

CREATION OF ACT 250

Act 250 was conceived 40 years ago on May 28 in Brattleboro and after an active pregnancy was birthed nine-plus months later by the legislature and signed into law by Gov. Deane Davis.

Before commenting on the conception let me note that the scene for it was set on May 14, 1969 at the Second Annual Governor's Conference On Natural Resources held at the Statehouse in Montpelier. The Conference theme was; "Maintaining Environmental Quality In Vermont." Some 500 attended. In the opening panel that had the task of identifying Vermont's environmental problems, land development issues were only generally alluded to. Water pollution, air pollution and other environmental issues received the most attention. It was at this conference that Gov. Davis established his Commission on Environmental Control, chaired by Art Gibb, "to develop a comprehensive program of proposed legislation for presentation to the 1970 session of the General Assembly" to protect and preserve our environment.

Two weeks after this conference Gov. Davis and some of his cabinet heads and staff came to Brattleboro for the Chamber of Commerce's first annual Governor's Day. The day began with a breakfast meeting with the Executive Board of the Windham Regional Commission. The Commission invited the Governor to breakfast to talk with him about the second home development taking place in western Windham County, development that stretched from Whitingham and Halifax in the south through the Deerfield Valley towns of Wilmington and Dover to Stratton and Winhall in the north. Wilmington and Dover were the towns focused on in this meeting.

The breakfast was fascinating. Jack Veller, the Commission's chair and also the chair of the Dover Planning Commission and a realtor, described the second home development then occurring in Wilmington and Dover, development stimulated by the three ski areas in these towns (there were nine ski areas in the county at this time). In Wilmington there were some 36 active subdivisions, in Dover 25. Some like the 1,100 acre Chimney Hill development in Wilmington were virtually sold out. Others like the 4,000 acre Dover Hills in Dover were in process. Still others like Haystack in Wilmington were in the planning stage. The Dover Hills land was 1/6th of Dover's land base. Land speculation and sale was occurring at an order of magnitude never before seen in Vermont.

Gov. Davis learned that some subdivision lots were a quarter to half acre in size on 10-15 degree slopes, that water was promised lot buyers in some subdivisions but no water source was identified, that onsite septic was resulting in sewage overflow on steep slopes, that some subdivision roads could not accommodate fire trucks or school buses, that development on high elevation sites had significant ecological impacts, that town services and officials were overwhelmed by developers' demands on them, and much more. It's clear that the Vermont Development Department's 1960s "Beckoning Country" slogan had over beckoned.

This was all new to the Governor. He was amazed by what he heard and asked many questions, stretching a breakfast that was to last an hour or so to almost two hours. When it ended he said he wanted to come back soon to spend a day touring some of the developments we described to him, and also to talk with some of the local officials, realtors, bankers and some people involved in the land development business.

He returned two weeks later. We spent the morning touring some developments in Wilmington, including Chimney Hill, and had lunch with the Wilmington select board and listers. The afternoon was spent in Dover where we drove some of the 12-15 miles of road in Dover Hills seeing one acre lots one after another. Dinner was at the Red Mill in Wilmington with over 100 developers, town officials, bankers, realtors, and others present. There was lots of back and forth with the Governor asking many questions.

The day's tour and gatherings made it abundantly evident that the towns did not have the manpower or expertise to guide and regulate the second home development that was taking place. Local plans and bylaws like zoning were only now being written. State standards and controls were needed to fill the gap.

At June's end Gov. Davis came to Windham County once again, this time to address the annual meeting of the Windham Commission. He told the Commission that he was directing the Gibb Commission to make a land development control bill a top priority for the 1970 legislative session. He also said that he was forming a technical advisory team, headed by Walter Blucher, to look into the proposed new 2,000 acre Haystack Development in Wilmington.

Conception had more than occurred. What came to be Act 250 was off and running. The next eight months were a busy time in Windham County and Montpelier. Many of the Gibb Commission members, legislators and others came to see what was happening in the Deerfield Valley and Windham County. The Governor's technical advisory team reviewed several large developments and Gov. Davis himself personally intervened to stop two undesirable major second home development projects, one in Stratton and the other in the unorganized town of Somerset. The Health Department enacted interim health subdivision regulations to deal with some immediate sewage disposal health issues. WRPDC chair Jack Veller served on the Governor's Environmental Control Commission and Arthur Westing and Bill Schmidt of the WRPDC were on the Environmental Control Commission's Advisory Committee.

In March 1970 House Bill 417 on Environmental Control, which came to be known as Act 250, became law.

With the passage of Act 250 a conference looking forward to the law's implementation in the state and region – and the implementation of the other new environmental laws – was held with the WRPDC and Southeastern Vermont Board of Realtors as cosponsors. The conference, titled "Vermont's Environment: Talk and Action," took place on May 28, 1970 at Windham College in Putney and was attended by WRPDC commissioners, realtors, town selectboard, planning and zoning board members, town clerks, area

legislators, attorneys, land developers, members of the press and others.

Gov. Davis was the keynote speaker. He concluded his remarks with these words:
“... in closing let me express my appreciation to the WRPDC for the work done on behalf of the State of Vermont. There is no organization in the state that has cooperated more closely or more effectively with my office in the last year than this commission. Through your efforts we realized the land development problem in Vermont, tried out temporary solutions such as the Governor's Development Advisory Team, and had a thorough debate and discussion on the environmental package.”

Act 250 called for the creation of district environmental commissions and a development permit review process backed by a state land use plan to guide the location of larger developments. This plan would also provide guidance to state agencies in preparing plans for capital programs and, importantly, would coordinate the state's plans under 250 with duly adopted local and regional plans.

A draft of a state land use plan was prepared. It was the last of three plans called for in Act 250. The first plan, the interim land capability plan, was adopted in 1972, the second plan, the land capability and development plan, was adopted by the General Assembly in 1973. The third and final plan, the state land use plan, was presented at public hearings throughout the state in late 1973 but was not approved by the General Assembly in 1974. The failure of the General Assembly to enact a state land use plan was Gov. Davis' greatest regret on leaving office.

The WRPDC for its part coordinated with state planners and others in the early 1970s in the drafting of the various state plans and, following the failure of the proposed state land use plan to become law, drafted the commission's second regional plan and a model town plan and zoning bylaw based on the state land capability and development plan. The commission also undertook a related ecological planning study in 1970-72 in Dover and Wilmington under the direction of nationally known landscape architect Ian McHarg.

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February 2015