

# VERMONT ENVIRONMENTAL REPORT

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## LAND USE MEETINGS

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### **Tax Tail Wags Planning Dog**

A Burlington Free Press reporter precisely, if inadvertently, summed up the five public meetings which have been held to date on work completed by the seven regional task forces on Vermont's two state-wide plans. After describing a meeting involving the Environmental Board and some members of the Chittenden-Addison legislative delegation he wrote: "The Board then adjourned to attend a tax force meeting."

Discussion of alternatives to the present property tax system have dominated these task force-environmental board sessions to the exclusion of all but rudimentary discussion of the principal purpose of the meetings—the development of a Land Use Plan and a Land Capability and Development Plan.

When the planning issue was raised, the vast majority of the estimated 1,500 people who have attended the meetings to date, have been generally supportive. Only a comparative handful have spoken against the notion of state-wide planning per se. But a preliminary analysis of those attending the meetings indicates overwhelming support for the concept of planning and land use management. Indeed, a primary deficiency in the discussions held thus far has been the general absence of conflicting or even diverse points of view.

Fundamental themes running through all five sessions include the desire to keep farm and timber lands in their present "open" state and the concept that Vermont's traditional agricultural flavor be retained. Speakers also dwelled on the notion that whatever is done to control land speculation and development must not come at the expense of limiting job opportunities for young Vermonters, forcing them to leave the state. The necessity for new jobs not filled by migrants was emphasized.

But the necessity for a land use tax and a system of appraisal based on something other than fair market value punctuated each of the meetings. There has not been a significant amount of opinion expressed or information conveyed concerning such other planning related issues as flood plains, public investment, natural areas, new housing, transportation, the distribution of energy and, in general, the type of economic activity the state ought to discourage and/or encourage.

The final meetings during this first, exploratory round, will be held at Woodstock, June 21 and in Lyndon State College, June 28.

### **Priorities . . .**

"Thus far, there has been very little concern expressed either from the communities or from environmental groups, who see fit to extend great efforts on such matters as visual quantities of proposed transmission lines, or the radioactive emissions of nuclear plants, which will be less than that emitted by the State House. Why is there not a greater concern expressed by public officials and environmental groups? *Public Service Board Counsel Donald Rushford at the opening of hearings concerning the discontinuation of bus service in Burlington.*

## **Common Sense Spokesman Wants New 250 Criteria**

Former Tax Commissioner Lawrence Wright, counsel for Common Sense Associates, says his organization supports changes in Act 250 which would inject new economic criteria into the law's permit system. Specifically, Wright and his colleagues, who organized last December, want the potential economic benefit of a development or industry upon a community to be incorporated with the other standards weighed by district commissions considering permit applications.

However, a recent Attorney General's opinion suggests that such a change in the permit system could be accomplished under authority given the Environmental Board by Act 250 and would not require formal legislative approval.

Wright emphasizes that he does not support a weakening of the environmental criteria within the 250 permit system but feels that a counterbalancing set of economic standards should be given equal weight. But Wright says the law "doesn't necessarily need legislative tinkering."

Wright, who has spoken at four of the five Act 250 planning meetings held thus far, admits his appearances were made on behalf of the assembly of businessmen whom he represents. But Wright did not identify himself as the paid spokesman for Common Sense Associates when he made representations at the meetings. The former tax commissioner explained however that his views are the same as those of the group he has been retained to represent. Wright says these positions include an opposition to "the growing support for zero economic growth in Vermont." Roland Q. Seward, Rutland businessman and Republican national committeeman who heads the Common Sense Lobby, has singled out Mrs. Newton C. Garland and Professor James Marvin as targets for removal from the Environmental Board because of their supposed no growth philosophy. Wright says he agrees with Seward's characterizations of the two Environmental Board members. Both Mrs. Garland and Professor Marvin deny they are no-growth adherents.

Wright says Act 250 has "probably" contributed to a decline in non-residential construction in Vermont but he was unable to document this contention. He said Common Sense hopes to combat what he sees as an "anti-development" tendency in the state. "I am not anti-environmentalist, I am not anti-industrial development," Wright said. "The future of the state relies on a good balance between the two. We need to get more people at the state level working in this direction."

Wright also expressed "reservations" about the Interim Land Capability Plan which has been adopted by the Environmental Board and the Governor. "Environmentalists," he says, "had the upper hand," in its preparation.

## **Environment In The Ivory Tower**

The faculty of the College of Agriculture and Home Economics at the University of Vermont met last month to discuss curricula and program planning for the next five years. One subgroup concerning itself with the college's role in state environmental problems ran into some difficulty when one member asked his colleagues if they knew what this Act 250 was. His question was greeted by complete silence.

## **Environmental Board Sets Planning Hearings**

Formal public hearings on Vermont's proposed Land Use Plan and Land Capability and Development Plan will begin August 8 and continue on a twice-a-week basis through August 30. These sessions will represent the final opportunity for structured public participation in the preparation of the plans mandated by Act 250. Following the eight meetings, the Environmental Board will revise the draft of the plan, adopt it and have it printed preparatory to its submission to the new governor and, ultimately, the 1973 General Assembly.

Act 250 requires that the tentative plan be submitted to each municipal and regional planning commission for consideration. The municipal and regional commissions are required to offer their comments and recommendations concerning the draft plan within 30 days after it has been received.

The eight hearings—one will be conducted in the newly created Bennington Environmental Commission District—are expected to focus on a series of policy statements, which as yet are undefined, which will probably bear some similarity to the positions set forth in the Interim Land Capability Plan. As of early June, however, there was no precise indication as to what form the final plans might take and most interpreters of Act 250 agree that some form of draft plan will have to be completed by mid July.

## **Jeffords on Land Use Planning . . .**

Atty. Gen. James Jeffords, a candidate for the Republican gubernatorial nomination, believes some short term profit must be sacrificed if Vermont is to secure long term environmental quality. But he feels strong land use controls are the responsibility of the communities, rather than the state. These were two responses to a series of questions to which Jeffords was asked to react by the Environmental Report.

The 38 year old lawyer, who has said that a state land use plan would be a high priority item in his administration, does support state-wide planning and zoning as well as state ownership of areas vulnerable to development and state easements to control scenic areas. But he feels that state imposed zoning should only be a "broad back-up for zoning ordinances at the local level."

Jeffords says he does not now favor any specific land use tax concept and has been quoted as reluctant to support substantive amendments to Act 250. He backs incentives to enable farmers to retain long term ownership of their holdings and also supports either a homestead exemption tax or a surtax on second homes to support public education. He also concedes that such revisions in the tax structure might restrain migration into Vermont. But Jeffords is opposed to levying heavier taxes on mass recreation areas as a device to slow migration and declined comment on a question relating to tax incentives for population control.

The Attorney General feels future industrial growth in Vermont should be compatible with the state's terrain and the skills of its native work force. He feels Vermont's industrial future lies with such activities as precision tool manufacturing, service and assembly firms, research laboratories and native product fabrication. While he feels such new firms should be clustered he opposes state requirements that such clustering take place and does not agree that all urban and industrial growth should be contiguous to existing communities.

Other positions supported by Jeffords include the use of current tax revenues or long term bonds to acquire open space, the concept that certain sites can have greater social, economic or ecological value when left undeveloped and that the nature of Vermont's terrain indicates what may prudently be done to various types of land.

Jeffords says he does not support planning of "all phases of human activity" but agrees that development should not occur without anticipating what new factories and subdivisions might require by way of public services.

Finally, Jeffords does not support a moratorium on all development activities using public funds.

## **. . . And Luther Hackett**

A system of land use taxation predicated on an approved land use plan is supported by Luther F. Hackett, Republican candidate for the gubernatorial nomination. But Hackett says he is "still looking" at the concept of a graduated capital gains tax on land transfers. These were two of the responses elicited from the former House Majority Leader in an interview for the Vermont Environmental Report.

The South Burlington resident says he endorses both outright state ownership of land and easements to preserve open space and would support the expansion of both activities by state government with an emphasis on acquiring rights to land for greenbelts and where there is "high visual contact."

Hackett agrees that certain sites have greater social, ecological and economic value when left undeveloped. He believes that the land use planning process implies both immediate and long range benefits to Vermonters and he supports the use of public funds to attract industrial development.

When asked if sacrifices are necessary today to enhance Vermont's environmental quality tomorrow Hackett replied every investment made means that someone is taking something for today and setting it aside for the future.

Hackett endorses Act 250 but says the land capability plan should emphasize local, rather than state-wide zoning. He supports the notion that the nature of the land dictates how it may be used stating: "Land capability is the primary determinant of the development and planning process."

Hackett says he favors a "wide variety of low pollution industries" to meet the diverse needs of Vermont's work force. He supports the clustering of new industries, where possible, but does not feel that existing communities always offer the best developmental possibilities because of variations in the state's transportation system and electrical energy potential and requirements.

He does not support higher rates of taxation on second homes, (one of the few areas in which he and Jeffords differed). "There is no equity," he said, "in taxing a certain user at a higher rate as a public policy. We have to adhere to a consistent pattern of taxation. As long as we use the fair market value system, we must tax that way."

Hackett also opposes the use of the tax system to control both the birthrate and the rate of migration.

## **Vermont's New Highway Access Statute Pairs Safety, Environmental Quality**

Highway safety and environmental quality measures sometimes collide, but the unpublicized Highway Access Law (H. 460, now Act 171) enacted during the 1972 legislative session may prove to be one of the state's most effective tools for land use control as well as a step toward safer highways. The law aims to prevent the number of entrances and exits to state highways from multiplying as land is developed. It is based on the principle that a private individual should not have the right to sell access rights other than his own without first giving the public an opportunity to examine the possible effects. The concept evolved from a Vermont Supreme Court case which held that the state had the right to restrict off-premise roadside advertising. Enactment of the law followed the State Highway Board's announcement of a policy last October that would generally limit each property owner to a single access point on a highway and would require a developer to provide a collector road to an access point if the land were subdivided. Costs for necessary highway improvements became the developer's responsibility. The tightened policy resulted largely from the growth of strip development on town outskirts and rural roads which in some areas meant entrances and exits as often as every hundred feet. One of the first visible results of the board's policy is the elimination of several access points, widening of the road, and installation of a traffic signal at a shopping center north of St. Albans.

Under the new law which takes effect July 1, a developer applying for a permit for highway access must include a plan for traffic movement on the entire tract of land. Using safety as the test, the board may impose conditions on the permit to reduce the number of access points. It may require construction or improvements to be set back from the highway enough to allow for a frontage road or widening of the highway for acceleration and deceleration lanes. As later development occurs, the board may require elimination of access points if frontage roads are available. A major innovation of the new law is the provision to coordinate access plans and frontage road systems on contiguous property. Under this procedure, conditions imposed on developments under Act 250 can be integrated with those on adjoining property subject only to highway access controls because of smaller size. Unreasonable highway congestion or unsafe conditions are considerations in granting a permit under Act 250, but the highway access control law covers developments **regardless** of the acreage involved, while Act 250 applies only to developments over one acre in non-zoned areas. The access law provides that developers may be required to reimburse the state for necessary highway improvements. When the highway commissioner believes the law is being violated he may seek an injunction or an assurance of discontinuance. The fine is not less than \$100 and not more than \$10,000 for each violation. By controlling or preventing poor land uses, the law helps protect the public against large expenditures of public money to correct situations resulting from badly planned development. It avoids the complexities as well as the costs involved in protecting highways through zoning, elimination of access by purchase or condemnation, or building limited access highways.

State highway and environmental officials agree that careful development and use of roadside property will be beneficial to the environment, scenic quality, highway safety, and the economy of the state. As one put it: "Nothing, absolutely nothing, can persuade me that strip development as it has occurred and is occurring in this state is a good thing from any point of view, except perhaps to the last guy who was able to unload his property for more than he paid for it. And I don't think that justifies allowing it to continue unchecked. There are too many examples of the disastrous effect such development has on private enterprises located on state highways and on the convenience and safety of the general public not to expect responsible property owners who have a commitment to Vermont to accept the basic objectives of this law."

## **Lakeshore Regulations Delayed**

Lakeshore zoning regulations, called for in legislation enacted more than two years ago, are expected to be issued later this month by the Agency of Environmental Conservation. Forrest W. Orr, the agency's planning director, says his department has delayed promulgating the regulations because of difficulties in overlapping jurisdiction. Lakeside zoning, Orr says, should not conflict with existing subdivision regulations.

Orr says he has been working with the Water Resources Board on the codes, which were required to have been issued June 1. He says both agencies are trying to formulate regulations applicable to all Vermont lakeshores. "Each particular body of water should be explored in depth," Orr said. He cited Lake Memphremagog as an example of a lakeshore where prohibition on development would be difficult. "That would eliminate half of Newport," he said. Orr feels Vermont communities will first have to prepare broad based lakeside ordinances then modify them to meet local requirements.

## **Effluent Spraying Plant Now Under Construction**

Vermont's first state-sponsored effluent spraying project is expected to begin next month following completion of a \$25,000 plant now under construction at the Button Bay State Park on Lake Champlain west of Vergennes. The facility, being installed by the Department of Forests and Parks, will complement primary and secondary treatment systems now on the site.

Until now, effluent from the park has been pumped into the lake following treatment. Under the new system, waste will receive the same septic tank, sand filter treatment as before but will then be pumped into a newly dredged pond where it will odorlessly decompose for two weeks. The diluted liquid will then be chlorinated and sprayed, once a week, onto a fenced-off, four acre tract to either be absorbed by the soil and plants or to evaporate.

The spray system is being used in lieu of the more typical leach field method because the impermeable clay soil on the park site makes leaching unfeasible. Because of the unique soil situation at Button Bay, the Department of Water Resources and the Plant and Soil Science Department of the University of Vermont plan to evaluate changes in the area's ecology by testing alterations in the vegetation, insect pest population and ground water quality. Fred Costello, chief of park engineering for Forests and Parks, says: "This is the way to go for seasonal sewage treatment." The U. S. Forest Service is planning to install similar facilities at Hapgood Park and Mount Snow in the Green Mountain National Forest.

Effluent spraying is not a new concept either to Vermont or the nation. There are now approximately 80 human waste spray systems operating nationwide and many more for animal waste. The Bromley Ski Area sprayed some of its effluent last winter and reported no negative after effects this spring. One interesting spray experiment is being successfully conducted at the Green Valley Farm in Abendale, Pennsylvania where dairy herd waste is sprayed after a period of decomposition in a holding pond. This farm yields five cuttings of sudan grass each year on waste irrigated fields indicating to many the potential benefits of spraying as opposed to leaching effluent into the soil beneath the root zone.

## **Worcester Range Threatened**

Worcester and Middlesex residents are expressing a growing concern about the acquisition of large tracts of adjoining land in the Worcester Range which they fear is now a target for a major new development.

Frederick C. T. Work of Wheaton, Mass. has supposedly acquired control of 2,100 adjoining acres in the Worcester range through three recent purchases and is reported contemplating a condominium type recreation development or a ski area.

A citizen action group headed by Peter Lewis, former director of the Central Vermont Community Action Council, has formed to fight a zoning variance that local residents fear would open the door to a massive development.

## **Vermont May Attempt Scenic Road Concept**

Twenty-three New Hampshire towns designated scenic roads on Town Meeting Day. They were putting into effect a law aimed to ensure that back roads retain their unique characteristics. Effective in August 1971, the law allows a planning board, conservation commission, historical commission, or petition signed by ten voters to propose that a road be designated "scenic." No tree may be cut or stone wall torn down on such roads unless written permission of the planning board has been obtained and a public hearing held. The law does not apply to Class I or II highways. A New Hampshire planning official says the law was well-intended but is rather simplistic since a road could be realigned without affecting trees or stone walls or the road classification merely changed. A more adequate law would deal with factors such as amount of traffic and type of land use, he feels. However, the law was strongly attacked in the legislature and he doubts that a stricter one could have been passed at that time. In Vermont another approach was considered during the 1972 legislative session. H. 493 would have declared Route 100 the scenic central highway of Vermont and requested the highway board to prepare a management plan providing methods to preserve its beauty. The bill was withdrawn. Governor Davis has indicated to the VNRC that he is keenly interested in scenic roads legislation and has asked the Scenery Preservation Council to prepare a bill for submission to the 1973 legislature.

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### **Mini-Boom In Mad River Valley**

Since the passage of Act 250 more than two years ago, two-thirds of the applications received for Washington County have originated in four communities representing less than five percent of the county's population. The Mad River Planning and Development Commission says 55 such applications have come from the towns of Duxbury, Fayston, Waitsfield and Warren. And Alice DeLong, the commission's officer, points out that most of the land in the four towns isn't suitable for development because of steep slopes and rocky soils.

Although some of the permits issued have been for roads, ski trails and a bottled water plant, the vast majority have been for second home construction—including 192 condominium units. Mrs. DeLong estimates that an additional 700 units, ranging from trailer sites to condominiums, are in the planning stages for these communities.

She also says the influx of residential and recreational development appears to be having a substantial nonecological impact on the Valley. In Duxbury, three of the four farms operating four years ago are now out of business and Harwood Union High School, opened less than six years ago to serve the Valley communities and Waterbury, is now filled to capacity.

Despite Act 250 some of the Valley's new developments have been poorly executed. Alan Turner, assistant advisor to the District Five Environmental Board, singles out Hercoform which has a permit to construct 23 condominium units near Sugarbush. He says the firm neglected to construct drains for water runoff during construction and had problems with soil eroding under the pilings supporting the structures and with trees dying. Hercoform now has an application pending for 50 additional units and the company claims it has provided for the problems experienced during the earlier construction.

### **Rutland Shopping Center Planned**

What would be one of the largest shopping centers in the state has been proposed for a 31-acre site east of Rutland on Route 4. It would include department stores, a supermarket, drug store, theater, laundromat, and miscellaneous shops. State officials expressed a number of reservations about the \$2.5 million project, planned by the Justgold Holding Corporation of Yonkers, N. Y., at a hearing held by the Rutland District Environmental Commission. Among their concerns are the effect of runoffs from 12 acres of paved parking space on a pristine stream, the additional load on the Rutland sewage system which does not yet serve everyone in the city itself, and the appropriateness of the plan to the site which is now a grassy hill.