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August 8, 2014

Susan M. Hudson, Clerk  
Public Service Board  
112 State Street  
Montpelier, VT 05620

Re: Order Revision pursuant to Act No. 199 (S.220)

Ms. Hudson:

The Vermont Association of Planning and Development Agencies appreciates the Board's response to our request to extend the comment period associated with the Order Revision pursuant to Act 199 (S.220) concerning the definitions of the terms "good cause" and "substantial deference" for the purpose of 30 V.S.A. § 248a(1). For reference purposes, we present the relevant portion of the statute here:

Unless there is *good cause* to find otherwise, *substantial deference* has been given to the land conservation measures in the plans of the affected municipalities and the recommendations of the municipal legislative bodies and the municipal and regional planning commissions regarding the municipal and regional plans, respectively. Nothing in this section or other provision of law shall prevent a municipal body from basing its recommendations on an ordinance adopted under 24 V.S.A. § 2291(19) or bylaw adopted under 24 V.S.A. chapter 117 by the municipality in which the facility is located. A rebuttable presumption respecting compliance with the applicable plan shall be created by a letter from an affected municipal legislative body or municipal planning commission concerning compliance with the municipal plan and by a letter from a regional planning commission concerning compliance with the regional plan.

"Good cause" is a legal term denoting adequate or substantial grounds or reason to take a certain action, or to fail to take an action prescribed by law. We feel the burden is upon the Public Service Board to provide, on a case by case basis, specific reasons why a project is advancing a statewide policy in a manner that would cause the Board not to give municipal and regional plans, and the recommendations of municipal legislative bodies and the municipal and regional planning commissions, substantial deference.

In its Section 248a proceedings, we believe that the Board would only have "good cause" to disregard the goals, recommendations, and objectives of a regional or municipal plan, and the recommendations of municipal legislative bodies and the municipal and regional planning commissions, when evidence clearly demonstrates the plan of a region or municipality was:

- a) not duly adopted;
- b) not substantially followed by the region or the municipality in forming its recommendation(s);
- c) silent, or vaguely written;

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President: Bob Lloyd, RRPC  
Secretary/Treasurer: Charlie Baker, CCRPC

Vice President: Sylvia Jensen, NRPC  
Chair, Executive Directors: Jim Sullivan, BCRC

- d) or the policies, goals, objectives and standards contained within the plan, and their intent, do not present a clear nexus between the conservation measures to be achieved and the inability of the proposed project to comport with those measures.

“Substantial deference” should be interpreted to mean that the policies, goals, objectives, and measures contained within a regional or municipal plan adopted per Title 24, Chapter 117, and the recommendations of a municipal legislative body, municipal planning commission, or regional planning commission based upon that plan, shall be applied by the Board unless there is a clear and convincing demonstration that those policies, goals, objectives, and measures are contrary to statute or policy, or that the Board can demonstrate good cause that the public good of the State of Vermont substantially outweighs the application of the duly adopted regional or municipal plan and the recommendations of a municipal legislative body, municipal planning commission, or regional commission.

Thank you for the opportunity to comment.

Sincerely,

A handwritten signature in cursive script that reads "James D. Sullivan". The signature is written in black ink and is positioned above the printed name and title.

James D. Sullivan  
Chair, Executive Directors  
Vermont Association of Planning and Development Agencies