

Bulletin & Legislative Platform

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THIS YEAR'S TOP ISSUES

REVISIONIST HISTORY... AGAIN

“Permit Reform,” as we know it today is looking more like Frankenstein than a knight in shining armor. In its Frankenstein form, it may look dead, but it’s miraculously alive and very distorted. And over the years the story gets remade with a new cast and a different director. One could exhume a *VNRC Legislative Bulletin* from any one of the last three decades and find the same permit reform plot.

It goes something like this:

The legislature is put under tremendous pressure to weaken Vermont’s most important and comprehensive environmental law, Act 250. Conspiracy theories are hatched and boogey men are created to make the case for change. All the while, the facts show that the machinery of Act 250 works just fine and that, among other things, it’s really the coordination and implementation of other permitting processes that needs a tune-up.

Organizations such as VNRC wage a pitched battle in the State House and across Vermont to protect the core values of Act 250, especially the

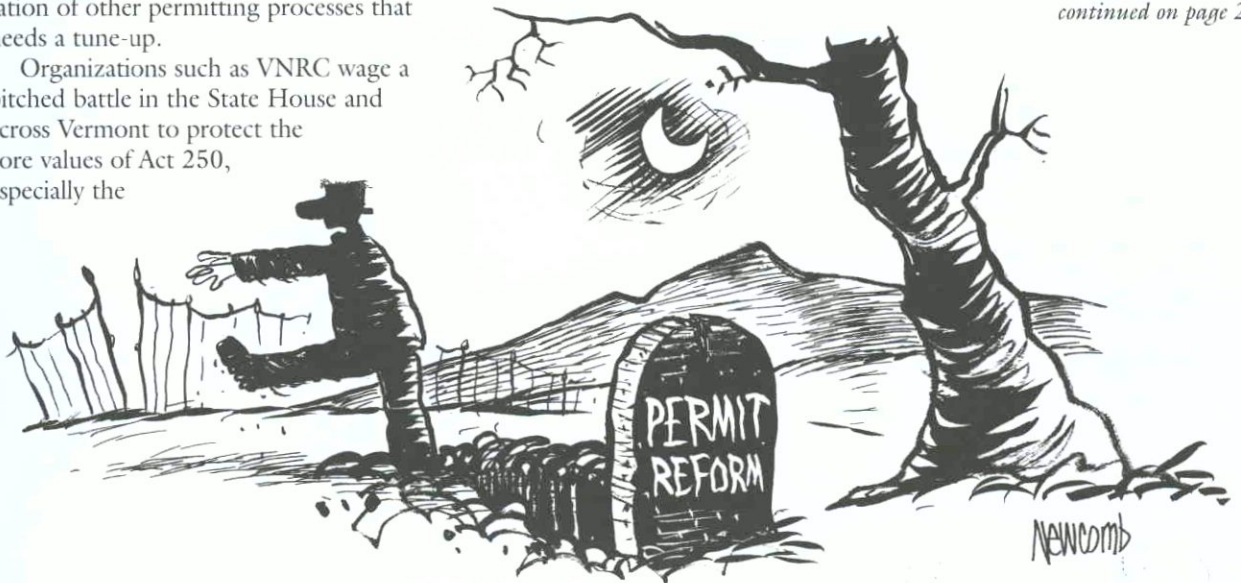
rights of Vermonters to be involved in how development will forever change the character of their communities. In the end, there is tremendous and unnecessary ill will left behind.

The real problems—insufficient planning, lack of coordination and implementation, and negligible foresight into the long-term environmental impacts of development—are never really addressed. Instead, Vermonters skirmish over how to treat symptoms rather than dealing with the underlying problems, the latter being something on which most Vermonters could probably agree.

But without a commitment to engage in real dialogue, get creative, and make a better process, we’re trapped in the same plot.

The story was last picked up at the end of the 2003

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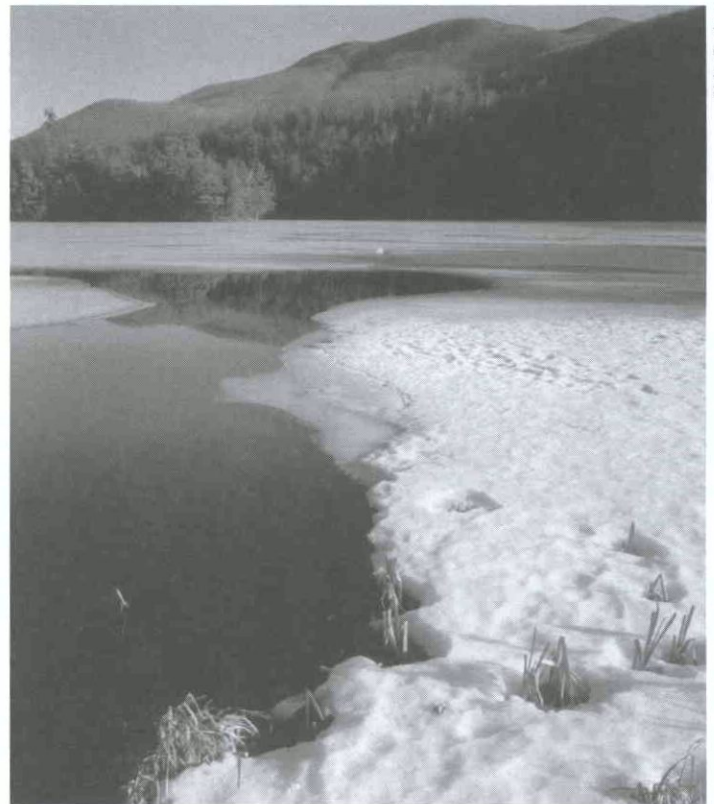
legislative session. The Douglas Administration had floated a controversial permit reform proposal that was vehemently opposed by VNRC. The proposal barely made it through the House. Some of the less onerous parts were passed by the Senate. All of it was left unresolved in a Committee of Conference. In an effort to keep the beast alive, Governor Douglas suggested that House and Senate negotiators continue to work through the summer and fall, and that he would call a special session in the off-season to force the issue to conclusion.

At the heart of the overly narrow debate were provisions to consolidate all local, state, and Act 250 appeals. In reality there are very few appeals at all in the permit process. Amazingly, the proposal by the administration would have consolidated exactly zero appeals, a fact that seemed lost in the political morass. Most iterations that were floated merely consolidated people.

This December, Senate negotiators made an offer to consolidate appeals to a "professional board," an idea supported by some faction of the conservation community. At a hearing on the proposal, however, it was pointed out that the model would cost an extra \$400,000 a year and consolidate all of two appeals. Once again the consolidation dialogue begged the question, what are we reforming? While a lot of ground could be covered by the Committee of Conference, the debate has been too myopically focussed.

And so we continue to legislate by anecdote, treating perceptions rather than reality.

In no instance was this made more evident than a few weeks ago when the Adminis-



Blake Gardner

tration pushed Act 250 changes through a legislative rules committee to limit citizen participation in the Act 250 proceedings. No proponents of the change could offer any rationale, nor produce a single valid example, of why citizens should be cut out of the Act 250 dialogue. Some veterans of the permit process suggested that the changes would only lead to more and more litigation as lawyers battle over who should be allowed to get involved in an Act 250 case.

Chief of the Vermont Press Bureau, Darren Allen, touched on the rule changes in an Act 250 commentary, opining, "Admittedly, last week's action will do little to speed the permit process.

"But one thing is certain: Without Act 250, Vermont in the last 33 years very well could have become just another bland landscape of strip malls, tract housing developments and numbing

suburban sameness."

Time and time again robust participation in the permit process has led to better environmental protection, enhanced local control, and more appropriate development. Why would Vermonters want anything less?

There is much that can be done to improve the manner in which development is reviewed in Vermont (see *Real Reformation*), but as the legislature reconvenes, it looks like Frankenstein lives on. Will we take our roles in the same plot this year only to reach to the same, tired ending? Maybe. Do there have to be winners and losers? With the right kind of leadership, definitely not.

One thing is certain. With sprawl eating up our landscape, stormwater pollution degrading our waters, and habitat fragmentation threatening our wildlife, we are focussing too much energy on the wrong story.