

CENTRAL VERMONT REGIONAL PLANNING COMMISSION

Regional Plan Committee

Draft Minutes

September 4, 2024 4:00 – 5:30 pm

Via Zoom and In Person

29 Main Street, Suite 4, Montpelier, VT 05602

Committee Members:

X	Alice Peal, Waitsfield Alternate Rep
X	Alice Farrell, Barre Town Rep
X	Doug Greason, Waterbury Rep
X	Mike Miller, Montpelier Alternate Rep
X	John Brabant, Calais Rep

1
1 Staff: Christian Meyer, Reuben MacMartin, Will Pitkin, Niki Sabado (in person), Eli Toohey (Zoom)

2
3 Guests: Peter Gregory, Executive Director of Two Rivers-Ottawaquechee Regional Commission; Andrew
4 McNealus, CVRPC Fayston Rep

5
6 **Adjustment to the Agenda**
7 No adjustments.

8
9 **Public Comment**
10 No comments.

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12 A. Farrell moved to accept August 2024 draft meeting minutes, D. Greason seconded. Accepted
13 unanimously.

14 15 **Discussion – Mandatory Language (Shall, Must) vs. Advisory Language (Should) in Regional Plan**

16
17 P. Gregory discussed when Two Rivers-Ottawaquechee Regional Commission (TRORC) uses mandatory
18 language, how they've used it, and instances where there has been conflict related to that use.

19
20 P. Gregory stated that the TRORC board of directors sets policies and staff implement those policies as
21 aggressively as possible. Clear mandatory language is most important in regulatory proceedings related
22 to Act 250 and Section 248 permit applications. The chapters of the TRORC regional plan that are most
23 often cited in those proceedings are the Land Use and Utilities chapters. TRORC uses mandatory
24 language when it is not just mimicking existing state law and, instead, has discretion to take a policy
25 position that can influence regulatory proceedings.

26
27 Over the years, TRORC has modified its regional plan language to be clearer and more mandatory as
28 previous wording has at times proven ineffective in regulatory proceedings. He also spoke about how
29 municipalities in their region have varying degrees of mandatory vs. advisory language in their municipal
30 plans; over time, the trend is municipalities also shifting toward more mandatory language.

31
32 P. Gregory stated that TRORC also sometimes uses mandatory language in attempting to protect a

1 natural resource that the board felt should be protected to a higher degree than is mandated in existing
2 state law. In these situations, the mandatory language may not be directly applied in a regulatory
3 proceeding, so it may not have a significant impact.
4

5 P. Gregory also emphasized the importance of clarity in regional plan language and spoke about a case
6 in the TRORC region that was appealed to the Supreme Court in which the regional plan and the
7 municipal plan of the municipality where the planned development was located were in conflict.
8

9 J. Brabant asked about the use of mandatory language, the relationship between the regional and
10 municipal plans, and whether the regional plan is an aspirational or regulatory document. He cited an
11 example of a planned telecommunication tower where the host municipality's town plan did not limit
12 development and CVRPC amended the regional plan to reinsert mandatory language that would prohibit
13 that development because a former CVRPC staffer viewed the regional plan as a strictly aspirational
14 document and removed the previously-existing mandatory language from the regional plan. P. Gregory
15 stated that normally a regional plan is an aspirational document, but in the specific instances of Act 250
16 and Section 248 review, it is a regulatory document and needs to be written accordingly. P. Gregory was
17 not aware of any municipalities or RPCs that had regretted using mandatory language.
18

19 M. Miller asked if the TRORC regional plan had a standalone list of Act 250/Section 248 policies; P.
20 Gregory stated that TRORC's policies are scattered throughout the regional plan. C. Meyer asked about
21 TRORC's definition of substantial regional impact and how TRORC judges when to invoke that during
22 project review. P. Gregory stated that substantial regional impact is less frequently relevant now than it
23 was several decades ago because municipal plans and regional plans are typically not in conflict
24 nowadays because TRORC reviews municipal plans for conformance with the regional plan when
25 deciding whether to approve municipal plans. Typically, the only situation in which a regional planning
26 commission would decide that a proposed development would have substantial regional impact and
27 therefore the RPC should participate in the permitting proceeding is when there is a conflict between
28 the regional plan and the municipal plan and the RPC feels that the municipal plan is not providing
29 sufficient protection against development that would negatively impact the region. Because municipal
30 plans are now better aligned with the regional plan, this is not a common issue anymore.
31

32 P. Gregory spoke about how TRORC decides whether to participate in Act 250/Section 248 proceedings
33 in which RPC participation is optional.
34

35 A. Peal asked if there are any ways that the regional plan can direct municipalities. P. Gregory stated
36 that municipalities have the option to seek RPC approval of their municipal plans; in these instances,
37 RPCs can withhold approval if the municipal plan does not meet certain criteria or is not compatible with
38 the regional plan. Municipal plans must receive RPC approval for the municipal plan to receive
39 "substantial deference" in Public Utility Commission review of Section 248 applications. A. Peal asked
40 what role the regional plan can play in providing guidance to municipal officials on issues including
41 flooding and emergency response.
42

43 E. Toohey asked where TRORC uses mandatory language in its regional plan outside of Act 250 and
44 Section 248 standards. P. Gregory stated that TRORC uses mandatory language in water quality
45 standards (which TRORC uses as a basis for comments on basin plans), transportation, land use, and
46 aesthetics. P. Gregory noted that many sections of TRORC's regional plan use a mixture of mandatory
47 and advisory language.
48

1 C. Meyer asked if a regional plan could require a process from the region’s municipalities, for example,
2 requiring that all towns develop design standards for downtown districts. P. Gregory stated that RPCs do
3 not have that authority and are only able to influence such processes through education and advocacy.
4 RPCs have a limited ability to require anything from external entities.

5
6 P. Gregory stated that Act 250 Criterion 10 and Section 248 (which includes the review criteria of Act
7 250 by reference) are the only places where development is required to conform to a regional plan.
8 However, RPCs can still set policies – which are strengthened by using mandatory language – that may
9 have impact by influencing state agencies or emphasizing the importance of certain issues to state
10 legislators, although there is no requirement that any of these entities abide by the policies set forth in
11 the regional plan. P. Gregory also noted that the regional plan is the basis of all the testimony that he
12 provides to state government.

13
14 M. Miller agreed that RPCs have leverage to institute policies by not approving any municipal plans that
15 do not include the policy in question.

16
17 P. Gregory noted that regional plans now have a state-level review process through the Land Use Review
18 Board, whereas before 2024, municipal plans went through rigorous review and regional plans did not.

19
20 J. Brabant added that RPCs have the ability to impact Act 250 and Section 248 proceedings if RPCs
21 disagree with the findings of other entities, such as the Agency of Natural Resources. P. Gregory
22 suggested articulating what is important to the region, even if existing laws do not regulate that issue or
23 specifically grant the RPC authority to regulate that issue.

24
25 D. Greason asked how TRORC decides whether to use mandatory language in its regional plan. P.
26 Gregory stated that TRORC staff begin the discussion with their board and bring proposals to the board
27 to review when they arise. P. Gregory elaborated on the roles that the TRORC board and staff play in
28 drafting and updating the regional plan.

29 30 **Discussion – Transportation Draft Chapter of Regional Plan**

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32 Committee discussed the Transportation draft chapter.

33
34 Committee generally found the chapter clear and well-written. Committee requested more narrative to
35 introduce the issues that the chapter would discuss, more visionary policies looking forward, more
36 discussion of safety and specific dangerous areas.

37
38 R. MacMartin and committee discussed issues including railway development, the role of land use
39 planning for denser village centers in making public transit economically viable, how to shift the culture
40 of single-user car usership to toward public transit, and in which areas CVRPC was most able to influence
41 outcomes (given federal, state, and local ownership of most transportation infrastructure).

42
43 R. MacMartin requested that the committee assist in consolidating and paring down goals and
44 strategies.

45
46 D. Greason suggested that the Transportation chapter mention the increased road maintenance costs
47 that municipalities are facing due to climate change. Discussion followed about how to gather that data.

- 1 J. Brabant asked if CVRPC can impact road safety by changing speed limits on dangerous stretches of
- 2 road. Staff and committee discussed ways the CVRPC can make transportation infrastructure safer.
- 3
- 4 *D. Greason moved to adjourn, M. Miller seconded, all in favor, motion carried.*