info on national and European approaches."
 - Ann Vanneman [REDACTED]
- 2) "We need to get back to the basics and make it easier for business to go through the obstacles. We need more common sense."
 - Roy Arthur [REDACTED]
- 3) "Streamline process. Simplify criteria statewide."
 - Jerry Hansen [REDACTED]
- 4) "Act 250 needs to be overhauled and should be at a local level only."
 - David Fuler [REDACTED]
- 5) "Less restriction is needed – not more regulations. Regarding question 4, if systems would work better it wouldn't need more input from citizens."
 - Bill Ackerman [REDACTED]
- 6) "Large scale solar development should not be exempt from Act 250."
 - Kasia Karazim [REDACTED]

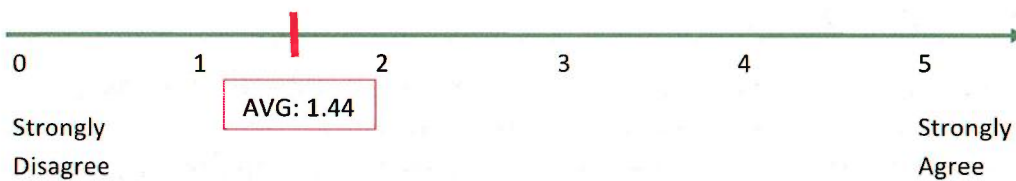
QUESTION RESPONSES

Average score for each category, as compiled from all individual preferences sheets.

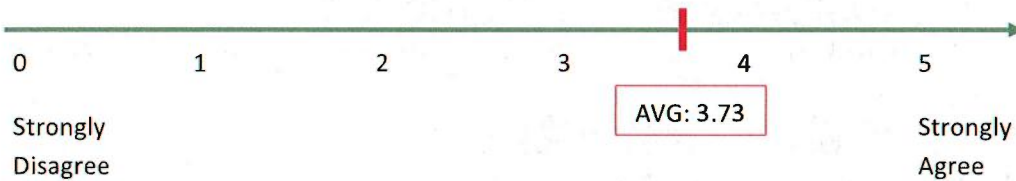
1. I want Act 250 to be updated and strengthened to be responsive to climate change data:



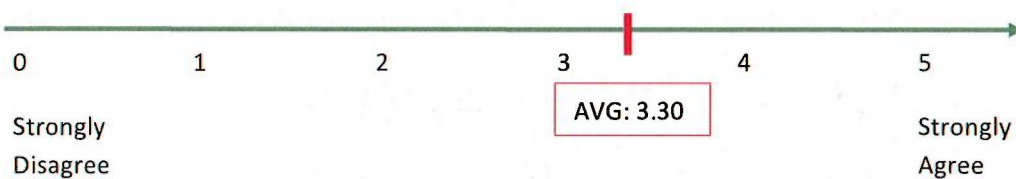
2. I want Act 250 to be expanded to include more types of permit applications:



3. I want Act 250 to be managed regionally, rather than be a statewide process:



4. I want to understand and be able to engage more in Act 250 as a community member:



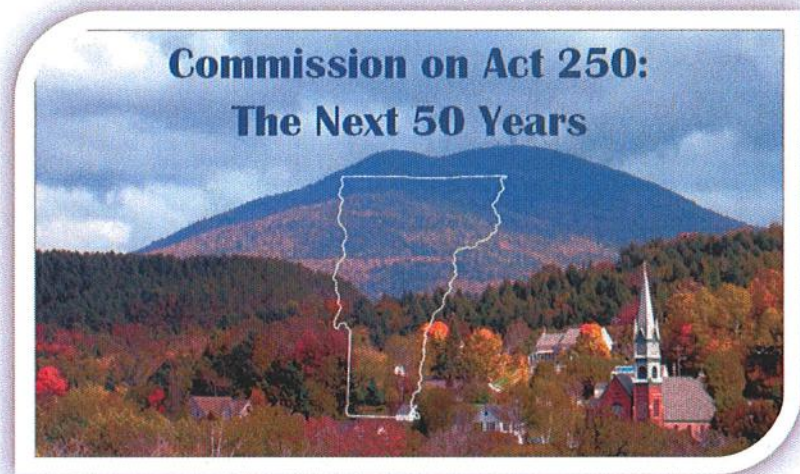
PROPOSED BIG DEAL™ CARDS

STATEWIDE:

- *Administration of the Program*
- *The Process*

IMPACT:

- *Enforcement*
 - Violation of conditions of Act 250 permit
 - Who enforces?
 - Penalties for violations
- *Administration*
 - Political Influence



Act 250 Burlington Public Forum

Commission Debrief

Burlington Elks Lodge

September 11, 2018

6:00 PM – 8:00 PM

Rep. Amy Sheldon, Chair

Sen. Christopher A. Pearson, Vice Chair

Sen. Brian Campion

Rep. David L. Deen

Rep. Paul Lefebvre

Sen. Dick McCormack

FACILITATOR WORKSHEET

STATEWIDE PERSPECTIVE

- The “original purpose” of Act 250 is Ecosystem Protection – if this happens, all the others will follow
- The most important part of “Ecosystem Protection is “System”
- Compact development is key but can be restrictive to those who have farm animals
- If we lose our natural beauty, we will lose a lot of other things. But dense populations can also be a problem.
- Scenic and natural beauty and settlement patterns go together as compact communities’ help preserve the environment and the natural beauty, but the natural beauty is key to Vermont’s aesthetic
- All the language needs to be rewritten and updated
- Agriculture needs to be tailored to different parts of the state
- NO SPRAWL
- Criteria should be stressed differently depending on the different type of projects. Ecosystems not as important in OT’s and villages
- Our ecosystem gives Vermont its value
- There are redundancies at the local, regional, and state levels
- Ecosystem impact was not initially prioritized 50yrs ago, but it should be now

STATEWIDE PERSPECTIVE + CLIMATE CHANGE

- Will in-migration create more jobs? Climate change could bring more businesses to Vermont
- Concern that in-migration will change the social culture and the demographics too much by driving prices up – settlement patterns can help mitigate this; cities near Burlington will need to accept more density (surrounding communities) to help protect natural resources
- Climate change should be incorporated into all the criteria and perhaps added as a criterion
- More food production if more farmers move here
- Discussing climate change should not be an independent process
- Most town plans have settlement plans
- Settlement patterns is the best way to respond and be resilient to climate change
- Ski industry challenge? Adapting to 4 season model. But also, need to diversify economy as a whole – so have more than just skiing
- Hurt ourselves by requiring things here that aren’t being required elsewhere. Focus more on resilience.

STATEWIDE PERSPECTIVE + INFRASTRUCTURE

- If infrastructure is done poorly, it will negatively impact the economic development and ecosystem protection
- Infrastructure will only be located in areas with existing settlement patterns
- How does wind impact scenic and natural beauty and ecosystems?
- Infrastructure is harming the scenic beauty (ex. developments in South Burlington)
- Aging infrastructure = huge crisis point
- Hard constructed traditional infrastructure of water/sewer/roads is a large concern
- Smart growth is the best way to take advantage of existing infrastructure
- Reduce fossil fuels to bring people to new places

IMPACT PERSPECTIVE

- Need more outreach and education to general public about the law
- Keep access and voice as it currently stands
- Permitting and Appeals – Because of effectiveness of enforcement. Courts are creating poor precedent. Should review decision, judge didn't understand science
- Should be fewer exemptions or departments that have jurisdiction. Should work with Act 250 criteria
- Needs to be rigorous process and court needs to have an expert in this field
- Continued jurisdiction on downtown areas and municipal centers is key to impartial judgement and development considerations
- One concern is that if we focus on one thing more than another, something will suffer. We should look at it from a systems perspective, as a whole.
- Concern about non-regulation of farmers re: runoff
- Amendments: Need to be very specific and only if the activity would require an Act 250 permit
 - Local could approve of out-rank Act 250 amendments
- Exemption for planning for a designated center
- Municipalities don't have capacity to participate
- Should have different tracts depending on the what and where
- Exemptions should only be those that provide public benefit
- There needs to be more transparency with exemptions from Act 250
- In the past permitting was heard by a panel and now it is heard by a judge
- There are three districts to one coordinator – Montpelier is concerned about it being too busy
- When Act 250 was started, there were not as many boards involved
- ANR technical expertise maybe should trump Act 250

- The legislators should focus on “access and voice, permitting and appeals, and jurisdiction,” because exemptions already get a lot of attention in the legislation
- ANR and VTRANS permits should be following the same process as Act 250
- Appellant in Albany, NY needs to appeal to the town not the applicant
 - Zoning law is at the local level, not the State, so appeals should only happen at the local level.
- Hannaford decision – Number of different appeals and needing to change all other specific permits throughout the appeals. And two different jurisdictions regulating the same thing (ANR and municipality SW regulations) And Act 250 not entirely following the same ANR regulations
- Want more regulating of on-farm composting
- “If you limit the amount of participation to an Act 250 review then you’re limiting those affected to accessing their voice.” – Larry Forcier (Retired Ecologist)

GENERAL COMMENTS

- Act 250 needs to be empowered to do more – it can help with an honest evaluation of projects, without political options attached
- Would like to see more conditions in permits holding appliers to their word
- In the reimagining of Act 250 – is there a way to include a public good component?

INDIVIDUAL PREFERENCES SHEETS

Written comments & those who would like to be contacted:

Written Comments:

- 1) “Boundaries should not determine how Act 250 is managed – the area of impact should determine how it is reviewed. Statewide Impact = statewide review. Local input more local review.”
- 2) “Please protect our groundwater.”
- 3) “Speed of the process is not a substitute for fairness. Streamline – don’t eliminate participation.”
- 4) “Inheritably difficult balance. Humans are a part of the environment and inspired regulation of humans – in harmony with their planet – it’s tough!”
- 5) “I strongly agree that the current exemptions need to be looked at and if the review plans on removing the exemptions than yes, there should be more types of permit applications.”

- 6) "More predictability in process. Shorten review process. Difference should be given to local land use and ANR decisions."
- 7) "Act 250 process should be adjusted to reflect (not duplicate) other permitting and regulatory programs in order to ensure effectiveness and public support."
- 8) "A lot of this discussion depends upon who should make decisions – who addressed these issues today. PVC, ANR, Local, etc."
- 9) "The potential for population surge due to climate change needs addressed. I heard need for state planning vs. regulatory approach as important point to discuss."
- 10) "Consistent state (act 248) review of all development. Should reflect good planning at all levels (local, regional, and state)."
- 11) "Jurisdiction should be based on location – based and local capacity factors."
- 12) "need consistent state review at a board. Needs to connect more with permitting."
- 13) "There needs to be context for what is being considered. Will there be more restrictions, less restrictions, something else? Act 250 should be a true state process when multiple jurisdictions, agencies, or municipalities are involved. Municipalities with local staff and local planning/controls should be exempt."
- 14) "Settlement patterns need to stress consolidated development on cluster development separated by open land, conserved or agricultural."
- 15) "While I think that planning for climate change impacts and developing to avoid climate change impacts is extremely important, I'd rather have any applicable standards apply to all development, rather than just Act 250."
- 16) "Existing Act 250 projects that want to make moderate changes that are approved by local zoning process should not need Act 250 amendments."
- 17) "Update terminology, streamline process of appeals."
- 18) "I want statewide criteria followed equally by the important, district commissions."
- 19) "Give more jurisdiction to NRB board."
- 20) "You have one size fits all development - each county, each town, are all unique and different. You need to change your one size fits all thought process."
- 21) "I would take regional plans but must be okayed by state? Like education, maybe locals should decide. The legislation should be responsive to the evolving environment or we'll ruin Vermont with immigration. We're getting more people – we need to take them in and keep Vermont with settlement patterns as Act 250 envisions, clean environment, good beauty!"

Those Who **Would Like to Be Contacted:**

- 1) "Too much control over businesses and private property. People and businesses leaving the state – less laws – more oversight by real businesses. Reduced tax income."
 - Tonya Nuzza [REDACTED]
- 2) No Comment
 - Ben Avery [REDACTED]
- 3) "Please take trails and outdoor recreation into account with respect to jurisdiction. Trail for human power recreation (hiking, biking, backcountry skiing) are safer for the environment than other forms of recreation and great for VT economic development. Trails build community."
 - Rosy Metcalfe [REDACTED]
- 4) "Look at exemptions – need oversight."
 - Doug Grandt [REDACTED]
- 5) "ANR is abdicating its responsibility to review Federal Army Corps permits to fill. I believe that appeals should be heard by an environmental board – not one judge at E.C.T. ANR is not doing its job to protect Vermont's environment and representing the people of Vermont."
 - Catherine Goldsmith [REDACTED]
- 6) "In all this discussion the cultural part was loudly lacking (historic, prehistoric)."
 - Sarah Van Ryckevorsel [REDACTED]
- 7) No Comment
 - Bruce Post [REDACTED]
- 8) "Looking to enact state aid for public school development support and information for Burlington High School."
 - Clare Wool [REDACTED]
- 9) "As a recent neighbor investing over 100 hours, I have many comments."
 - AJ Ross [REDACTED]
- 10) "Retain regional district environmental commissions with appeals to state. Regional planning is important, but we need to do more statewide planning as was anticipated in the 1970's."
 - Beth Humstone [REDACTED]
- 11) "Criteria should address climate change, such as windfarms and solar farms. Keep district commission process, use EB for appeals. Important for private citizens to materially engage in projects that affect their community."
 - [REDACTED]
- 12) "Enforcement discussions was missing. What is the statewide development plan? Is there a vision for Vermont? Act 250 does not seem to address state sustainable limits. Check betternotbiggervt.org for a sustainability report."
 - Wolfger Schneider [REDACTED]

13) "I like the district office approach but we need to protect the entire state. Act 250 permit process is so much fairer than our local permitting process. I fully support and applaud Act 250's work."

- Barbara Headrick [REDACTED]

14) No Comment

- John Killacky [REDACTED]

15) No Comment

- Zachary Mayo [REDACTED]

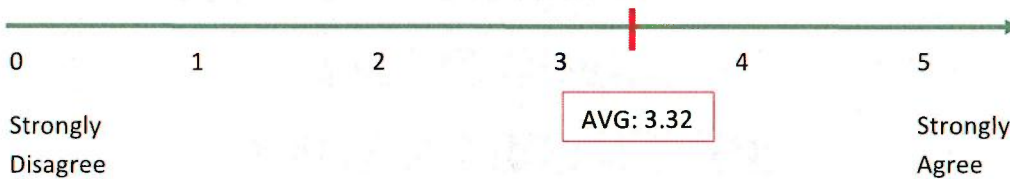
16) "Act 250 is draining the state of jobs, the young are leaving and the old are too. We need more business and jobs and population to be sustainable in the future."

- Greg Tatro [REDACTED]

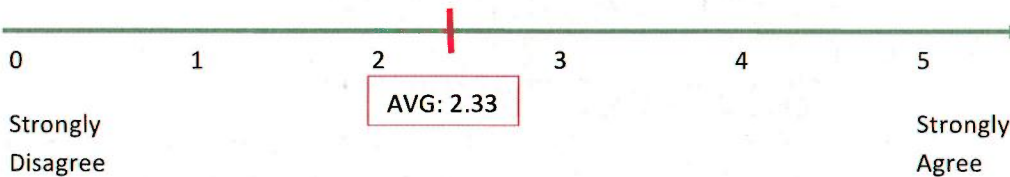
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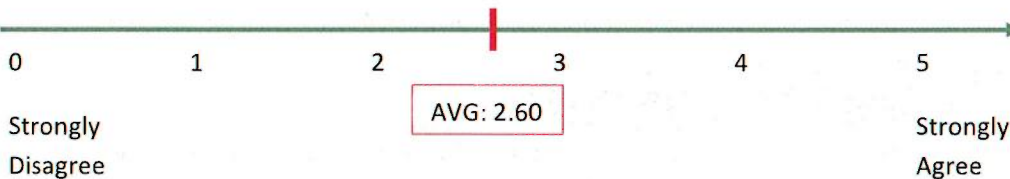
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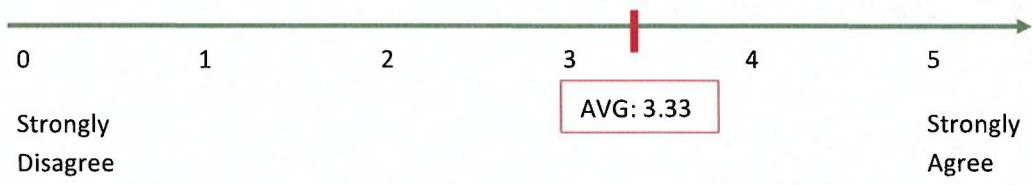
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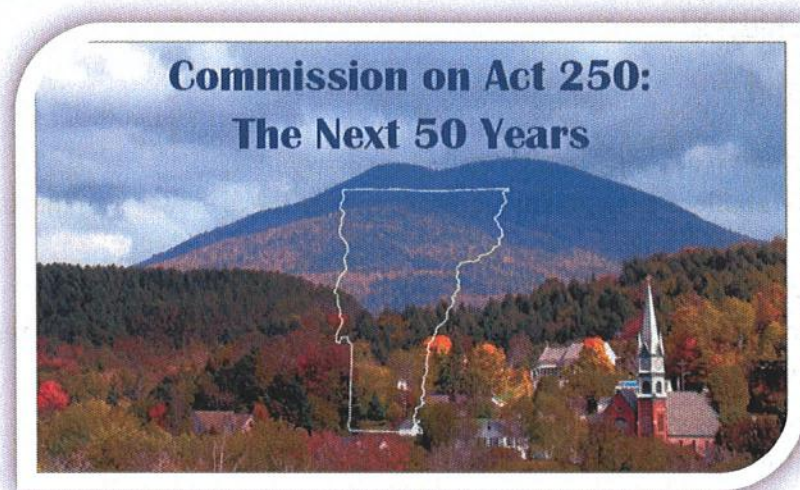
PROPOSED BIG DEAL™ CARDS

STATEWIDE:

- *Local Capacity as The Basis for Jurisdiction*
- *Cultural and Historic Resources*

IMPACT:

- *Oversight Committee*
 - Individuals who are experts in the specific type of project
- *Act 250*
 - What's important to reform?



Act 250 Island Pond Public Forum

Commission Debrief

American Legion at Island Pond

August 22, 2018

6:00 PM – 8:00 PM

Rep. Amy Sheldon, Chair

Sen. Christopher A. Pearson, Vice Chair

Sen. Brian Campion

Rep. David L. Deen

Rep. Paul Lefebvre

Sen. Dick McCormack

FACILITATOR WORKSHEET

STATEWIDE PERSPECTIVE

- Protect ecosystems from harm due to recreation activities
- Recreation offers a place to enjoy the Vermont wildlife while stewarding the land; provides economic development
- Ecosystem protection needs strengthened enforcement
- Economic development is meaningful and is a part of the livelihood for rural regions
- “We live here we aren’t going to ruin our own land.”
- Trails and forests exist with economic development
- Base this on a traditional Vermont working landscape
- See Act 250 through the lens of recreational use
- GET RID OF ACT 250
- Landscape artists don’t know what beauty is, nature is number one
- Cost of going through Act 250 is harmful to small business owners
- State says the number one focus is on tourism i.e. Economic Development
- Ecosystem protection is above all (a bedrock, but shouldn’t restrict
- Economic Development needs to be at the NEK scale, not large multinationals (out of state)
- Sugaring added to forestry & removed from agriculture
- Scenic & natural beauty is necessary for the progression of economic development
- Economic development leads to the development of trails
- Protecting the ecosystem can be related to Agriculture and settlement patterns
- Trails aren’t everything
- “Without water quality, air, and wild life, we have nothing! Protect these things! This is from a many generation Vermonter.”

STATEWIDE PERSPECTIVE + CLIMATE CHANGE

- Ecosystem protection prevents urbanization
- Climate change will improve agricultural & forest productivity
 - EPA (federal) is supposed to manage climate change
- Agricultural & forest productivity has very important implications (carbon storage, mitigation)
- There is an increased demand for viable public transport, less sprawl
- Engineers are having issues with renewable energy
- Energy/large-scale utility projects should go through 250!!
- Multiple projects on same Act 250 land
- Should consider whether if a permit is not granted and project is not allowed, climate could get worse
- Climate change will not impact the discussion
- Classification of the whole system, results in the effects of climate change

STATEWIDE PERSPECTIVE + INFRASTRUCTURE

- Discussion centered around ANR permits and regulations
- As rural towns grow, how do they keep up their infrastructure (roads/parking)
- Same number of residents, more tourists
- Infrastructure is a subset of all Statewide Cards
- If all criteria are dealt with property, beauty should be okay
 - Aesthetics shouldn't be in rankings
- Small-scale infrastructure, NEK scale development of (NEK should not become BTV)
- Infrastructure is a side effect and/or result of economic development
- Highways are going to impact the settlement patterns
- New infrastructure projects and or upgrades should consider ecosystem functions i.e. water quality and wildlife habitat
 - Invasive species = disruptor

IMPACT PERSPECTIVE

- It is fine for the PUC to regulate electric generation/transmission, but the land use/ citing decision should be governed by Act 250, not Section 248
- Sweet trees should not be exempt; the scale has changed
- Access is not equal across the state, there are different priorities here
- The permitting and appeals process needs to be more efficient, less paperwork
- Don't have the time/money/lawyers to take on Act 250
- Electric generation should not be exempt
- Logging above 2500ft should not be permitted
- Very important that trials do not start inserting Act 250
 - No wind turbines
- Energy should move from 248 to 850 & add trails as an exemption
- Some suggestion to raise 2500 feet to 3000 (because it would free up all of his acreage)
- Enforcement card – follow up is needed and when something in Act 250 is triggered the state does not follow up
- Expensive for the public to be involved in Act 250
- Intimidating process for applicants; have to hire experts
- Jurisdiction can be confusing, don't know who you need to go to
- Town involvement, is it worth it?
- Consider distance of commuting to your local Act 250 district headquarters
- There should be some consistency between jurisdiction

GENERAL COMMENTS

- ANRs wetland designation is a concern
- Lack of enforcement also a concern
- Scale of maple operation is too big to be exempt
- Same priorities depend on stage of life i.e. retired versus early career

- Trials are the #1 priority
- Biggest concerns are how changes to Act 250 will harm the natural ecosystem
- Act 250 processing slow and costly
- Utilities shouldn't be exempt
- Beauty stands apart from others
- Protect ridgelines
- Move sugaring from agriculture to forestry
- Economic development should be created in the appropriate scale
- Question on process cards as to whether jurisdiction & exemption should really be on the same card
- We need a process that is simple, timely, and less costly for the average citizen
- Love the idea of Act 250 and the general mission is great
- Need something for towns with no zoning options
- Ecosystem Protection – Do not agree with the question should Vermont create an Ecosystem Protection Plan to complement Act 250?
- Land protection should consider negative economic impact of reduced tax revenue (exp. w/ non-profits). Perhaps develop PILOT method in non-profit/tax exempt organization. Distributes burden on local tax payer = not good
 - Tax revenue is essential for supporting community development and local resources
- The Commission should read the 236-page report dated January 14, 2017 from the VT Bar Association, young lawyer division (Title) Act 250 THE GOOD, BAD, UGLY
- Industrial sugaring should NOT be Act 250 exempt as an agricultural use
- "Economic Development" sounds to me like industrial wind development Bill Stenger & Ariel Quiros EB5 scams promising jobs but extracting and exploiting the natural world and the residents of Vermont for their profits. It is always top down."
- "What is needed is meaningful livelihood. Meaningful work that connects us to the land and others in our communities. Not getting all of us on board to be exploiters. I don't want my kids to scrub toilets for Bill Stenger!"
- Natural world has greater importance in NEK
- Can't lose the tax base with Act 250 on trails

NOTE CARDS

- 1) "Is there going to be any specific outdoor recreation forums?"
- 2) "God help us!"
- 3) "We feel the citing of energy projects (wind, solar) needs to be governed by Act 250 as opposed to Section 248."
- 4) "Why not require towns to enact zoning (regulations/laws)?"
- 5) "Why isn't power generating projects NOT under Act 250? They should be! [REDACTED]"
- 6) "Utilities should not be exempt from Act 250."
- 7) "How is Act 250 going to change to eliminate the nasty neighbor veto over rural businesses?"

- 8) "Can the number of times that someone can have impact on the same project be limited?"

INDIVIDUAL PREFERENCES SHEETS

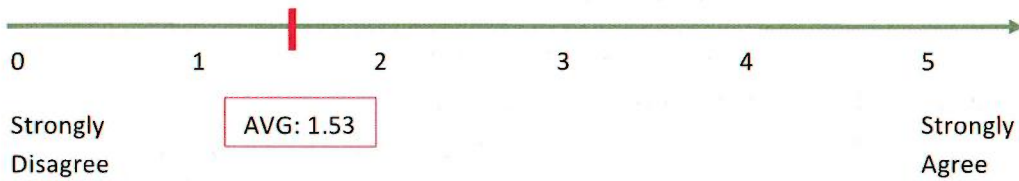
Written comments & those who would like to be contacted:

- 1) "Development needs to be permitted when planned and executed in a manner responsible to the environment. Process needs to be clear & predictable & prompt."
- 2) Promote ridgelines; move energy siting from section 248 to Act 250; NRB is negating the ability of permits to appeal instead of resolving in ways that allows party to go to Environmental Court. Decisions made in district areas should be respected; Cases are being mismanaged by the NRB. NRB needs to be reeled back in.
- 3) "I think that power generation projects, such as wind towers, should come under Act 250." (Giselle Chevallay [REDACTED])
- 4) "Act 250 accepts many mote cases against agricultural & forester's operations than consistent rural economic development." (Bruce Shields [REDACTED])
- 5) "As it stands today Act 250 is too expensive and too complicated." (Susan Hanos [REDACTED])
- 6) "Utilities should be subject primarily under Act 250 – No exemptions for anything over 2500 feet" and "Aesthetics needs to be more clearly defined and not discussed as it sometimes is eliminated as a criterion." (Claire Van Vilet [REDACTED])
- 7) "Act 250 should consider impacts of climate change (rather than climate change reversal or mitigation). Electrical facility citing should be under Act 250. Large scale sugaring should be treated as forcibly and should be required in Act 250.
- 8) "Act 250 has failed the state of Vermont economically, environmentally, and has vastly contributed to the fiscal disaster that we are in." (Tim Hayes [REDACTED])
- 9) "Act 250 needs to be updates for the time. NEK will be out of business if this effects the trails system. We as a family have been here 21 years with our kids to hunt, fish, and snowmobile 4 wheelers." (Ried Stratton [REDACTED])
- 10) "Recreation trails most importantly snowmobile trails should be exempt from Act 250. The snowmobile community has been very good stewards of the system and should be able to continue." (Susan Purdell [REDACTED])
- 11) "Exclude trails or more clarifying language in regards to trails. What is a project – define. Is a project the entire network or the individual trail on the individual private land owners land." (Abby Long |abby@kingdomtrails.org)
- 12) "I want less and or simple regulations. The more complex you make it the harder for volunteers to build and maintain snow mobile and ATV trails. Our economy depends on snowmobile, ATV, and other outdoor recreation trails." (Stacy Roess [REDACTED])
- 13) "Less regulation, we do not need more regulation. Motorized recreation should be encouraged to help our business areas and or economy." (Pete Pedersen [REDACTED])

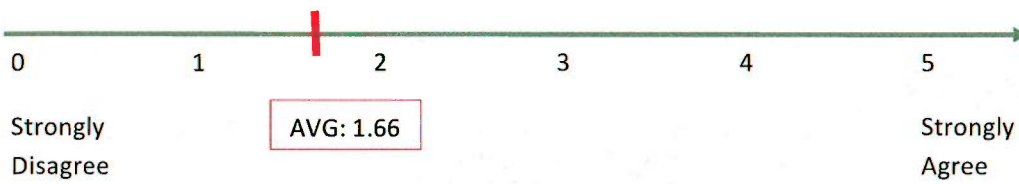
QUESTION RESPONSES

Average score for each category, as compiled from all individual preferences sheets.

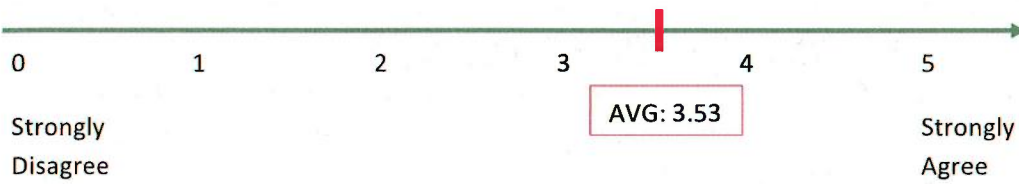
1. I want Act 250 to be updated and strengthened to be responsive to climate change data:



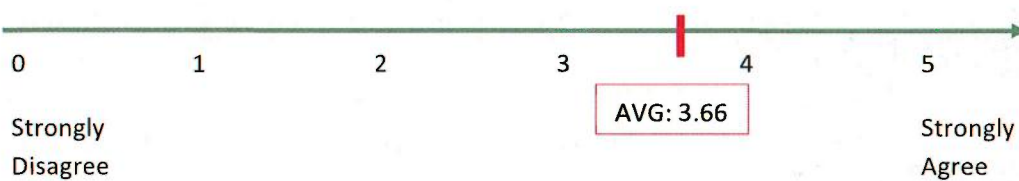
2. I want Act 250 to be expanded to include more types of permit applications:



3. I want Act 250 to be managed regionally, rather than be a statewide process:



4. I want to understand and be able to engage more in Act 250 as a community member:



PROPOSED BIG DEAL™ CARDS

STATEWIDE:

- *Outdoor Recreation*

IMPACT:

- *Enforcement*
 - Activities that should trigger process, but there is no follow up
 - Need to follow through with all large scale and harmful projects

ADDITIONAL COMMENTS

- (1) Add "Protect our ridgelines" under the ten Act 250 criteria.
- (2) Move energy siting from section 240 to Act 250 (siting decisions being subject to Act 250 & restricting Section 248 to project development)
- (3) **Protect agricultural lands:** we are losing our agricultural land base
- (4) **Forest fragmentation** is an issue that deserves attention. Keep forest blocks intact:
- (5) **Improve public participation:** at Act 250 hearings & the PUC, everything begins as a contested case. In order to participate meaningfully, you need to have experts & at the PUC you need a lawyer. District coordinators could facilitate informal discussions prior to contested case litigation. Public participation is almost nonexistent. Approximately 90% of all applications are reviewed w/o public hearings. The majority of applications are being processed as "minors" without strict adherence to relevant statutory and rule provisions.
- (6) **The process is user UNFRIENDLY:** Many Vermonters who request party status before a district commission find a process which has become "user unfriendly". These parties come away feeling that they were not provided a fair hearing and that concerns were not given proper weight or mitigation. We should be using facilitated stakeholder processes at the district commission level
- (7) **ACT 250 should work closely w/municipal & regional planning** to serve a key role in shaping development in Vermont
- (8) **Provide training and resources to District Commissioners** Training of district commissions is without substance. The evaluation of applications requires experiential learning. Given the significant diminishment of commission hearings, commission members have lost the "institutional memory" that ensured quality reviews.
- (9) Cases are being mismanaged by the NRB. The NRB focus is not about the environment, rather its about economic development. District commissions are now told to put their draft decisions up on a drive so that the NRB can edit their decisions. This is previously unheard of interference by the NRB. Once district commission decisions are issued, the NRB is playing "let's make a deal" w/ developers who didn't get their way, & in some cases they are negating the ability of parties to appeal, instead resolving the issues in a way that preempts the ability to go to Env Crt. Recently NRB decided that rather than replace District 5 Coordinator they're going to close Barre office & merge the District 5 cases w/ Chittenden Counties.
- (10) Adopt improved appeals process; The NRB has misused its power as a statutory party to all appeals of Act 250 decisions. Instead of playing an effective role by ensuring strict adherence to precedents, the NRB often casts aside jurisdictional determinations by staff and substantive decisions of the commissions and instead acts as a "fixer" for developers via "settlements".
- (11) **Enforcement of Act 250 is uneven at best.** Actions are brought disproportionately against small scale developers.
- (12) **The number of jurisdictional and district commission decisions that are appealed has dwindled since "permit reform" legislation of 2005.** At the same time, the length of time to process appeals by the Environmental Court has increased substantially when compared with performance statistics for the former Environmental Board. The Court has transformed appeals into extremely expensive and hyper-legalistic proceedings.
- (13) **Act 250 jurisdictional "triggers" have been eroded due to legislative amendments intended to encourage "smart growth" in the "right places".** There has been no assessment of whether these well-intentioned provisions have had the desired effects. The outcome has been a significant decrease in the volume of development and subdivisions now reviewed under Act 250.

Act 250 Online Questions for the Commission:

Act250Comments@leg.state.vt.us

06.25.18 – 06.29.18

WOULD LIKE TO BE CONTACTED: Valerie A. Rooney MD [REDACTED]

"Thank you for soliciting public input.

As one of the Planning Commissioners in Grafton, I have spent quite a bit of time researching and thinking about the issue of protecting our ridgelines. Also, as you probably know, Grafton had lengthy community discussions, followed by a vote, regarding proposed industrial wind installations on our ridgelines. You also probably know that the proposal was voted down overwhelmingly by both Grafton and Windham residents.

Based on the information I reviewed, I am writing to encourage you to protect Vermont ridgelines from similar projects. I am sure you have all read the research about the environmental impacts of these installations, so I will not include the long list of reasons why I am requesting that you recommend that NO MORE of these type of projects be permitted in Vermont."

Thank you.

Sincerely,

Valerie A Rooney MD

Grafton, Vermont

WOULD LIKE TO BE CONTACTED: George T. McNaughton [REDACTED]

I am attaching comments that I delivered upon arrival at the meeting in Springfield. After listening to the discussion, I have the following comments:

1. While there is currently no specific "ecology criterion" the subject is thoroughly beat to death in the other Criterion – given the fact that most of those are redundant with ANR permits – it would be better to either eliminate those criterion, or have the conditions of the ANR permits which govern those criterion set by Act 250. But duplicate regulation is not necessary.
2. Most of the issues for which Act 250 was created could be resolved by simply concentrating on Settlement Patterns and Scenic Beauty – if you concentrate on those two factors the agriculture/forestry production becomes a non-issue, the eco-system incursions become much less, and you don't really interfere with economic development as it is encouraged to be within the developed portions of the community.
3. I am concerned by the comments made at the closing by the Representative. Under no circumstances should we go back to having the appeals heard by a bureaucratic "citizen" board like was the case when the appeals went to Environmental Board. If anyone has any doubt about how badly that worked, they should look at the transcript of the McLean Quarry case in Cavendish.

4. In addition, we should not under any circumstances go to a pre-filed testimony procedure like happens before the PSB – that would be drastically bad for real citizen participation and for small project applicants.
5. Finally, consistent with Vermont traditions, we need to move the majority of the Act 250 decision-making back to the local Town Planning Commissions, with the District Coordinators reporting to the local planning commissions when a Town has a Town Plan, Subdivision Control and Zoning Ordinances – or at the very least those portions of the Towns which are served by municipal water and sewer.” **

Sincerely,

GT McNaughton

Lamb and McNaughton, PC



****Additionally from George T. McNaughton:**

LAW OFFICES OF
Lamb and McNaughton, P.C.

George W. Lamb
George T. McNaughton*
Ethan B. McNaughton**
(*also admitted in Indiana)
(**also admitted in Massachusetts)



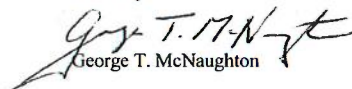
Wednesday, June 27, 2018

Legislative Committee
For Act 250
[Hand Delivered at Public Forum]

Suggested changes:

- 1.) Lands which triggered Act 250 because of lot size before the Town adopted a Town Plan or Zoning and Subdivision Regulations, which would not otherwise be subject to Act 250 Jurisdiction if created or developed today should be released from Act 250 Jurisdiction.
- 2.) There needs to be a new Criterion which requires some form of balancing test between the public good to be accomplished by restrictions, and the cost of compliance.
- 3.) Where CAP has been agreed to and imposed upon a property, its terms apply and Act 250 jurisdiction cannot impose more restrictive restrictions.
- 4.) Act 250 Jurisdiction should not extend to areas within a Town which are served by municipal water and sewer, if the Town has adopted a Town Plan and Zoning and Subdivision regulations.

Sincerely,


George T. McNaughton

ACT 250 SPRINGFIELD FORUM – Comments for the Commission:

06.27.18

Note Cards:

- 1) Forest Productivity – what guiding principles exist to guide development so that the forests regenerate and support biodiversity?
- 2) How do we get staff and commissioners to respond in a timely manner?
- 3) Why does Act 250 not address rural, scattered residential development? It should be strengthened to address forest fragmentation.

Individual Preferences Sheets:

Written Comments:

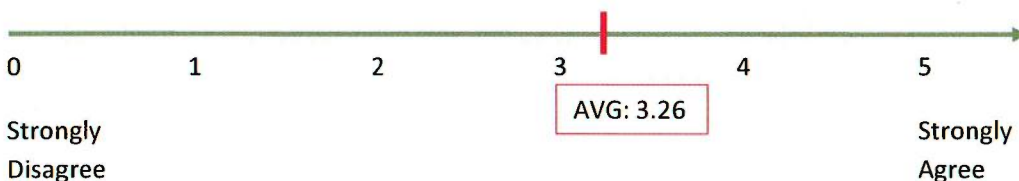
- 1) "More renewable energy generation is important to mitigate climate change"
- 2) "Get rid of de novo! You create a process that is based on discussion, input and hearings, and then in the end you throw all that away in an appeal? Doesn't make sense. Keep context?"
- 3) "Thank you. Act 250 is a necessity for its protection of our state. Future planning given impact of climate change is essential. Forward thinking!"
- 4) "I have practiced engineering 34 years in VT and about 50 Act 250 projects and firmly believe in Act 250 in and the mechanical process works well. Please keep FTP and email submittals as I am [not] computer savvy and fancy software is problematic and not warranted."
- 5) "Ideally [Act 250] should be regional & some consistency + predictability from region to region."
- 6) "Imperative that Act 250 covers electrical facilities and its impact on VT."
- 7) "I am concerned about losing almost 50 years of legal precedent depending upon what changes are made."
- 8) "There is serious lack of support for applicants in the Act 250 process – in fact most Vermonters do not know what it is. The websites have broken links. Enforcement + regulations has greater emphasis than support to folks interested in protecting + building in Vermont."
- 9) "Less focus on aesthetics and more focus on environmental data. And jobs for young people are important. Thank you."
- 10) "I'm not sure you are asking the right questions. This process is too scripted and does not allow for new ideas."
- 11) "Strengthening Act 250 to better protect Vermont's natural resources is critical – increase jurisdiction to address forest fragmentation."

Written Comments & Would Like To Be Contacted:

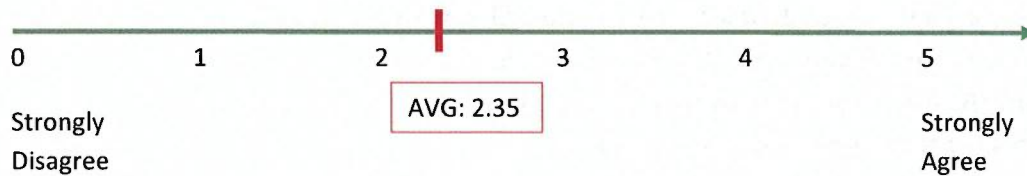
- 1) "I would like to see more participation from the general populace – perhaps a VT PBS program or series of programs to explain why Act 250 has evolved, how it's been applied & how it can protect VT in the future."
 - Julia Lloyd Wright [REDACTED]
- 2) "I have already discussed my views on the on-line questionnaire. No one followed up. I elaborated and was explicit."
 - Daniel Kornguth [REDACTED]
- 3) (No Comment)
 - Hannah Dean [REDACTED]
- 4) "ANR science is influenced by politics, such as wetland science in regard to renewable energy versus building – ski area development"
 - Justin Lindholm [REDACTED]
- 5) "Better coordination on solar (PV) and power generation between section 248 & Act 250."
 - Robert Kischko [REDACTED]
- 6) "I find the Act 250 process, despite focused research + involvement in 3 orgs subject to Act 250, it has remained opaque + confusing. Inconsistent across state due to District Coordinators influence. Furthermore, I'm distressed, as a farmer that farm activities that can supplement unpredictable crop income can be subject to Act 250 while 500,000 tap "sugarbush" remains largely unregulated. Of course tubing over dozens of acres is going to have impacts on wildlife and water...Party status cannot be changed over time. One finicky voice can continue to find problems & change concerns years after their initial concern, which dictated "party status" have been resolved."
 - Chris Olsen [REDACTED]
- 7) "Expansion for energy projects – Yes. No other expansion [to include more types of permit applications."
 - Coatte Marton [REDACTED]

Average score for each category, as compiled from all individual preferences sheets.

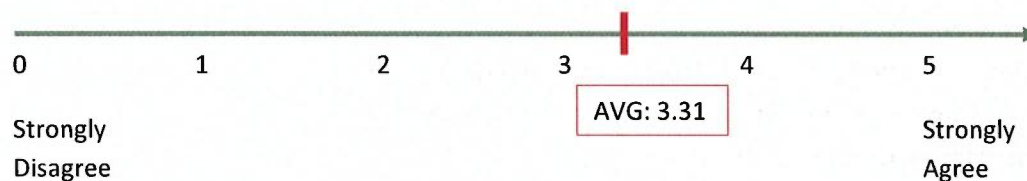
1. I want Act 250 to be updated and strengthened to be responsive to climate change data:



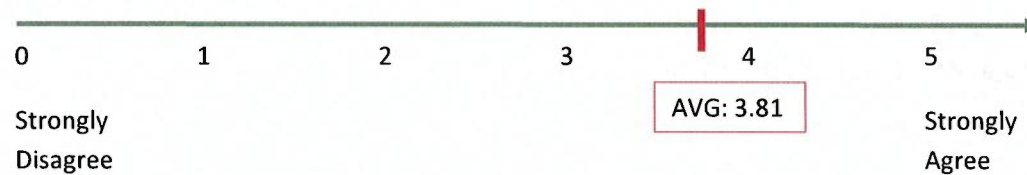
2. I want Act 250 to be expanded to include more types of permit applications:



3. I want Act 250 to be managed regionally, rather than be a statewide process:



4. I want to understand and be able to engage more in Act 250 as a community member:



Facilitator's Packets:

General Comments from Participants:

- 1) *Renewable Energy Generation* should become DISRUPTOR and *Climate Change* should become STATEWIDE (Purple Card)
 - a. "All are worried about climate change."
 - b. "Been dealing with climate change all along."
 - c. Solar on existing structure, not land (renewables)
- 2) "Overall, we saw food moving up in importance [with the addition of climate change], as well as ecosystem protection."
- 3) "Electric generation should NOT be on Act 250."
- 4) "Settlement patterns – nice theoretical, but a challenge in rural areas."
 - a. Would like to see a more "holistic approach"
- 5) Maintain the existing infrastructure

- 6) "Not dealing with infrastructure as a state."
 - a. "Could not get permit for 91 today because 250."
- 7) "Economic Development needed for infrastructure development."
- 8) "Aesthetics" criteria seems very subjective for the public
- 9) Scenic & Natural Beauty – "doesn't pay taxes or support population."
- 10) Appeals process is pointless de novo makes no sense
- 11) Profile testimony/appeals are too time & paper intensive – whole process needs to be streamlined
- 12) Jurisdiction – How to relieve land of Act 250 requirements once applied?
- 13) Act 250 makes people/developers to "not want to do big projects"
 - a. "Do not need more regulation"
- 14) "Stats not reality – 30 days not realistic (even as coordinator)" – Bill Jewell
- 15) "Good ideas get drowned by regulation. Perhaps need ombudsmen."
 - a. "Any development is bad development."
- 16) "Where can you get an audience with the governor?"
- 17) "Exempt" needs to be re-examined
- 18) " Role of District Coordinator" can be too powerful, is it truly a citizen board?"
- 19) "Mining – we would have never had to go through Act 250."
- 20) "Most problems with ANR, not Act 250."
- 21) "A bit of propaganda for existing law is one concern."

ACT 250 Manchester Forum:

07.11.18

Questions in Red and Comments in Blue

Note Cards

- 1) "Please consider our ecosystem as the overriding concern – it makes the rest of [the] others work"
- 2) "Why hasn't the per diem paid to the commissioners changes in 25 years?"
(RESPONSE WILL BE POSTED IN THE WEBSITE FAQ)

Individual Preferences Sheets

Written Comments:

- 1) "This forum and process makes no sense. Awkward, missed the point subverts meaningful discussion."
- 2) "Act 250 – missing words like logic, reasonable, balance, and fairness. People are leaving Vermont. Where is the opportunity? Cost of permitting and cost of doing business – too costly!"
- 3) "Agriculture and forest industry need to meet the same standards of environmental protection as other industries."
- 4) "I worry criteria 9L (strip development) will disadvantage small communities by forcing commercial development away from them (and their grand list) toward larger communities."
- 5) "I don't believe projects should be stopped by anybody just because they don't like it."
- 6) "Use science to determine criteria and decisions."
- 7) "1 – Updated easier process. 2 – Think covered by other state agencies. 3 – Would be nice because areas are so different – but difficult to implement."
- 8) "The district coordinator has too much control over the process. Additional, more localized coordinators would help!"
- 9) "Overall this process did not work for me. It assumes we know very little about Act 250 instead of asking what we feel is valuable."
- 10) "As I was recently part of an Act 250 process that took 5 ½ years to resolve, it seems more staff are needed to facilitate project review rather than adding restrictions on appeals to their reports."
- 11) "I feel more resources need to be available to guide applicants through the process correctly then allowing them to proceed and find problem/issue after issue. Which slows the permitting process."

Written Comments & Would Like To Be Contacted:

- 1) "Incorporate climate change in the Act 250 environmental review process. See attached memo."
(MEMO ATTACHED TO EMAIL)
 - Judith Enck [REDACTED]
- 2) (No Comment)
 - Pauline Moore [REDACTED]
- 3) "Act 250 is only as good as fair enforcement of the process exists. All applicants need to be fairly treated and equally treated. The same goes for local challengers."
 - Linda McGinnis [REDACTED]

- 4) "I am impressed and proud of the Act 250 laws, my regional office and my one experience with my local board. My huge concern is for a lack of enforcement or very weak and politically influenced enforcement. It needs to be addressed!"
 - Katherine Hall [REDACTED]
- 5) "I am interested in finding out how Act 250 is involved in regulating the use of synthetic pesticide/herbicides/insecticides in the State of Vermont. The Department of Agriculture allows too many hazardous toxic chemicals to be used in agriculture, on public land, etc."
 - Carol Berry [REDACTED]
- 6) "Please pass fewer laws and enforce the laws you have voted."
 - Steven Berry [REDACTED]
- 7) "Need consistency of administering permits but retained at the local level – fill all board vacancies."
 - Greg Meulemans [REDACTED]
- 8) "The intent of Act 250 is good the problem is when people use the system to impose their personal opinion over what is good for the State of Vermont."
 - Al Sands [REDACTED]
- 9) "1. Depends on how it's done. Current criteria can mitigate. 2. Yes if permit redundancy is reduced. 3. Greater weight for regional plans but offer statewide. 4. Engaged at present – will continue."
(REACTION TO INDIVIDUAL PREFERENCES SHEET QUESTIONS)
 - Bill Botzow [REDACTED]
- 10) (No Comment)
 - John DeBruin [REDACTED]
- 11) "Eliminate exemption of state quarries."
 - Lou Magnani [REDACTED]
- 12) (No Comment)
 - Joan Mensor [REDACTED]
- 13) Discussion led by professional planner - _____"
 - D Green [REDACTED]

Big Deal Cards

- 1) Suggestion: ADMINISTRATION Card
 - a. Bullet: **Consistency in process**
 - b. Bullet: **Depoliticize appointment process**
- 2) Suggestion: MEDIATION Card

Notes from Facilitator Packets

Overview of Participant Comments

- 1) Unequal enforcement – farmers cause a lot of environmental impact, yet they get away versus ski areas that can not
 - a. Agricultural regulations impact the whole state
 - b. Farmers don't want to be regulated

- 2) Integrate fully into the review process – criteria looks at the local view; climate change is a more of a global view
- 3) Act 250 takes too long
- 4) Why isn't our state agency looking at impacts?
 - a. Too much of a burden on the citizens
- 5) Permitting is pricey "cost of doing business in Vermont"
 - a. There is a cost associated with allowing voice and access with lawyers
 - b. Permits have become too hard, technical, and expensive to pursue without a consultant
- 6) Vermont is not economic development friendly
- 7) "Act 250 is unique and people come here because of our environment." – Martha Heilemann
- 8) Have to develop the state, in order to create jobs and improve the opportunity for development
 - a. Developers want to know what their getting into
 - b. Easing [Act 250] process would help Economic Development, but criteria is still important
- 9) Ecosystem Protection is covered by other sources
- 10) "Resilient Communities" are necessary for Vermont's future
 - a. Ability to withstand disruptors (climate change/infrastructure) and stay flexible during changes within their community
- 11) Infrastructure challenges climate change (one card)
 - a. Hard infrastructure and natural infrastructure (river meandering)
- 12) Act 250 should be targeted for each district versus statewide
 - a. Need a statewide plan for synchronicity, but that's impractical
- 13) Focus on infrastructure that separates the land (major highways and man-made water sources)
- 14) Small business can make a large impact together, just as a large business
- 15) Act 250 costs are only a portion of the environmental permitting process
- 16) District Coordinator grew too much power (one person)
- 17) Access and voice is what makes Vermont special
- 18) "Please don't scrap Act 250; it's more positive than negative."
- 19) "If you take care of agricultural & forest productivity and economic development, then they will take care of the rest [of the Statewide Cards]."
- 20) Problems with access include non-experts providing inaccurate information – people trying to exploit Act 250

Online Responses – Manchester Forum

Act250Comments@leg.state.vt.us

1) Lou Magnani – Wells, VT

To all committee members:

I attended the July 11 meeting of the Act 250 commission and have negative comments I would like to make. I left the meeting just before 8 because I was physically uncomfortable so I don't even know what the results of the meeting were. Nevertheless, my comments follow:

Firstly, the format was, in my opinion, deeply flawed. If you wanted to know the answers to how people feel about aspects of Act 250 (e.g. too hard or too easy to get a permit), we could have simply filled in a survey. Leave a little space to write in a particular gripe and ask a bunch of questions. Get lots of data from lots of people and get a sense of how the public genuinely feels.

But the format of trying to get a table of 6 to reach consensus on issues that they didn't even bring to the table felt very contrived. One woman at our table, after hearing the facilitator talk about what he wanted us to do, said something like; "this sounds all really good but I'm not buying it". With that she expressed the distrust we all felt in a process that seemed to have a design inconsistent with why each of us came to the meeting. The only thing we reached a consensus on was that the process was wanting. Most of us expressed a distrust of the process.

I came to the meeting to express my complete dissatisfaction with the fact that Act 250 permits an entire industry, the slate quarrying business, to circumvent the Act 250 process. It is a legislative injustice to the people in the handful of towns effected by this exemption. It would be no less absurd to exempt marble, granite, gravel, or any other mining operation from the protection of Act 250. The people who have had to fight the industry over the years this law has been in effect, have had to do so without the use of Act 250. It is the only tool we have to prevent the use or abuse of land inconsistent with the well being of the citizens who live near them. Yet the slate quarry exemption was not even on the "exempt card" that we were supposed to reach consensus on.

I came to the meeting to ask everyone on the commission to view the hearing held by David Deen ([Vimeo.com/126458374](https://vimeo.com/126458374)) and the bill he introduced shortly thereafter to revoke the slate quarry exemption (H.662). Instead of having that opportunity I was instructed to "reach consensus" on other issues.

If you really want input from the community, revise this method before you continue taking this show on the road. You could ask the same questions on a questionnaire and get enough data to derive what the consensus is among Vermonters on where Act 250 should be going for the next 50 years. Put the questionnaire on the web and get all the input you want from Vermonters who would like to have a say in this process but don't want to go to public meetings.

Thanks for hearing me out, if you do.

Lou Magnani, Wells, VT [REDACTED]

2) Marilyn Allen

Dear legislators:

I attended the forum in Manchester last week and would like to pass along my impressions and concerns.

My group was composed of 7 individuals all of whom were articulate and concerned residents who were participating in good faith. We discovered early on in the discussions that we were all wary of the way issues were presented and that the design of the cards was a bit too constricting. We wanted to be sure that any changes considered would clarify our priorities. The process of settling on a "list of priorities" was simply not the way we as a group wanted to be heard.

Some concerns that I expressed focused on ANR and the fact that some of the changes we have heard were being considered reflected an awareness that ANR is understaffed and underfunded. Rather than focus on curtailing the process of appeal I suggested that the important work of ANR, especially in Act 250 processes, should be funded to allow more "boots on the ground" assessments rather than concentrate on more abstract issues and data that cannot really see the environment that is being evaluated.

The rules of ANR also need to be updated to reflect concern for climate change. In an Act 250 application in our town, Halifax, the rule for planning for floods is still set at 100 year flood levels. We had Irene with its 500 year flood damage and the loss of 4 bridges.

It is true that climate change was mentioned as a "disrupter" but there were other potential disrupters mentioned in our group. A sudden shift to fewer appeal options to speed the Act 250 process was also mentioned as a potential risk factor. Since 98% of applications are approved, that possibility seems problematic. It is also important to make sure that the 10 Criteria are allowed to function as they were intended to function; eg. if a project will not bring jobs or financial benefit to the town as a whole (i.e., only the developer wins), then that should be a real problem in the permit process.

It is reassuring that Vermont is taking the time to hear from as many Vermonters as possible. It is also important that the public continues to be informed of potential changes that are being discussed. I hope that this will continue!

Thank you so much for considering this feedback!

Sincerely,

Marilyn Allen

3) Janet Eldridge-Taylor – Brattleboro, VT

Act 250: The Next 50 Years public forum in Manchester, VT – July 11, 2018

Act250Comments@leg.state.vt.us

To Whom It May Concern:

As a resident of the town of Halifax in southern Vermont, I am a member of the Halifax Conservation Group which formed in 2012 primarily to oppose a quarry development project in the designated Conservation District of the town. This district is densely forested and essentially undeveloped, comprises more than ¼ of the land in Halifax and is important wildlife habitat. The Halifax Conservation Group has 80 – 100 members who actively participated in Act 250 hearings as well as hearings for a Conditional Use Permit with the Halifax Zoning Board. The permit processes continued for 5 ½ years and resulted in both the Zoning Board and the Act 250 commission denying permits for the quarry. We were scheduled for Environmental Court this fall when the developer withdrew from this project.

The process was time consuming and costly for both sides but we were fortunate to have the opportunity to present our arguments to protect the natural resources in our town from the adverse effects of the proposed quarry. The appeal for Environmental Court would have been de novo review (a new review) and in the past 5 ½ years several significant changes have occurred that we planned to add in support of our opposition to the quarry. It now appears that Act 250 wants to end the de novo review process and not allow such appeals in the future. This would disrupt our right as residents adversely impacted by a project and tip the balance in favor of development which might not be compatible with the proposed project location or in the best interest of town residents.

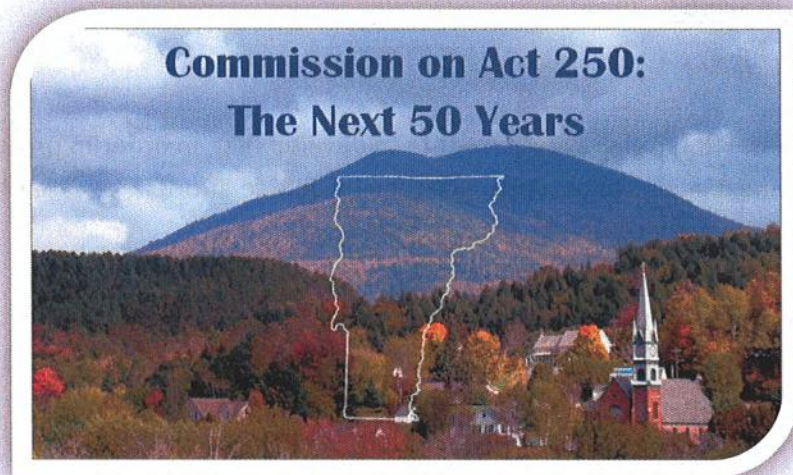
The 2016 Legislative Session passed the most comprehensive forestry legislation in the past 20 years, Act 171, which focuses on maintaining healthy forest integrity. The proposed quarry site was in an area now designated as “highest priority interior forest”. Keeping this forest block intact has also been given a high priority designation with the Connectivity Initiative. Information from Act 171 and the Connectivity Initiative were not available to us at the beginning of our Act 250 hearings and would have been essential for arguments in Environmental Court to help us stop the proposed quarry project in the Conservation District in Halifax.

Act 250 should have an appeals process that is accessible to the public and at the same time is efficient and affordable.

Respectfully submitted,

Janet Eldridge-Taylor

[REDACTED]
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Act 250 South Royalton Public Forum

Commission Debrief

Chase Community Center at Vermont Law School

July 25, 2018

6:00 PM – 8:00 PM

Rep. Amy Sheldon, Chair

Sen. Christopher A. Pearson, Vice Chair

Sen. Brian Campion

Rep. David L. Deen

Rep. Paul Lefebvre

Sen. Dick McCormack

FACILITATOR WORKSHEET

STATEWIDE PERSPECTIVE

- Settlement plans – determine where it's safe to develop first, in order to protect the ecosystems
- In terms of the next generations – how will they be able to afford/take care of the land?
- Economy is helping people who are already here
- Vermont is losing jobs – our tourism industry runs the economy
- We are a unique state and all factors impact one another
- Balance between Ecosystem Protection, Settlement Patterns, and Economic Development is necessary
- Settlement Patterns are most important because of the sprawl mandate
 - Need responsible growth
 - Private property – spread of housing increases the town costs
 - Closing schools due to payroll
- Clustered housing can still violate the ecosystem and other forms of development
- We need to address current problems that need to be fixed, not just the next 50 years
- Ecosystem Protection – umbrella topic since we need ecosystems to improve Scenic & Natural Beauty
- Scenic & Natural Beauty bring economic development to the state
- “Ecosystem Plan may come with bureaucracy and gum up decision making”
- Scenic is most slippery – value making judgement
 - District level better in making judgements
 - “Shared costs and compensation are deemed scenic”
- Forestry/working landscape projects get treated the same as parking lot projects

STATEWIDE PERSPECTIVE + CLIMATE CHANGE

- Economic development is difficult because green mountains and other aspects of the natural environment may be destroyed
- Extended power outages – huge problem compared to flooding and extreme weather frequency
 - Agricultural & Forest Productivity and Settlement Patterns are mainly affected
- Influx of people to Vermont would encourage more of a focus on ecosystem protection
- Carbon Emissions – Walk around and shop in small areas, results in less emissions
- Focus on Exit 4 (Randolph & Gifford Medical Center)
 - “Act 250 has completely failed Randolph Center” – “planner said it would cost \$550,000 to see a photo of the building(s) developments...unreasonable for anyone to pay”
- Economic Development will radically change under climate change (think of new business)
- Act 250 seems anti-small business
- Climate change has a big impact on forests and settlement patterns
- “Intensive use of land not extensive use”
- Climate change is too big for VT to handle. We can be leaders and make personal choices
- Act 250 gives state agencies the ability to place their influence on a business

STATWIDE PERSPECTIVE + INFRASTRUCTURE

- Economic development creates challenges and opportunities
- Infrastructure – not so much of a disruptor, but a necessary evil
- With bike paths growing - development and people are driven to other counties outside of Chittenden County
- Settlement patterns – better for electricity/roadways/water
 - Sprawl is harming ecosystem protection
- Economic Development – we don't have things for our youth to do
 - Aging population
- "Fix what is wrong right now"
- Often infrastructure issues can help with community group litigation
- We need more communication and consideration for infrastructure
- Infrastructure doesn't seem pressing at the Act 250 level
- Soils should be an infrastructure
- FEMA refuses to do mitigation

IMPACT PERSPECTIVE

- Exemptions have led to settlement pattern problems
- Pre-application process is needed to make more speedy permits
- Making people do [permitting and appeals] at once can be quite costly
- Need to include *cost* in impact perspectives
- Need to make a comparison to other states
- Give developers and towns the tools to regulate their areas
- Jurisdiction - Act 250 has been telling areas what they can and can not build
- No ability to vote out Act 250 – District Commissions hold the most power
- "Act 250 holds hearings in the daytime which limits participation"
- Access – filing fee for an appeal, plus legal fees and time value of money
 - Example: Lamoille Valley Rail Trail (LVRT) spent large amounts of money for Act 250 permits when in fact railway systems are exempt from Act 250 (understanding of legislation)
- Exemption of agriculture is not logically sound
 - Agriculture is often in flood plains and archeological resources
- Electric facilities being automatically exempt is not good – should go through another process
- If project impacts an entire community, you should be able to include people from the community – not just abutters – it impacts a larger group
- Act 250 seems to be a one size all bill
 - Should be tailored to different types of development
- Should limit the number of appeals
- 1/10 acre – No longer a good measurement on a town's ability to efficiently review development
- Act 250 should exempt downtown areas

GENERAL COMMENTS

1. Disagreement about the cards NOT the content
2. Look at Settlement Patterns – Students are leaving Vermont
3. People are trying to get around Act 250
4. Act 250 is one of three of the greatest pieces of Vermont legislation
 - o However, it is not fulfilling its original intention
5. Act 250 does not involve the people – few people have the means to vote against a project
6. Forests are not adequately addressed in Act 250
7. Ecosystem protection is not the right language
8. “feels like a game”
9. Scenic & natural beauty is kind of archaic – people aren’t coming to Vermont
10. Climate change is too vague – unknown impacts
11. “Right now pushback is not around the law, it’s around the complexity
12. Purely discussing the Act 250 process from the beginning would have been more helpful

NOTE CARDS

- 1) Act 250 should function more as a clearing house for ANR and other state permitting processes. Streamlining would help alleviate opposition for the Act 250 process.
- 2) Why are forest production and agriculture treated as separate factors from economic development?
- 3) The National Forest Service feel they have the ability to issue permits on NIFS lands and an Act 250 permit is not required. Owners or permit holders are forced to apply to both NFS and Act 250.
- 4) Please communicate better with the public. What is the next step? What happened to the event at VLS in spring? What happened to those comments?
- 5) Competence of soils should be always considered along with infrastructure.
- 6) Would like to see more efficiency and predictability in the process. Less duplication with ANR and other permits – use these to satisfy some of the (applicable) criteria. Have appeals be heard on the record vs. De novo.
- 7) Act 250 is important to Vermont. We need to maintain its relevance and effectiveness as the world changes. Public access must be maintained. We also need to make hard decisions and protect key resources like river corridors (development should be prohibited) and forests (we need to be very careful) and Act 250 should look at forests. Please also consider revising the legal-fiction of the process by revisiting something like the E-board. Also please consider removing exemptions for state quarries.
- 8) Act 250 needs to protect ecosystems as a top priority: -the environment is the basis for all economies. We need healthy people, sufficient food, clean air, less flooding and less stress on our social and economic systems. Healthy people = a stronger economy. –Compact settlement patterns are also dependent on a healthy ecosystem so as to balance population with nature for the health of all. – Promoting, compact settlement is indeed a boom to our ecosystem and our environment.

- 9) It is possible to have Act 250 star projects – and publish information/photos of the BEST Act 250 projects for each region, each year? This would inform and inspire comparable projects that promote Act 250 goals and desirable economic development and environmental stewardship.
- 10) My biggest question is how the Act 250 application can be different for different categories of development, aka small scale, large scale, agricultural, rural, etc.?
- 11) My one greatest concern with the future of the Act 250 process is that it is used to guide and enhance rural economic development – not stop it!
- 12) How will you incorporate environmental justice principals into the criteria?
- 13) Group Question: Why does Act 250 continue to follow a piece of property it has sold?
- 14) Group Question: Could there be a *certification process so that if a project was approved locally it can be exempt or expedited for those aspects under Act 250? (*Certification of rigorous municipal zoning process and by laws)
- 15) Group Question: How can Act 250 require that a project both acknowledge and contribute to its impact on education and the health of a community?

INDIVIDUAL PREFERENCES SHEETS

Written Comments:

- 1) Would like Act 250 to be managed more locally or statewide, rather than regionally.
- 2) In regards to question one: "Impacts all but special consideration needed to preserve natural beauty and agricultural concerns." In regards to question 3: "Regional planning has a better idea on the health of the area involved whereas the municipalities may be short sighted." In regards to question 4: "We need to protect the vanishing regions and not be so much in a hurry to chase the almighty dollar." Final Comments: "Close the loopholes. Developers are able to get around the rules too easily – look at how the unpermitted developments solved their problem."
- 3) In regards to question two: "Permit applications shouldn't be one-size-fits-all, there needs to be different applications for different types."
- 4) "I would love to see the bill be a vehicle for economic development rather than an inhibitor in an already difficult environment for small businesses, individuals, and non-profits."
- 5) "This process needs much attention. The consensus at our table is that the specific cards, their explanations, and process issues are quite flawed."
- 6) "Clean water is too important to be reckless with."
- 7) "ATV, Snowmobiles, horses, there are so many uses/interests to encourage growth. Act 250 should be aware of "economics," large business farms – should they be exempt?"
- 8) "Act 250 should decrease duplication with other local and state permit process and should be more focused on incremental impacts of growth and strengthen the need of regional planning."
- 9) Regarding question 4: "Increase ability of neighbors to understand and engage in process."
- 10) "Uncertain as to what question 4 means, it is saying that more people should be voicing opinions on projects that they have no connection with?"
- 11) Regarding question 2: "Some projects need to be looked at, others no longer do."

- 12) Regarding questions 2: "Commercial scale renewable energy projects in particular when it comes to permit applications."
- 13) "I'd like to understand where "economic development" as used here tonight, factors into the Act 250 process, which is intended to "protect the environment" when large economic developments are proposed."
- 14) "What are the metrics for performance in processing Act 250 permits? Accountability!!"
- 15) "The legislature and agency employees who are responsible for evaluating Act 250 applications should be facilitating these forums. Addressing process in efficiencies and meetings outlined timelines needs to have higher accountability."
- 16) Regarding question 1: "Updates in Act 250 in response to climate change need to be intimately tied to public transportation, maintaining settlement patters, land use planning, etc."
- 17) Regarding questions 2: "More types of permit applications would need more staff if it goes that way."
- 18) Regarding questions 2: "Expand permit applications for solar arrays greater than 10 acres."
- 19) "Would like to know how Act 250 will be updated and strengthened in response to climate change data, how would this be addressed?"
- 20) Regarding question 1: "Legislature should look at other issues than Act 250 to address climate change."
- 21) Regarding question 2: "No, Act 250 shouldn't cover more types of development because it's too slow and drawn out process."
- 22) "Regarding question 3 – I think it should be more regionally managed if the regional plans are strengthened."
- 23) "Act 250 is already managed regionally – 9 district commissions – but there needs to be more consistency between the district commissions processes."
- 24) "Permit costs and time is a concern to me. Projects that support the working landscape should be supported by Act 250 and the State in general. The commission should work to keep landowners involved in the process."
- 25) "My tendency was to rank the cards in a circle, then create web linkages between them. The Impact cards were technical in nature, and I felt less secure in rating them."
- 26) "Be consistent in district offices who process and approve Act 250 permitting."
- 27) "It would be great if the methodology of the choice of cards was explained/presented. Additionally, what will be the outcome of this aggregation?"
- 28) Regarding question 1: "there's existing language in the law that could be applied, but the law needs to add in new language to specifically address multiple aspects of climate change under several criteria."
- 29) Regarding question 2: "Some exemptions, like state quarries, were simply political and should be repealed. Development in large forest and agricultural tracts should be ID'd and covered."
- 30) Regarding question 3: "They're all important and need to be integrated, along with planning – better communication and coordination."
- 31) Regarding question 4: "Any way I can help regain its hero status – until I die."
- 32) "When it comes to more types of permitting applications, get rid of exemptions and create tiers of review."

- 33) "#1: I'd like to see a limit to appeals (forcing stronger and focused applications). #2: Might we consider eliminating ALL EXEMPTIONS and covering up with a simplified review system for smaller projects. #3: Need to come up with a more constructive term for economic development as we need income to live sustainably."
- 34) "The response to climate change data should include social, economic, environmental, and agro ecological, as well as access equity."
- 35) "I trust this is the first step in a very complicated process and rash decisions will be made (witnessed Act 46 backlash threatening communities)."
- 36) "I am approaching the end of my life so these questions are better considered by younger folks and I hope they are up to the task!"
- 37) "Act 250 is managed regionally at the district commission level. Eliminate Act 250 criteria that are already covered by ANR permits."
- 38) "I would like Act 250 to encompass a projects likely impact on and contribution to the education and the health of the community."
- 39) "When it comes to updating Act 250 in response to climate change data, it is an impossible question, no objective guidance. More types of permit applications for energy generation siting and size. This was an interesting but very frustrating process."
- 40) "Q2: To me, it's not as much about "types of permit applications" (which is reforming to uses). It's about ensuring it protects key locations and encourages development in smart growth locations. Q3: Isn't it administered regionally now? Awkward question."
- 41) "I would like Act 250 to rethink the categorization of criteria and how the criteria are interrelated. I also take issue with criteria 8 being rhetorically boiled down to – aesthetics – when research has shown the real socio-economic impacts that historic and archaeological resources has as well as their multivalent significance of cultural/working landscapes and ecological habitats."

Written Comments & Would Like To Be Contacted:

- 1) "Q4: Represent my town to RPC now will likely be engaged in that capacity. Q3: All decisions should be made at the most local level at which competence to make them is present."
 - Timothy O'Dell [REDACTED]
- 2) "The Act 250 process should be consistently applied throughout Vermont. Decisions made at the regional level should be informed for the state level but always responsive to local inputs."
 - David Brandau [REDACTED]
- 3) "Efforts should be made to evaluate different scenarios for the next 50 years e.g. climate refugees, cheap and abundant electricity, other potential futures."
 - Mark Kelley [REDACTED]
- 4) "As a professional I've been involved in dozens of Act 250 applications/projects over the last 25 years, I'm not anti-regulation. But I am pro-fair and consistent regulations. Q3: In order for Act 250 to be a statewide process there needs to be consistency and predictability. Q1: No, legislation should not be responsive to climate change, because everything we do has an impact on climate change."

“As a father, business owner, professional I support responsible development. I support economic development. I also cherish Vermont as a fourth generation Vermonter. I’ve seen the good and the bad we cannot sacrifice one for the other. We need to create a process that supports economic growth while protecting what makes Vermont, Vermont.”

- Joe Greene [REDACTED]

5) “Citizens much not have to go into debt in order to participate. The financial threshold to participate in any meaningful way is far too high. Q2: When it comes to permit application types, utilities as well as big energy development need to be included.”

- Camden Walters [REDACTED]

6) “No mitigation for forest or agriculture operations. Flexible conditions on permits i.e. hours of operation, noise, traffic. Be flexible to needs of applicants. Needs to be consistent across all commissions – predictability – affordability – principles.”

- Ed Larson [REDACTED]

7) “Q1: Sure! I believe the question is how. We all acknowledge the problem – the question remains as to how to address it/the solutions. To me, this means we need more wind and solar. Q2: YES to exemptions but it should be done smarter so not all development needs to go through the process (if well done). Q3: The regions need to be streamlined and consolidated, it is 2018! We can access the world with the phone in our pocket. We can have folks work more efficiently remotely. Q4: I think that the burden of understand of understanding and altering all this information should be not on the shoulders of those who are dealing with the threat in their neighborhood, but rather dealt with by government policy.”

- Shaina Kuser [REDACTED]

8) “Act 250 has developed into an act that favors wealthy over the day to day worker by shutting them out with day time hearings and by relying upon state appeals, which dots l’s and crosses t’s but often misses the larger picture.”

- K Doering [REDACTED]

9) {No Comment}

- Lindy Biggs [REDACTED]

10) {No Comment}

- Christi Bollman [REDACTED]

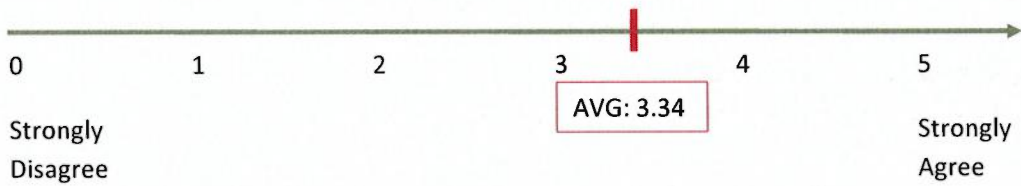
11) {No Comment}

- David Moulton [REDACTED]

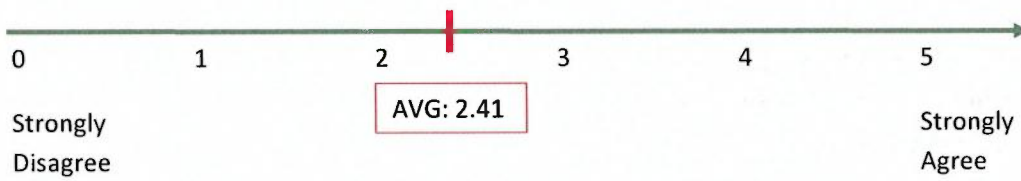
QUESTION RESPONSES

Average score for each category, as compiled from all individual preferences sheets.

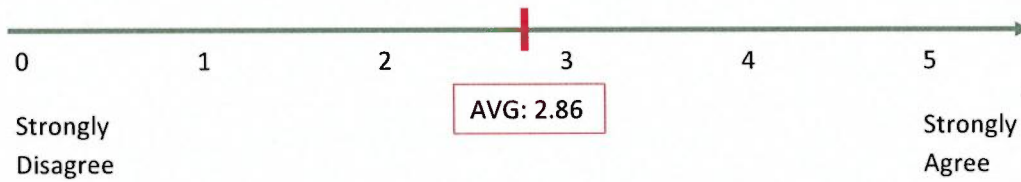
1. I want Act 250 to be updated and strengthened to be responsive to climate change data:



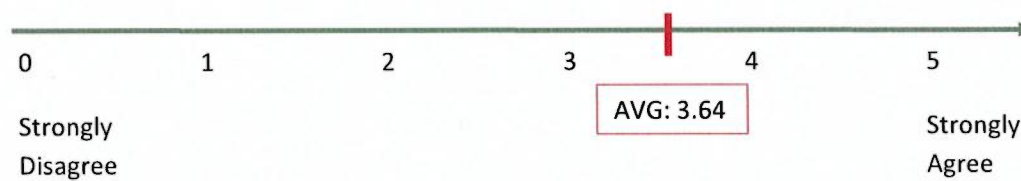
2. I want Act 250 to be expanded to include more types of permit applications:



3. I want Act 250 to be managed regionally, rather than be a statewide process:



4. I want to understand and be able to engage more in Act 250 as a community member:



PROPOSED BIG DEAL™ CARDS

DISRUPTOR:

- *Equity/Justice*
 - Transportation – how do we get to work, etc.
 - Includes environmental justice, access to housing, and food
 - Safety, quality of life, and housing
 - Affordability, access to natural beauty, and historic development

STATEWIDE:

- *Cost*
- *Implementation*
 - Consistency between districts
 - Better training for Commissioners
 - Clarity of language/intention
- *Consistency & Predictability*
 - Once I'm in Act 250, what can I expect? Are there uniform practices across the districts, commissioners, and coordinators?