

Revised Testimony of Chris Company, Executive Director of the Windham Regional Commission, on S.96

Senate Government Operations Committee
February 16, 2022

- I am sharing my own professional opinion and not speaking on behalf of the Windham Regional Commission or all regional planning commissions. I will be referring to the Vermont Climate Council, to which I was appointed by the House to represent municipal interests, but I am not speaking on behalf of the Council.
- Very happy that there is interest in exploring how we do planning in the state, and how we can better coordinate planning among policy areas and at different levels of government.
- My primary concern with S.96 is that it begins with the assumption that a state planning office is the solution without first defining the context and need. I recognize the bill proposes a study, but the stated goal of the study is to develop a recommendation for reviving and modernizing the State Planning Office to oversee and coordinate at every level of government.
- My recommendation is that the bill be amended to take the approach contained within the initial Climate Action Plan (CAP). I shared the relevant excerpt from the plan with the committee, and I should note that I believe the bill was drafted prior to the CAP. The CAP proposes the following cross-cutting strategy (pp. 222-224):

Strategy 2: Update state and local land-use governance, regulations, and practices to remove barriers to compact settlement and improve coordination on land use issues across agencies, departments, municipalities, boards, commissions, and authorities.

b. Encourage the Legislature to authorize the creation a multi-stakeholder committee process with funding to support the development of a statewide land use planning policy and implementation plan that guides development to growth areas, town centers, and appropriate rural locations, and limits the development within ecologically sensitive/risk prone areas. The Legislature should clarify how and if this plan informs or directs land use planning, policy and regulation at the local, regional, and state level.

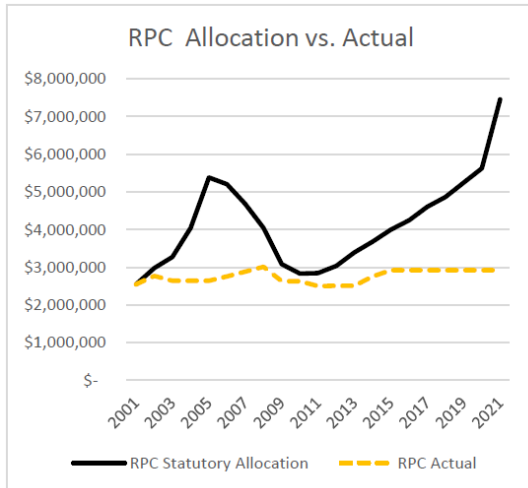
c. If a statewide land use planning policy and implementation plan is authorized, explore creation of a State Planning Office and/or other potential structures within the executive branch to implement the Plan at the state level.

- ***And crucially, per the CAP and the Global Warming Solutions Act, this work should be grounded in just transitions principles. It must address issues of fairness, equity, and justice throughout the policy lifecycle: public engagement, policy development, legislation***

and rulemaking, budgeting and appropriations, program implementation, and program evaluation. (Emphasis intended.)

- I'll note that there was some opposition to this recommendation among members of the administration that serve on the Council, and that is reflected in a dissenting opinion they filed.
- Because it focuses on land use planning policy, the recommendation in the CAP is perhaps a bit narrower than the scope proposed by S.96, but the concept of exploring how to best achieve state policy goals and then determining what structures are best to achieve those goals, including the creation of a state planning office, is, in my opinion, what's needed.
- I suggest the legislature adopt this approach to develop an objective understanding of our existing highly-diffuse planning and policy implementation structure and what it means for the implementation of statewide policy in an effective and timely manner within the Vermont context.
- This will inform the balance to be struck between local decision-making and the ability act on statewide policy, which will, in turn, how to better coordinate planning across policies and at all levels of government and the potential need, value, and role of a State Planning Office.
- I shared with the Committee a newsletter article I authored for a recent Windham Regional Commission newsletter that argues that we as a state must have an objective conversation about realistic expectations when it comes to adopting and enacting impactful policy with urgency. This related primarily to executing the initial Climate Action Plan, but the reasoning applies to S.96 as well.
- To summarize what I wrote in that newsletter article, municipalities are given the option to develop and adopt a plan containing land use policy, and are further given the option to implement the plan through regulatory means (i.e. bylaws). *Municipalities are not required to develop a plan or bylaws.* Those that choose to adopt a plan then have an 8-year plan update or re Adoption window. Similarly, regional planning commissions are required to adopt a regional plan within an 8-year update or re Adoption window, but unlike municipalities, we do not have the option of implementing the plan through our own regulatory means; regulatory application of regional plan policies is executed through Act 250 (land use) and Section 248 (energy and energy transmission) proceedings. The choice to plan and the choice to adopt effective plan policies relies largely upon the *political capacity* of municipalities and regions. Furthermore, the *operational capacity* to implement land use policies varies widely among municipalities and among regions, the latter of whom are largely dependent upon performance-based grants through the state that tend to be narrow in focus. This results in the practical reality that:
 - 1) the adoption of land use policies that reflect Vermont's policy imperatives will be left to the choice and political capacity of municipalities and regions;

- 2) the 8-year plan update or readoption window can extend by nearly a decade municipal or regional action on the imperative in question, which has implications for timeliness;
 - 3) the implementation of land use policies and related strategies and actions is left to the choice of municipalities and regions, each of which can have widely-varying operational capacity to execute implementation;
 - 4) 1, 2, and 3 above result in a patchwork quilt of both policies and policy implementation throughout the state, the consequence of which is uneven execution statewide that leaves entire communities of Vermonters unaffected by the state imperative in question; and
 - 5) this uneven execution raises basic fairness, equity, and justice concerns.
- Capacity also comes into play when it comes to state grant and loan programs. Municipalities and regions must have the capacity to access programs (i.e., be aware of grant programs and have the ability to draft an application), make successful application for their use, and administer projects within the bounds of program rules. Lack of capacity can again result in a patchwork of those Vermonters who benefit and those who do not. To the extent program access is competitive, those with greater capacity will tend to win, which has fairness, equity, and justice implications. I refer to this as the “Hunger Games” approach to state funding of municipal initiatives.
 - Which brings me back the fundamental premise of S.96, which is to create a State Planning Office to oversee and coordinate at every level of government prioritization of areas of investment into Vermont’s economy, community engagement, long-term emergency and disaster preparedness and recovery, standardized data collection and management, and intergovernmental communications and coordination.
 - Title 24, Chapter 117 establishes a structure that creates a high level of independence for regional planning commissions and municipal planning commissions. In my estimation the existence of a State Planning Office will not make planning across policy areas and coordination at every level of government any easier given the diffuse structure created by statute, nor will it address the larger structural policy execution challenges we have as a state. We need to have that conversation first and then determine how and if a State Planning Office makes sense.
 - The diffuse planning structure established by statute would likely require a State Planning Office to try to achieve coordination at all levels of government through funding which, frankly, is what happens now. I was asked if a State Planning Office might diminish the authority of regional planning commissions and municipal planning commissions. Regional commissions have very little to no authority to give up. We’re set up to collaborate with municipalities and the state, and ostensibly have no final decision-making power. To be very candid, what has eroded our authority is the shift of funding to very narrow performance-based grants, thus the erosion of authority is already happening. The legislature now dictates a very substantial amount of the work that we do by narrowly defining what it is we



are funded to do. By extension, the legislature has diminished our capacity to support the municipalities we serve to do the work that they, the municipalities, have prioritized because the funding we receive to do that work has been level since 2001 (that's not a typo). Furthermore, what towns can get funded to do through the municipal planning grant program has become quite narrow. The result of all of this is that we're less governed by our Commissions than by the contracts we have with state agencies authorized by the legislature.

- Therefore, while I applaud the interest in

establishing better coordinated planning across policy areas at all levels of government, I don't believe developing a plan to create a State Planning Office is the solution. As recommended by the Climate Action Plan, I believe we as a state need to first develop a statewide planning policy and implementation plan, and that the Legislature should clarify how and if this plan informs or directs planning, policy and regulation at the local, regional, and state level. This will inform the balance to be struck between local decision-making and the ability act on and implement statewide policy, which will in turn inform the potential need, value, and role of a State Planning Office. I do believe this work is absolutely essential if as Vermonters we want to successfully implement a wide variety of policy imperatives, including the Climate Action Plan, the Comprehensive Energy Plan, accomplishing our long-established land use planning goal of maintaining the historic settlement pattern of compact village and urban centers separated by rural countryside, and developing and implementing a coherent and effective housing development policy and strategy.