

Denton Publications
December 4, 2009

Locals, environmentalists spar over Park's future

By Jonathan Alexander, Staff Writer, Adirondack Journal

RAY BROOK — After three legislative bills dealing with the Adirondack Park Agency failed to garner state Assembly sponsorship earlier this year, Agency Chairman Curt Stiles has now seeking input from local governments and environmentalists on re-drafting the APA Act.

And with the potential re-drafting of the agency's legal foundation, representatives from various groups are outlining what they would like to see changed in the APA.

If adopted by state legislators, amendments to the APA Act could drastically alter the mode and operation of the agency and its authority over private lands in the Park.

These stakeholders apparently have long lists of aspects they would like to see changed.

Adirondack Council spokesman John Sheehan said Monday that his environmental group would like to see more teeth put into APA enforcement.

Unlike most land-use authorities, APA enforcement personnel typically cannot issue tickets for obvious violations. Instead, costly and lengthy hearings result when enforcers report the violation.

The Council would like to have APA enforcers empowered to issue tickets or stop work orders on-site similar to other municipal zoning officers.

Of primary interest to the Council is a provision in the affordable housing bill that would institute an agency subdivision permit fee. Most zoning regulating agencies charge fees for the permit process. The APA currently doesn't charge a review fee and the permitting costs are now shouldered by state taxpayers. The housing bill is one of the three APA-related bills now stalled in the state Legislature. But if the bill did pass, such a fee would be instituted for large-scale subdivisions.

"Especially for big projects, which take years in review, some kind of modest fee seems reasonable," Sheehan said. "Otherwise the people of the State of New York are subsidizing the cost."

In early October, Stiles issued a request for input from local governments regarding changes to the APA Act. In response, the Adirondack Local Government Review Board and the Adirondack Association of Towns and Villages drafted a 16-page response, detailing numerous historical gripes that have long split local officials and the APA.

In November, Stiles drafted a letter to every town supervisor in the park, asking for input.

"When we talk about regulatory reform, we are talking about the act itself, the regulations which interpret the act and the State Land Master Plan," Stiles said. "I would look at attacking them in that order."

According to Review Board director Fred Monroe, the overarching issue for local governments is a lack of influence at the agency.

Created by the APA Act in 1973 to monitor the APA, the smaller review board has little sway in the selection of APA commissioners or influence over issues of concern.

Monroe argues that allowing local governments to select or nominate individuals for vacant APA Board of Commissioners seats is a fair and reasonable request and would go a long way in balancing the needs of the state with those of the local population.

"If you have adequate representation, then you feel like your interests are protected," Monroe said.

Three APA Commissioners are former board members of the Adirondack Council, while two come from local government.

Unlike non-profit green groups, lawsuits against the agency aren't often allowed per state precedent.

"Environmental groups and clubs do have the power to sue the APA and DEC to seek judicial review of their administrative actions," Monroe wrote in his list of proposed changes. "APA and DEC actions and policies appear to frequently be made in response to those judicial review lawsuits. Local government officials are democratically elected to represent the concerns of their constituents. When they bring lawsuits seeking judicial review of APA actions they are met with arguments by the state Attorney General that they lack standing to sue."

Monroe argues that the local government's lack of power to sue over agency decisions skews the balance between the needs of municipalities and those of environmentalists.

But for Stiles, there is one driving problem with the Act as it currently stands: the vague terminology regarding shoreline setbacks.

Stiles said that the waterfront setback language must be clarified and in many cases strengthened to further protect Adirondack water bodies.

Last week, a nine-county lawsuit seeking to nullify recently adopted APA shoreline setbacks, was largely defeated in state Supreme Court.

Monroe and many other local officials had argued new setback policies had inappropriately extended the APA power to restrict land use — and should have been a matter for state Law rather than the APA act.

While environmentalists have argued that the unspoiled beauty of the Park needs to be preserved, local officials have countered that preservation is suffocating economic development.