



Sen. Jeanette White, Co-Chair
Rep. John Gannon, Co-Chair
Sen. Brian Collamore
Rep. Robert LaClair
Matthew Krauss
Susan Zeller

STATE OF VERMONT
SUNSET ADVISORY COMMISSION

MINUTES OF NOVEMBER 7, 2018 MEETING

Ethan Allen Room, Vermont State House; 10:00 AM – 3:30 PM

See 11/7/18 [Agenda](#) and [Meeting Record](#)

Members present: All

I. Tanya Marshall, State Archivist & Chief Records Officer, VSARA. *See [handout](#).* The Sec. of State's office already built a portal for the Governor's office, and the Governor's office fills in info for the Governor's appointees. For ones that the Governor does not appoint, Ms. Marshall recommends that the appointing authority provide the inventory information.

- *Hayden Dubois, Governor's Office:* Governor's office only knows and submits information re: the Governor's own appointees; his office is not aware of non-gubernatorial appointees.
- *Comm'r Zeller:* Portal is housed within Sharepoint, and it requires a Vermont.gov email to access it.
- *Co-Chair White:* Three kinds of appointments: 1) All Governor appointees; 2) Some Governor appointees; 3) No Governor appointees.
- *Otto Trautz, interested party:* An existing spreadsheet shows the number of gubernatorial appointees on each board and commission.
- *T. Marshall:* More legislative discussion is necessary if current Portal is not sufficient for what the tracking needs are.
- *Co-Chair Gannon:* It seems the challenge is less requiring the appointing authority to complete information and more of a challenge to track the filling of vacancies.
- *T. Marshall:* Perhaps first focus on boards and commissions attached to an Executive Branch agency, department, or office.
- *Comm'r Zeller:* Perhaps keep statute as currently written – with boards and commissions being responsible for supplying inventory info – and leave it up to the boards and commissions to determine how they would comply.
- *T. Marshall:* VSARA does have recommended definitions for boards and commissions. Comm'r White recommends this topic be discussed at a later meeting.
- *O. Trautz:* Another issue is members serving *ex officio*, or *ex officio*'s designee.

- *T. Marshall*, at the next meeting, will provide a mock-up for what would be necessary to comply with the new inventory information tracking requirement.

II. **Dirk Anderson, ICAR (#19).** See [handout](#).

- *Comm'r Krauss*: Does ICAR keep minutes?
 - *D. Anderson*: Yes. Substantive suggestions and decisions are reflected there.
- *Co-Chair Gannon*: Any interaction between ICAR and LCAR?
 - *D. Anderson*: ICAR pre-screens proposed rules for LCAR, but they do not interact.
- *Comm'r Krauss*: Does ICAR meet physically?
 - *D. Anderson*: It's possible for ICAR members to participate by phone, if necessary.
- *Comm'r Collamore*: Handout indicates in #6 that there may be a more efficient process; are there any recommendations?
 - *D. Anderson*: While the idea has previously been discussed with the Sec. of State's Office, there are no official recommendations to change this process at this time.
- *D. Anderson*: Note that the enabling law indicates that ICAR is to be comprised of members of the Executive Branch, but doesn't specify a number. The existing nine offices have been the standard members, in his experience.
- **Agency recommendation**: Keep.
- **SAC recommendation**: Keep.

III. **Dale Azaria, ACCD; Laura Trieschmann, State Historic Preservation Officer; Ted Fisher, Agency of Education: Vermont Commission on Native American Affairs (#20).** See [handout](#), "Prominent and Recurring Topics . . ."

- *D. Azaria*: At the last meeting, she indicated that the purpose of tribal petitions is somewhat dormant. However, some petitions have been denied; moreover, there may be other tribes that in the future will seek recognition. Therefore, there is a need for this Commission to continue because it may be necessary to review the tribes previously denied or new ones.
- *L. Treachman*: In the past few years, the Commission has not discussed recognition per se, because four are now recognized. However, they spend the majority of their time addressing projects and outreach. For example, the Commission strives to promote their traditional skills by marketing their products. So, this Commission serves as a way for tribes to come together to promote outreach and education. Ancestral lands and burial grounds are topics on which they meet. Commission is a consulting entity on these lands.
 - The Division just staffs them, setting up their meetings and taking their minutes.
 - Does think the Commission needs partners.
 - Approx. 20 similar commissions nationwide, including in NH and NY.
- *T. Fisher*: AoE is used to partnership and respects the Commission's mission. However, AoE doesn't have the expertise to administratively support the

- Commission. For example, AoE could not help the Commission with marketing Native American products.
- Recommends that the Commission reach out to the State Board of Education if it'd like to discuss including more Native American affairs in education.
 - *Co-Chair White*: Does this Commission really still perform a State function?
 - *D. Azaria*: While the Commission sometimes makes recommendations that conflict with the Administration (for example, re: historic preservation), this Commission does provide Native Americans with a voice, and it is important to hear their advice because it helps with decision making.
 - *Co-Chair Gannon*: Wonders if this Commission should be structured so that it is more independent as the Commission on Women, rather than attaching it to the Administration.
 - *L. Treachman*: They currently obtain about \$9,000/year from the Department, which includes all administrative costs. The Commission meets more often than it is entitled to in statute, and the Dept. does not reimburse them for those extra meetings.
 - **SAC recommendation**: Keep, with potential to recommend changes to their enabling law.

IV. Attorney General's Office: AAGs Steve Monde, Carolyn Hanson, and David Scherr.

- *Carolyn Hanson, Domestic Violence Fatality Review Commission (#21)*. See [members](#) and [report](#) handouts. They are a confidential commission; therefore, their agendas are not posted publicly.
 - Commission reviews the systems impacting survivors of domestic violence and makes recommendations.
 - Unfortunately, the purpose is still needed. Every year about half of the homicides in the State are related to domestic violence.
 - Stats on domestic violence fatalities have been kept since 1994.
 - Does not pay per diems. There is one person appointed by the Vermont Network Against Domestic Violence, and the Network pays that member.
 - One of the accomplishments is the Leg. enacting the requirement that there be storage facilities for non-evidentiary firearms.
 - Commission is working well and its purpose does not overlap with other existing entities.
 - No special funding.
 - There are approx. 40 review commissions nationwide.
 - *Comm'r LaClair*: What does success look like? How do you know if you're making a difference?
 - *C. Hanson*: To some degree, domestic violence is predictable, and if it's predictable, it's preventable. So, this group keeps the issue in front of people and supports the people who experience it, which should have a positive impact.

- Overall, suggests that the Commission continue.
- **SAC recommendation:** Keep.
- *Steve Monde, Vulnerable Adult Fatality Review Team (#22); see [testimony](#) and [report](#) handouts.*
 - It took several years to get this Team enacted into law and it's only been operational for three years, so please do not repeal it.
 - Lively, frank conversations on Team, which is made up of both public and private members.
 - Has reviewed issues such as vulnerable adult hypothermia deaths.
 - Statutorily created because they deal with sensitive information, which requires confidentiality under PRA. This helps ensure everyone's opinions can be made frankly and confidentially.
 - No special appropriation to support this; no per diems. While government entities are paid their salaries, the work of this Team is folded into their work.
 - Bed sores may be fatal; this esp. occurs in home care, so part of this Commission's work is education.
 - **Results:** Wants to make the State's interventions as effective and efficient as possible; doesn't think it can ensure there will be a decrease in deaths.
 - *Comm'r LaClair:* Is there redundancy with federal oversight?
 - *S. Monde:* Focus of this group is to look at untimely deaths in all situations. So, while feds have a focus on nursing homes, for ex., this group has a broader scope, including on private care provided in homes, where more education is needed.
 - **SAC recommendation:** Keep.
- *David Scherr, Mental Health Crisis Response Commission (#23); see [handout](#).*
 - Established in 2017, and has met eight times since.
 - Please do not repeal; important focus.
 - Focuses on law enforcement interactions with people who have mental health crises that resulted in a fatality or serious bodily injury.
 - In one room are many of the players who have the capacity to make changes and to advocate for them.
 - No State expenditure or per diems, although State employee staff time is required (as part of existing salary).
 - Proceedings are confidential for same reasons (access to medical records, possibly education records); therefore, minutes are not available.
 - No overlap with other existing entities. While there are use of force investigations post-LE action, the investigation looks at a very narrow slice of time, but does not conduct more of a comprehensive review of what happened.
 - For ex., this Commission might review mental health access prior to a crisis incident (so, a systems review) or to the hours of a standoff prior to a LE shooting, whereas a use of force investigation would only focus on the LE shooting.
 - *Comm'r Collamore:* Do LEOs appear before the Commission?

- They may. Commission must wait until the conclusion of LE investigations and the adjudication of any cases.
 - *Comm'r Zeller*: How do you determine whether it's a mental health crisis?
 - Ultimately it will be a judgment call, based on the AG's initial investigation. However, in most cases it should be clear whether mental health issues was a factor.
 - *Comm'r Krauss*: If this involves mental health, why isn't this handled by DoMH?
 - It brings in all the relevant players, including LE, advocates, etc.
 - This Commission couldn't perform its function without statute protecting the confidentiality of its work. Likely AG's Office was chosen b/c it conducts the initial prosecution review.
 - *Comm'r Zeller*: Potential conflict of interest with DoMH, such as re: a person released from a State institution?
 - Yes, that seems possible. For ex., in Phil Grennon case, one Commission member needed to recuse b/c they were a health care provider.
 - **SAC recommendation**: Keep.
- *David Scherr, Racial Disparities Panel (#24)*; see [handout](#).
 - Created in 2017. Minutes and video recordings. Panel members are mostly State officials and employees.
 - Got off to a rocky start, but is now functioning well, working collaboratively, and meeting monthly.
 - **Set to expire in 2020**. Panel considers its work very important and feels the need to complete its work quickly. It is operating under the presumption that it will sunset and must complete its work by that time.
 - Reviews racial disparities across entire criminal justice system. There has been a focus on LE and disparity in incarceration rates. However, incarceration depends on a number of factors, not just LE.
 - A-A VT population = 1%, whereas A-A incarceration = 8%.
 - Traffic stop data: More stops of A-As coupled with fewer findings of contraband in searches.
 - **Fundamental constitutional issues**. Therefore, Panel wants to finish its work and not be repealed before its current sunset.
 - Per diems for non-State members, although not all members take it. About \$1200 so far.
 - There is an overlap with this Panel and the new Racial Equity Panel and the new Ex. Dir. created in 2018. However, *that* Panel will focus on State government structure, whereas this Panel looks at criminal justice.
 - **SAC recommendation**: Keep (and is already set to sunset)

[Lunch break]

V. Travel Information Council: Diane Snelling and Greg Boulbol, NRB; John Kessler, ACCD; John Dunleavy, Chief Counsel, AOT, see [testimony](#).

- *D. Snelling*: NRB could take on this responsibility, but not sure it's the best place. They would need changes in their structure to take it on.
- *J. Kessler*: AOT deals with *regulatory* transportation issues; signs are not part of this.
 - Not appropriate for NRB b/c the Council leans heavily on AOT for transportation-related issues, such as sign material. Strange mission creep to move to NRB.
 - Council collaborates with NRB as necessary; good working relationship.
- *Comm'r LaClair*: Part of last meeting's concerns was related to signs' relationship to land use and to transportation.
- *G. Boulbol*: Signs in big projects could be considered under NRB's aesthetics review. In his five or six years at NRB, a sign issue has only come up once.
- *D. Snelling*: Their context is signs on buildings or part of a project, but that is only a small scope.
- *J. Kessler*: Council's role is clearly defined; not a lot of discretionary judgment.
- *Comm'r Zeller*: Then why not in AOT, rather than an independent Council?
 - *J. Dunleavy*: One aspect is that Council has representation from private business community, whereas AOT focuses more on whether a sign encroaches on right-of-ways, etc.
- *J. Kessler*: When billboards were prohibited 50 years ago, we still needed a focus on promoting our tourism.
 - Council has representation across spectrum: regulatory, tourism, natural resources
 - Signage issues still come up. It's helpful to have this broad spectrum of stakeholders weighing in; it negates some of the politics that may otherwise be inferred if it were attached exclusively to one Admin agency.
- *Co-Chair White*: Who controls blue signs on highway advertising gas, camping, etc.
 - *J. Dunleavy*: Regulated by AOT in accordance with federal law.
- *J. Kessler*: Council relies on AOT for regulatory issues, but Council is more than that, including policy considerations.
- *Co-Chair White*: Recommends that Council propose statutory amendments that SAC can include in its recommended language.
- **SAC recommendation**: Keep (with request for updated language)

VI. Transportation Board (#25): John Ziccone, Executive Secretary. See [handout](#).

- *J. Ziccone*: Three main functions: 1) adjudicates disputes with AOT (for ex., increase in agreed-upon price of construction; small claims for plow trucks hitting mailbox; overall hearing appeals from decisions of AOT (rather than a court)); 2) regulates transportation issues/facilities and issues permits (ex: permit for a private helipad or airstrip); 3) public outreach.
 - Most issues relate to AOT, although there are some issues that relate to towns.

- AOT can't do most of these things b/c it's a conflict for AOT to adjudicate issues against itself. For ex., private airport permits: State-controlled airports require fees; allowing people to arrive in their own airport would present a conflict for AOT to approve.
- Holds hearings in communities where the issue exists. Many people appear pro se.
- Operates fairly quickly, compared to courts. Alleviates stresses on the judicial system.
- Cannot recommend any other entity b/c it's structured to be independent from Ex. Branch, adjudicating claims against Ex. Branch agencies. Courts are already too stressed, so he would not recommend eliminating and having courts handle the Board's issues.
- **SAC recommendation:** Keep.

VII. New Motor Vehicle Arbitration Board (#26): John Ziccone. See [handout](#).

- *J. Ziccone:* Administers the State's lemon law in a quasi-judicial capacity.
 - Common for settlements to be approved by the Board, prior to hearing. Once this Board gets involved, manufacturers tend to change their perspective on the consumer's complaint.
 - All disputes are between the consumer and the manufacturer (not the local car dealer). Board does not review any dealer warranties; only the manufacturer warranties, including extended manufacturer warranties.
 - By law, a new car dealer and a technician are Board members, for that expertise.
 - Statute controls the timeframe for adjudication, and it is speedy. Much faster than the courts; it also helps get dangerous vehicles off the road.
 - *Comm'r Collamore:* Is there a federal lemon law?
 - Not that he's aware of. For ex., in Florida, their lemon law only applies to the first year of a car's purchase, regardless of whether there's still a manufacturer warranty in effect.
- J. Ziccone is currently in the process of reviewing existing staffing levels and will consider whether there's some way to combine both the T Board and the Lemon Law Board.
- **SAC recommendation:** Keep (with anticipated potential to combine the two boards); perhaps revisit

VIII. Transportation Alternatives Grant Committee (#27): Sue Scribner, AOT, Muni Assistance Bureau. See [handout](#).

- AOT conducts screening of applications for grants for alternatives to standard transportation (for ex., bike projects).
- They have been focused on projects that improve water quality.

- *Co-Chair White*: How often does AOT differ from Committee's recommendations?
 - They don't.
- They don't give projects a score, but they have high, medium, and low rankings.
- **Recommendation**: Not sure there is extra value in having this Committee; however, individual Committee members may feel differently.
 - If this didn't exist, it'd go into AOT's budget, and then the Leg. would determine whether to fund it in the grant-line budget.
- **SAC recommendation**: **REPEAL**
 - **NOTE THAT SAC WILL WANT TO DIRECTLY HEAR FROM ALL BOARDS IT WANTS TO REPEAL**

IX. Wanda Minoli, Comm'r of DMV; Tom McCormick, AAG [no handout]: Vermont Traffic Committee (#28).

- Meets quarterly to hear muni requests that a speed limit be adjusted. AOT personnel do a traffic study and make recommendations to the Committee, at which point there will be a public hearing.
- All hearings are public. Decisions are made at the hearing.
- Three members are Sec. of AOT, Comm'r of DMV; Comm'r of Public Safety (or designees).
- Responsible for establishing speed zones, parking, and access on State and town highways.
- Purpose is still needed; it's about highway safety. Important for towns.
- Evaluation of speed limit change requests is very technical, and balances community need vs. highway safety.
- Not aware of any overlap or duplication with other State entities, and the purpose is still needed.
- Wants to keep enabling law as is.
- Virtually all work is request-driven, with requests made by muni.
- Work of Committee is embedded in work of highway safety; no outside help is obtained; it's all in AOT.
- *They will follow-up with written responses to SAC questions.*
- **SAC recommendation**: Keep.

X. Public Transit Advisory Commission (#29): Ross McDonald, AOT

- Deals with all things public transportation: public and private providers
- Provides feedback and vetting of policies
- Embedded in general AOT duties, so not a lot of extra work.
- No term limits; some people have been serving for many years. However, it's on the basis of the organization's appointment.

- Meets quarterly. Meetings more robust now, considering changes in technology and public transit, esp. considering aging population.
- **SAC recommendation:** Keep.

XI. Property Parcel Data Advisory Committee (#30): John Croft, Chief of Mapping at AOT; John Adams, VCGI

- Using GIS to create a geographic database of property parcels; 3-year, federally-funded project. Can use this to compare to muni grand lists and make comparisons.
- After the three years, the product will be turned over to VCGI. Currently in Year 2. Plans to end in December of 2019.
- Advisory Board makes recommendations on how to use this data in the future.
- Recommends this Committee continue on through this three years, then determine whether it should continue. Perhaps hand off to VCGI.
- AOT wants this data for their projects; for ex., examine rights of way. Mapping shows all of the property that would be impacted by an AOT project.
- Towns update their property parcels annually. However, property transfers are continuously updated.
- Committee will certainly recommend how this data should be maintained.
- *SAC discusses whether a sunset should be enacted, to set a deadline and to make Leg. reconsider whether it's necessary for Board to continue.*
- Individual land surveyor is exclusively volunteering, compared to other private appointees (such as VLCT), who are likely paid by their appointing organization.
- **SAC recommendation:** Keep (but revisit at the end of next year to determine whether it really should sunset; consider also requiring a report that recommends how the work will continue on and be maintained).

XII. Vermont Transportation Authority (#31): John Dulveany, AOT General Counsel.

- Has been inactive. Not doing anything, but also, not costing the State anything.
- VTA may finance muni projects through municipal bonds.
- There have been discussions re: whether a State airport is turned over to the VTA, for ex.
- Repealing it means that in the future, if it's again desired, Leg. would need to start from scratch to recreate it.
- **SAC recommendation:** **REPEAL; has not been used**

Next meeting; 11/27:

Morning:

- How to measure the effectiveness of a board/commission. CPO will discuss. (Krauss)
- Discussion re: the proposed legislation. (Krauss)
- Definitions of boards, commissions, etc. (White; T. Marshall)
- Governor's Office suggestions.
- BGS

Afternoon:

- Commission on Women (which will also help SAC compare its enabling law to the Commission on Native American Affairs)
- Agency of Agriculture (rows 16-40). (AG can choose the order of testimony.)

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