

Addison County Regional Planning Commission

Full Commission Meeting

Wednesday, October 10, 2001

The Addison County Regional Planning Commission Meeting on October 10, 2001 was held at the Kenyon Lounge at Middlebury College with Harvey Smith presiding.

ROLL CALL:

<i>Addison:</i>		<i>Monkton:</i>	Charlie Huizenga
<i>Bridport:</i>	Kent Wright Ed Payne	<i>New Haven:</i>	Allen Karnatz Harvey Smith
<i>Bristol:</i>	William Sayre Jim Peabody	<i>Orwell:</i>	David King
<i>Cornwall:</i>	Don Shall Bill McQuillan	<i>Panton:</i>	
<i>Ferrisburgh:</i>		<i>Ripton:</i>	
<i>Goshen:</i>		<i>Salisbury:</i>	
<i>Leicester:</i>	Joan Witteman	<i>Shoreham:</i>	
<i>Lincoln:</i>		<i>Starksboro:</i>	
<i>Middlebury:</i>	Fred Dunnington Karl Neuse	<i>Vergennes:</i>	
		<i>Waltham:</i>	Tom Yager
		<i>Weybridge:</i>	
		<i>Whiting:</i>	Ellen Kurrelmeyer Peg Allen

CITIZEN INTEREST REPRESENTATIVES

AC Chamber of Commerce:
AC Community Action Group:
Otter Creek Audubon Society:
AC Economic Development Corp:

STAFF:

Adam Lougee
Kevin Behm

Public Program

Harvey opened the program by noting that the Onsite Rules will probably have a greater impact in Addison County than anywhere else in the State. He noted that we must work hard to come up with a good set of changes that will work for Addison County. Harvey then introduced Chris Rechia, the Director of the Department of Environmental Conservation.

Mr. Rechia started by stating that the Agency had been working by fits and starts on reforming the onsite system rules for almost 12 years. Mr. Rechia noted that he could not change the history of the adoption process. However, he promised that the rules he is presenting now would be open to discussion, that the public will have plenty of time for comment and that the Agency will conduct a number of other meetings for people to hear and speak about the rules.

Mr. Rechia noted that the timeframe and rules are available on the web and that he had brought summaries of changes that had been made. He noted that one of the main changes that would affect Addison County would be changes in the depth to groundwater allowed. He noted that one of the phases, the proscriptive change, would allow depth to groundwater as low as six inches.

He also stated that two rules are being proposed. The first, Rule 1, closes the 10-acre exemption. The second rule, Rule 2, is far more technical and covers all other types of systems that will be allowed and prescribes conditions under which they will be allowed. Mr. Rechia stated that the Agency will need legislative help to implement these rules correctly and that the rules will not be finalized until the legislative session begins. Mr. Rechia noted that some limitations exist on what the Agency can do by rule. For example, under the proposed rule, the permit requirements will remain the same for someone creating a septic system as those for someone hooking on to a municipal system. Mr. Rechia stated that the Agency would like to change the rules to make it easier for some one to hook up to an existing municipal system, however, this change and others they would like to make will need legislative approval.

Mr. Rechia further stated that one of the differences between these rules and those proposed under S27 (Last years legislative attempt to address the onsite wastewater rules) is that these rules does not try to take jurisdiction over pre-existing lots created prior to 1969 whether or not they are developed and 10 acre lots already developed.

Mr. Rechia noted that the new rules make certain types of alternative systems available, however, the alternative technologies will only be available immediately in towns with confirmed town plans, zoning regs, subdivision regs, sewer regs and transportation standards. If you have all these, you can use the alternatives immediately, if you don't you can't use them until you adopt new plans and ordinances or for 5 years.

Mr. Rechia stated that last year the legislature wanted to see the rules before they approved S27. He noted that the rules are being presented currently. He also noted that public comment period would be open until December.

Lastly, Mr. Rechia introduced Roger Thompson of the Agency to speak about the rules more specifically. Mr. Thompson began by addressing the site modifications of most interest in Addison County, depth to groundwater. He noted that these new rules would allow depth to groundwater down to 6 ' if an engineer will certify it. (And assuming a town has adopted the planning regs noted above.)

Mr. Thompson also noted that another factor being changed is the slope on which you can build a system to u to 30% slope.

The 3rd change of the new rules involves depth to ledge that is moving from 24" to 18". Mr. Thompson stated that this is fairly aggressive in light of other state regulations.

Mr. Thompson further stated that innovative systems would be allowed. Many systems already in use in other state will be allowed. Mr. Thompson does not anticipate many experimental systems. Vermont is too small to support the research. He also noted that many alternative materials used in the technology would be allowed.

Another new system that will be allowed as a last resort for a failed system will be a holding tank. The exemption is really a last resort for fairly small systems (small businesses vs. single family homes).

Mr. Thompson noted that the Agency would keep working on these rules. He noted in particular, the Agency had not made any changes in the design flows. Although Vermont believes their flows are high, they are not sure how that will work with loading requirements.

Mr. Thompson concluded and Harvey Smith took the floor and introduced Lance Phelps, a local engineer who served on the technical advisory committee. Mr. Phelps noted that he felt that the committee had worked hard to build consensus and covered a lot of the fundamental topics that will be of impact in Addison County and across the state. Mr. Phelps noted that the group still plans to work on the rules.

Harvey Smith then opened the question and answer section of the meeting by asking that any person asking a question wait until he or she is selected and begin by stating their name and where they are from.

Harvey Shiner of Ferrisburgh asked where should we make comments and can we make comments by e-mail? Mr. Rechia answered that we could make comments by e-mail and that the address to send comments to was: Justinj@dec.anr.state.vt.us

Lance Phelps noted that all the rules are available on the ANR website at:
www.anr.state.vt.us/dec/regulate.htm

Ed Payne from Bridport asked Mr. Rechia to further elaborate on the grand fathering provisions.

Mr. Rechia noted that any lot subdivided prior to September 1969 would still be grand fathered and will remained grand fathered, not requiring an ANR permit. If some one subdivides a pre-existing lot, all systems on the lot will be inspected, unless one can show that the existing system is not impacted by the subdivision.

Ed Payne also asked whether all new systems would be considered experimental?

Mr. Rechia answered no; most of the 30 new systems the agency has looked at will come in as pre-approved systems. Mr. Rechia noted that VT technical college has a training center that the state is trying to fund and hopes to keep up and running.

Gary Fern of Otter Creek Engineering asked who would be reviewing designs that engineers bring to ANR?

Mr. Rechia responded that Roger Thompson would be reviewing all permits initially. The Agency will need additional staff to review these systems.

Gary Fern also asked if the Agency would do away with the requirement of secondary systems once engineers begin proposing technologies that reduce the biological load on the leachfield?

Mr. Thompson responded that they did not know at this time. Mr. Rechia also noted that the Agency hoped to update these rules on a regular basis.

Mr. Rechia further stated that when existing systems fail, the rules would allow the existing property to function. The Agency will not take anything away from anyone.

Bill McQuillan of Cornwall asked how he would be treated if he had a 10-acre lot. Mr. Thompson noted that if the lot existed prior to 1969, it would be grand fathered. If it were created after 1969, it would need to be developed before September 2002 or it would fall under the new rules.

Mr. Shiner of Ferrisburgh asked about “modifications”. He suggested that modifications below a certain de minimus value ought to be exempted to save a lot of work.

Dean George, a State Representative from Middlebury, asked why the Agency had proposed two rules with two timelines. He noted that this would allow for the closure of the 10-acre exemption before all the alternatives were worked out.

Mr. Rechia responded that by proposing two rules he wanted to focus the debate on the technical aspect of the rules and not the 10-acre exemption.

State Representative Bob Wood of Brandon noted that bifurcating the rule was a poor move on the part of the Agency and would be viewed with suspicion by the legislature. He stated it might poison the atmosphere with the legislature. Representative Wood noted that the legislature had been trying to get new systems approved for 20 years and could not get them out of the Agency. He stated the legislature would not appreciate the two rules now.

Mr. Rechia responded that it was not his intent to poison the well and that he realized that the 10-acre exemption was important part of the legislature’s concerns.

Steve Heffernan of Bristol asked if the Agency was increasing the fees.

Mr. Rechia responded that the Agency was not planning on increasing the fees at this time because it felt that it would increase the revenue it received by reviewing more permits.

Bob Oliver of Bridport asked if these were currently rules or might never happen?

Mr. Rechia responded that the Agency plans on making these rules and hopes that both will be adopted early next year before the building season.

Mr. Oliver followed by asking what is so important about closing the 10-acre exemption.

Mr. Rechia responded that the reason for these regulations are to protect public health. The 10-acre exemption has not served to protect public health. Spaghetti lots and other physical constraints have shown that 10-acre lots do not always provide the setbacks necessary to protect public health.

Mr. Oliver noted that this is very late in the process and that the 10-acre exemption should have been closed years ago. We have lost a lot of valuable farmland already.

Mr. Rechia agreed.

Representative Wood noted that the Agency can adopt these rules without the legislature but would do it at its own peril.

Representative Wood asked whether he would need an engineer to build a bedroom on a new house on a three-acre lot. Mr. Thompson noted that if he had an existing permit and wanted to add an extra bedroom, he would need to make sure the permit allowed the number of bedrooms desired and if he did not have capacity under the existing permit he would need to amend it, similar to current law.

Representative Wood asked if a site tech could perform this change or if an engineer would be required.

Mr. Rechia responded that for the most part, site tech could perform the work, except for new alternative systems.

Bill Sayre stated that he shared concerns about the Agency bifurcating the rulemaking process. He also noted that he was concerned about extending the state bureaucracy.

Karl Neuse asked whether he had read the rules correctly and that any room with a door and window would be considered as a bedroom and need a permit amendment.

Mr. Rechia responded that most State's do regulate bedrooms. He could not find another way to do this. He also noted that it helped consumer protection at the time a house sold.

Jim Peabody asked how many onsite systems exist in Vermont?

Mr. Thompson answered that about 35,000-50,000 exist and that 5-10% or 500 fail each year.

Jim Peabody asked how many health problems are caused by failing systems.

Mr. Rechia noted that the Health Department could not correlate system failures to health problems, but logically, they know they exist.

Bob Oliver asked about licensing?

Mr. Rechia noted that the State is not going to require licenses for installing systems.

Tom Yager from Waltham asked if a currently grandfathered, developed lot's system failed, would the owner of that lot need a permit.

Mr. Rechia responded that grandfathered lots would not need a permit for a failed system, unless a bedroom was added, taking away the exemption.

Kent Wright of Bridport noted that he lived on a farm that had been served by a privy from 1850 to 1950. They had not experienced any health problems while the privy was in operation or since. He stated that he did not see the need for these new regulations.

Karl Neuse asked about how these rules dealt with public buildings (Any thing other than single family dwelling). He noted that the Agency files were a mess and created a lot of headaches. He suggested that the Agency grandfather uses up to a very recent date certain.

Harvey Smith asked about town permits vs. state permits.

Mr. Rechia responded that the Agency did not have the power to delegate these rules to the municipalities.

Harvey Smith noted that from a landowner perspective he would much rather sell a two acre lot than a ten acre lot. He asked why do we need a rule to make the 10-acre exemption go away? Wouldn't it just die naturally by market forces?

Mr. Rechia replied if it existed people would still use it.

Harvey Smith asked how the onsite program is being co-coordinated with other agency rules, like phosphorus controls.

Mr. Rechia replied that the agency is trying to coordinate its activities.

Adam Lougee asked what planning tools need to be in place for towns to use the alternative systems.

Mr. Rechia noted that in order for a town to use the alternative systems offered, they need to have planning, zoning and other ordinances in place.

Mark Boiven, a dairy farm owner in Addison, supports ordinances to protect health and property. He does not support tying this to the 10-acre exemption. He thinks that it will merely redefine the problem, from spaghetti lots to small stamp lots. He fears it will amount to de facto statewide zoning. He urged the Agency not to get rid of the 10-acre exemption until the new rules have a track record.

Mr. Rechia acknowledged Mr. Boiven's opinion. He also stated that the 10-acre exemption might well be said to constitute statewide zoning. He thinks that these rules come a long way and that these rules will put Vermont on a plain where it will be technically ahead of other New England states.

Mr. Shiner of Ferrisburgh asked how long would it take to clean phosphorus in Lake Champlain.

Mr. Rechia responded that he did not know.

Harvey Smith closed the question and answer session and thanked Mr. Rechia and every one else for coming.

Business Meeting

Approval of Minutes: September 12, 2001

Karl Neuse moved to approve the minutes from September 12, 2001. Fred Dunnington seconded the motion. The motion passed unanimously.

Treasurer's Report

Adam distributed the treasurer's report and announced that the commission is in good shape. Karl Neuse **moved to approve the Treasurer's Report. Bill Sayre seconded the motion. The motion passed unanimously.**

Committee Reports

TAC: Tom Yager reported that the Bike/Ped report is complete and much improved.

Local Government: Please see report below.

Act 250: Fred noted that He had received a report on Act 250 applications since the last meeting. The only new application was an antenna application for a silo in New Haven. Adam had opined that the application had no regional significance.

Housing: Karl reported that the committee had been working hard and hoped to complete their work next week.

Natural Resources: Kevin Behm reported that the committee had tentatively set a date to meet on the Phosphorus TMDL on October 25th and that he would send something to committee members prior to that date.

Joint Partners Report

None.

Staff and Delegate Recognition

Adam noted that David Smith, a longtime delegate from Middlebury had submitted his resignation. Harvey recommended that the commission send David a card thanking him for his years of service.

Old Business

Discussion relating to CEDS: Fred Dunnington reported that the CEDS had been formed and held its organizational meeting and looked at the background economic data for the region. He noted that meetings covering different sectors of the economy are scheduled for December.

Transportation Workplan and Studies: Adam handed out a summary of the work that the TAC has authorized consultants to work on this year. Projects include Phase III of the Middlebury Multimodal Center (Train Station), traffic calming and parking study in Bristol, culvert inventories in selected towns and the final portion of the Vergennes Traffic Impact Workshop.

Other: None.

New Business

Confirmation and Approval of Whiting and Orwell's Town Plan and Planning Process: Adam announced that the local government Committee had reviewed the planning agenda and town plans for the Towns of Whiting and Orwell and conducted public hearings concerning those processes and plans. He noted that the Committee had unanimously concluded that planning was occurring and that the recently adopted town plans satisfied all criteria necessary for regional approval and should be approved. **Don Shall moved that the full commission should confirm the planning process in Whiting and Orwell and approve the town plans of Whiting and Orwell. David King seconded the motion, which passed unanimously**

Emergency Management update: Adam distributed a summary Tim had prepared on Emergency Management Activities currently being performed by the Commission. They include creating all hazard plans for the county, finishing the generator installations, starting project impact and performing more routine emergency planning functions.

Other: None.

Members Concerns/Information

Harvey Smith announced that the Farm Bureau's bus tour of the county showing best agricultural practices and their affect on phosphorus will be held October 17, 2001 leaving from the NRCS offices across from the A & W on Route 7 South of Middlebury. He urged members of the Natural Resources Committee to attend.

Fred Dunnington announced he was on the Chapter 117 Summer Study Committee and would be happy to submit comments from any one on that topic if they so desired.

Adjournment

Allen Karnatz moved to adjourn. Don Shall seconded the motion, which passed unanimously.
The meeting was adjourned at 10:00 PM.

Submitted by Adam Lougee