

# Addison County Regional Planning Commission

## Full Commission Meeting

Wednesday, March 13, 2002

The Addison County Regional Planning Commission Meeting was held on March 13, 2002 at Middlebury College's Kirk Alumni Center with Harvey Smith presiding.

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### ROLL CALL:

<i>Addison:</i>		<i>Orwell:</i>	David King
<i>Bridport:</i>	Kent Wright Edward Payne	<i>Panton:</i>	
<i>Bristol:</i>	Peter Grant Bill Sayre	<i>Ripton:</i>	Jeremy Grip
<i>Cornwall:</i>	Don Schall Bill McQuillan	<i>Salisbury:</i>	
<i>Ferrisburgh:</i>		<i>Shoreham:</i>	
<i>Goshen:</i>		<i>Starksboro:</i>	
<i>Leicester:</i>		<i>Vergennes:</i>	John Emerson Terry Faith-Weihs
<i>Lincoln:</i>		<i>Waltham:</i>	
<i>Middlebury:</i>	Karl Neuse	<i>Weybridge:</i>	
<i>Monkton:</i>	Thea Gaudette	<i>Whiting:</i>	Ellen Kurrelmeyer
<i>New Haven:</i>	Harvey Smith Allen Karnatz		

### CITIZEN INTEREST REPRESENTATIVES:

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

### STAFF:

Adam Lougee  
Brandy Saxton  
Hillary Spitz  
Tim Bouton

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## Public Hearing

The meeting began at 7:35 pm with a Public Program. Representative Phillip Angel, Chair of the House Natural Resources Committee; Ann Whitely from the Vermont Agency of Natural Resources, Department of Environmental Conservation; Karl Neuse, Esq. of the law firm Neuse, Smith, and Venman; and Alan Huizenga of Phelps Engineering were on hand to discuss proposed legislation and rules regarding on-site septic systems in Vermont and the impact any changes may have on Addison County.

Ann Whitely began the program by discussing the Wastewater and Water Supply Rule Changes that the agency has been working on. She noted that the agency must still complete the evaluation of all public comments received and prepare the rules for submission to the legislature. She handed out a summary of the rule changes, but noted that they were not final but would likely be very close to the final rules. She then discussed some of the rule changes in detail.

The 10-acre exemption was originally scheduled to close by September 1, 2002. Following public comment, the rule has now been amended to give build-outs until September 1, 2004. The technical standards in general have also changed. The proposed rules set up a process for approving alternative technologies so that rules won't have to be amended in the future. The committee looked at New Hampshire and Rhode Island for guidance. Technologies approved in these other states will be one category. Other innovative systems can be under a pilot system. The last category is for experimental systems that still need to be proven.

Ann said that what has been restricting land development is the minimum site distances (distance to ground water, bedrock, slope, etc.). Changes have been proposed to ratchet down those minimum site conditions. Only towns with confirmed plans and zoning ordinances, among other provisions, would be able to use these new standards for the first five years after adoption. This five-year window is meant to encourage these towns to develop land-use plans rather than to rely on the standards.

Ann then went on to describe some of the exemptions, some of which have been added since the proposed rules were originally released. Existing single-family residences will not need permits unless the property is subdivided. A lot line adjustment will also be exempt. The amnesty program is still in effect for residences that needed subdivision permits but never got them. Farms will now be given amnesty as well.

Phil Angel of the Natural Resources Committee said that he has proposed a bill for transferring the rule-making authority from ANR and to use science only and remove growth from the equation.

Allen Huizenga then addressed the group. He said that he feels that most of the changes are good, although there will be increased requirements put on the system designers, and in some cases, additional expenses.

Karl Neuse spoke about the effects that the regulations have had on land use. He said that many of the rule changes will be very beneficial to the lawyers and real estate brokers that need to know how property for sale will be impacted. A major benefit is that all of the regulations and exemptions will be easier to locate and understand. Karl also said that he hopes that towns include a notice in their tax bills letting taxpayers know about the build-out period exemption. He said we need to look carefully at every real estate transaction to determine whether they will be able to build out on that property.

Ann mentioned that one goal of the new rules is to help people understand when they need a permit and when they don't. She said the vast majority of S27 eliminates duplicate permitting at the state level and local level. Also, because standards can vary between towns, she said that standards should be science based and therefore should not vary. Towns could regulate more than the state, but not less. All of this requires statutory change and is being addressed in S27. Vermont is the only state where permits are not always required for septic and potable water systems, she noted.

Judy Kowalczyk asked about the six-inch distance and why that's acceptable as a minimum. Chris Recchia answered that the basic concept they went with was that effluent would stay below the ground. In doing this, however, it turns out that surfaces closer to the soil do a better job of filtering than do deeper soils.

Judy also asked about what towns will do if they don't establish planning and zoning regulations. Chris responded that towns that don't establish planning and zoning regulations cannot use the new site condition standards. Harvey asked how many towns have the planning and zoning. Chris answered that 20-30 towns have all eight of the required ordinances in place: a confirmed town plan, zoning bylaws, sewage ordinances, subdivision regulations, provisions regarding flood hazard and flood plain development, transportation-related improvement codes and standards, provisions regarding construction and erosion control, and provisions that encourage growth in designated growth centers and consideration of open spaces. At this point 37 towns meet those first six requirements.

Harvey Smith asked Phil which rules would be transferred in his bill. He answered that only the technical septic rules only would be affected.

Peter Grant asked whether towns will have help understanding the new rules. Ann answered that once they're adopted, there will be a concerted effort made to get information out to towns and the public. Attorney groups,

realtor groups, town groups, will all be notified. She agreed that it would be helpful if towns send out notices with tax bills but they can't mandate it.

Ed Payne asked why we have to reinvent the process of approving alternative systems when other states have already gone through it. Phil answered that there are as many as 50 alternative systems are out there but only five are being used in Vermont. The effort is not to reinvent the wheel, he said, but the 10-acre loophole needs to be eliminated first.

A question was raised regarding flood plain rules and flood hazards and whether there's a conflict there. Allen answered that it there may be a conflict, and there may be a conflict with wetlands regulations. Chris said that as long as a system is functioning properly, there was no need to restrict landowners from installing a system in a flood plain. The building may not be in the flood plain, however.

A question was raised regarding whether town managers might be cut out of the decision-making process. Ann answered that the state rules do not take away from town rules that are already in place. A question was asked whether landowners will also need a well permit. Ann answered that previously exempt properties will now need a potable water source permit.

Harvey asked for clarification regarding farms and which permits are necessary. Ann said that in some cases, farms will be exempt, but she's not sure which cases those will be. When a permit is necessary, the state office can give verbal approval for drilling a new well if the situation is critical.

Bill Sayre asked if adding a room with a window and a door would require a permit in the proposed rules. Ann said that a bedroom is defined as 80 square feet that could be used as a sleeping room with one window and a way to get in or out. It must also include a closet. A series of criteria will be used to help determine whether it's a bedroom or not.

Bill asked how many of the 50 alternative systems would be approved for use in Vermont. Ann answered that many of those are simply variations of other systems. The Advantex system has been approved. There's another one up for approval right now. The remaining vendors are aware of the state's regulations and she thinks it will be a straightforward process for approval. Ann said that she believes alternative systems won't make the difference, but rather the change in the site conditions.

Kent Wright argued that these restrictions take away our constitutional rights and force towns to make planning regulations that many Vermonters don't want. Ann responded that if towns choose not to make planning regulations, they won't be able to use the more cutting edge septic systems and reduce minimum distances. It's a policy issue, she said.

Harvey thanked the speakers and closed the public hearing at 9:25 pm.

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## Business Meeting

The business meeting began at 9:30 pm.

### Approval of Minutes: February 13, 2002

**Don Shall moved to approve the minutes from February 13, 2002. Thea seconded the motion.** Fred Dunnington asked that the minutes make it clear that no vote was taken for the Amendments of the Population and Housing Section of the Plan because no quorum was present. **The motion passed unanimously with Ellen Kurrelmeyer abstaining.**

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## Discussion of Executive Board Minutes: February 27, 2002

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### Treasurer's Report

Adam said that an updated report indicates that the commission is still in good shape and has sufficient balances to make it to the end of the year. **Allen Karnatz moved to approve the Treasurer's Report. Thea seconded the motion. The motion passed unanimously.**

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### Committee Reports

TAC: John Emerson said Vergennes held a feasibility study for a bike path and is now up for public input. An RFP has gone out for Bristol parking improvement study.

Local Government: no meeting.

Act 250: Fred Dunnington said a hearing for Atwater Commons was held yesterday and went smoothly. One new application concerning reopening a gravel pit in Lincoln has been filed. It is being handled as a minor application and will not have significant regional impact.

Natural Resources: no meeting.

Housing: no meeting.

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### Joint Partners Report

No report.

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### Staff and Delegate Recognition

Harvey asked whether Kent was retiring from the commission. He said that he believes he has been voted off the commission by the selectboard after town meeting. Kent said that he has enjoyed working on the commission, and Harvey thanked him for his service.

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### Old Business

**Investigation of Voting Requirements to Amend the Regional Plan**: Adam said that he looked into ways in which voting requirements could be amended. The 60% requirement is a statutory requirement and can't be amended. Proxies and absentee ballots are options. The executive board decided that a better way to go would be to find ways to increase attendance. Karl suggested that delegates be personally contacted to remind them to attend. Fred suggested collapsing some of the committees and bringing those responsibilities back to the full commission as a way to improve attendance. Ellen suggested that if a delegate misses a vote more than twice, then a notice goes out to the selectboard and ask for a proxy vote from the selectboard. Harvey said they will discuss it further at the next executive board meeting.

**Vote on Amendments of the Population and Housing Section of the Plan:** no vote due to lack of quorum.

**Vote on Re-adoption of the Plan:** no vote due to lack of quorum.

**Programs/Attendance, Nomination of Delegates/Alternates from Towns:** Another letter will go out to selectboards to encourage towns to name delegates to the commission. Terry Faith-Weihs said that she agreed with Fred's earlier suggestion regarding the full commission taking up some of the issues now under consideration by the committees.

**Other:**

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## **New Business**

**Election of Nominating Committee for Executive Board Elections:** Bill Sayre, Thea Gaudette and Bill McQuillan have been nominated to be part of the nominating committee. **Karl moved to nominate the slate. Allen seconded the motion. The motion passed unanimously.**

**Annual Meeting, May 8, 2002:** One activity being planned is a forestry program where commission members could go see a working forest in person. The commission will get together prior to the actual meeting to do this. No location has been selected yet. Adam suggested that the commission pay the bill for the dinner to thank the members.

**Legislative Redistricting:** Karl said he was concerned whether the commission should express itself if it had concerns over the state's plans for redistricting. He believes the legislature should respect regional authority. Harvey said the process is not over but that towns could ask the legislature for permission to divide their district. **Karl motioned that the commission notify the legislature of its supporting the proposal of the bipartisan redistricting commission. Judy seconded the motion. A vote was held. Bill Sayre and Harvey opposed. The motion was passed.**

**Other:** Ed Payne mentioned a car accident in Bridport that resulted in the town cutting back brush near stop signs. He suggested that other towns assess whether any of their intersections pose similar hazards.

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## **Adjournment**

**Fred moved to adjourn. Allen seconded the motion. The motion passed unanimously. The meeting was adjourned at 10:20 pm.**

*Submitted by Ursula Jones*