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**Sent:** Monday, January 27, 2020 9:58 AM

**To:** Amy Sheldon <[ASheldon@leg.state.vt.us](mailto:ASheldon@leg.state.vt.us)>; Christopher Bray <[CBray@leg.state.vt.us](mailto:CBray@leg.state.vt.us)>

**Cc:** [diane.snelling@vermont.gov](mailto:diane.snelling@vermont.gov)

**Subject:** Proposed Act 250 revision

Hi Amy and Chris,

I write to you both knowing that you will be influential in how Act 250 is revised. Specifically this email is an appeal to you not to change the current Commissioner structure under Act 250.

In full disclosure, I was appointed as Chair of the Addison County District last winter. As a new Commissioner I believe I have a healthy outlook on the Act 250 process.

Why has the administration suggested a “full time” body to make Act 250 rulings moving forward?

As best I can piece together, there are five reasons that have been mentioned to justify revising the ruling process. They are: discrepancies in commissioner rulings district to district, technical mistakes being made during the process, difficulty in finding Commissioners (we are not compensated for our work), the potential for policy bias by the appointing Governor, and a lack of technical expertise by commissioners. There are also three good reasons I’d like to touch on in favor of maintaining the current structure. Let’s start with the three positive points.

The soul of the Act 250 process is the three county residents acting as commissioners (there are up to four alternates as well). It is powerful to have local women and men who, without compensation, move through the ten criteria, with the assistance of the project coordinator from the Natural Resource Board (VNRB), and then act on a project that will impact area citizens, businesses, and not for profit entities. **It is not an accident that local citizens were given this responsibility decades ago.**

Another positive is that the current system is working. Most issues people cite to advocate change do not involve commissioner efforts, or lack of them, or the actions commissioners take prior to a ruling. Most seem to

surround criteria and the appeals process. Just a note on appeals. Considering the number of rulings commissioners have made over the years the percentage of those rulings that have been appealed is extremely modest and a strong number of the appeals were not made due to science, but on interpretive matters like aesthetics.

It is also important to point out that the Natural Resource Board puts a great deal of effort towards continuing education for commissioners. Chairs have bi-monthly meetings to discuss specific topics and what's on their mind. And monthly teleconferences are held for all commissioners. In office training occurs from time to time. VNRB is a sound resource for commissioners. They make sure we are prepared for our work.

Now to the criticisms of the commissioner system.

Have there been discrepancies in different district rulings? There is zero evidence to suggest commissioners in one district see things blue while commissioners in another district see yellow on that same criteria. No one has stepped forward to offer major discrepancy examples. What differences that may occur will be along the lines of modifying transportation fees, which I believe is part of the beauty of the district commissioner system. It allows for local knowledge to be exercised as long as it does not violate meeting criteria standards. The 10 criteria we all use to issue permits do not allow a lot of wiggle room for commissions to stray from their intent and science.

Mistakes? The Natural Resource Board District Coordinator works closely with commissioners every step of the way on applications and when hearings are in order. Commissioners also have access to two VNRB attorneys that can offer council when needed. Process and administrative errors probably have occurred in the past but the history of the commissioners work has been very solid. I am not aware of examples where applicants or parties to a hearing have been short changed due to errors.

Filling commissioners slots is very doable. When I was appointed in District 9 there were three commissioners. Helping the administration appoint additional alternates was not difficult. Now we have 6 commissioners. The chairpersons local knowledge can assist administrations in filling vacant commissioner spots.

The recommended method of appointing the proposed "new" Act 250 Board is no less vulnerable to executive branch bias than our current system. Plus, I am not aware of an Act 250 decision where Commissioner bias soiled one or more of the criteria we use to grant permits.

The fact that some proponents of a full time board suggest Commissioners are not intelligent enough to grasp the criteria we use to make decisions is insulting. Commissioners receive a great deal of help, when needed, from state agencies, and VNRB staff members. Plus commissioners do their own own research into applications. Intelligent, conscientious citizens can handle what Act 250 demands of them.

To satisfy those of us that feel the current nine district panel of citizens is a good model, the administration proposed the appointment of two local advisors to help the full time board with information on Act 250 applications. These local advisors would have zero decision making power. I served on an Advisory Board years ago (Hannaford Career Center). After a great deal of frustration trying to work with the then board of jurisdiction, the Advisory Board members worked to create the current independent Hannaford Board. This advisory piece is a nice thought by the administration, but would be very ineffective.

Finally, in reviewing the work of the Commission that fulfilled Act 47, I saw no recommendation to eliminate or significantly revise the existing district commissioner set up. Also, those critiques of Act 250 by Mr. Shupe, the director of the Vermont Natural Resource Council, that I've read, have not made mention of eliminating the current district commission structure.

I would love to know your views on this subject. If you have any questions for me please ask. Good luck as you tackle Act 250 revisions.

Fred