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From: Jon Groveman <jgroveman@vnrc.org>
Date: November 28, 2018 at 5:58:24 AM EST
To: Amy Sheldon <asheldon@leg.state.vt.us>
Subject: Act 250 Resources

Amy:

As promised, I am following up on our conversation last week about NRB resources. I would welcome the opportunity to talk more about this if you would find it helpful.

For background, I have been involved directly with Act 250 since 1995. I practiced as an attorney before the Environmental Board from 2005 until 2004 when the Environmental Board was eliminated. I then practiced before the expanded Environmental Court and addressed issues before the NRB that were within the NRB's new limited authority. I also had the opportunity to serve as NRB Chair under the Shumlin Administration. My feedback on the resources NRB and Act 250 needs are based on these experiences.

NRB

The NRB has seen a significant reduction of resources from the staffing levels of the former Environmental Board and since the NRB was established. The former Environmental Board employed between 4 and 6 attorneys at various times over its history. At least one of the attorneys was dedicated to enforcement. One attorney typically served the District Commission. The other attorneys worked on appeals and one attorney served as General Counsel.

In 2004 when the Environmental Board became the NRB, there were 4 attorneys dedicated to Act 250. One attorney focused on enforcement, there was a General Counsel and the other attorneys provided advice to District Commissions and represented the NRB in Act 250 appeals before the Environmental Court (the NRB are statutory parties to all Act 250 appeals).

Currently the NRB has two attorneys. The two attorneys must serve as General Counsel, enforcement attorney, represent the NRB in appeals and provide advice to District Commissions. In my opinion, this is an extremely inadequate level of staffing. The result is less attention must be paid to all the areas of Act 250 legal work.

In addition, both the Environmental Board and NRB historically employed an Executive Director and Chief Coordinator. The Executive Director prepared the budget for the Board, prepared statistical information about Act 250 for the public, the Legislature and the Administration and worked on policy issues with the Board Chair and General Counsel.

The Chief Coordinator supervised the District Coordinators and, importantly, worked to trouble shoot issues that arose in the Districts and worked to create consistency between District decisions. Several years ago, the Chief Coordinator position was eliminated and the Executive Director was charged with fulfilling the role of both the Executive Director and Chief Coordinator. Needless to say, this is asking too much of the Executive Director.

As you know, VNRC's proposal is to address these staffing deficiencies, and deficiencies in the Act 250 appeals process, by moving Act 250 appeals from the Environmental Court to a Professional Board. Restoring a Board to hear Act 250 appeals and administer Act 250 would strengthen the connection between the Board and the District Commissions, restore the Board's role in setting Act 250 policy and justify a level of staffing more akin to the former Environmental Board to allow for Act 250 to fulfill the historic functions of the Board that have been reduced over the years.

District Commissions

The District Commissions have also experienced reductions over the years. For example, when the District 5 Coordinator recently left his job, his position was not filled. Instead, a Coordinator from another District was asked to absorb additional responsibilities. Similarly when the District Coordinators in District 2 and 8 retired they were not replaced. My understanding is that the NRB did add a position they are calling a "roving" Coordinator to work at the NRB office and be deployed to Districts around the state that need help with workload.

The roving Coordinator is an interesting idea that could help add resources to District Commissions when needed. However, in my opinion it is not a substitute for the need for proper staffing levels in District Offices.

As noted in VNRC's Act 250 proposals, the Commission's need more resources to address Act 250 applications, not less. We suggested properly funding District Commission positions and recognizing the work that District Commission Chairs perform in moving applications through the process by paying the Chair a part-time salary rather than the \$50 per diem that all District Commissioners receive.

I hope this is helpful. You may want to reach out to Ed Stanak, April Hensel, and Lou Borie – all former Coordinators (and Lou was the Chief Coordinator and NRB Executive Director) to get their feedback. Their e-mail addresses are aprilhensel1@gmail.com, stanakvt@gmail.com, borie@madriver.com

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Jon Groveman

VNRC Policy and Water Program Director
802-249-7736 (Mobile)
802-223-2328 x-111 (Office)