

*Vermont Commission  
On  
Native American Affairs*

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**Commission Members**

Don Stevens, **Chairman**  
Brad Barratt  
Jeanne A. Brink  
Timothy Richard de la Bruere  
Charles Delaney-Megeso  
Judy Dow

Minutes  
December 11, 2008

**Members Present:** Donald Stevens, Chairman; Tim de la Bruere; Judy Dow; Jeanne Brink; Charles Delaney-Megeso; Brad Barratt

**Staff:** Diane McInerney, Executive Assistance DHP, Commission Secretary; Nora Kennedy and Stephanie Cramer, Interpreters for Brad Barratt

**Guests:** Doris Seale, Burlington; Richard (Skip) Bernier, Dian Mueller, Commission Member Assistant; Ellen Maxon, VT Human Rights Commission; Thomas Lichtenberger

This meeting was brought to order by the Chairman, Don Stevens at 1:00 pm in the AOT Board Room, 5<sup>th</sup> floor, National Life Building, Montpelier.

After a discussion with Susanne Young, as acting Chairperson Don has chosen to conduct the meetings by majority rule, and not by Robert's Rules of Order. If there is not a consensus, then each Commission member's decision will be recorded in the minutes.

**1. Approval of October 23, 2008 Minutes**

The minutes for October 23, 2008 were not approved at this meeting. Judy questioned the secretary about the procedure for mailing draft minutes to the Commission and if the public had access to the minutes before they were approved by Commission members. Diane explained her procedure for submitting the minutes and informed the Commission that meeting minutes are available to the public before Commission approval. Other corrections were made by Commission members. The secretary will make the corrections and re-submit them to Council members for approval at the next meeting. Judy noted that the agenda did not reflect items to be discussed at the meeting and made it hard to prepare for a discussion about important issues. The secretary said that she does not prepare the minutes and that it is the responsibility of the Chairperson. Judy requested that the Chair be more specific with the agenda.

**2. Discussion on Projects and Goals**  
**a. Recognition**

Don began the discussion with the issue of recognition and asked Commission members if they wanted to pursue it during this term. Judy said that many Native American's have e-mailed her

requesting that the Commission work on being granted the authority to recognize Native Americans during this term. Charles remarked that the Commission needs to establish “vested authority” before moving ahead with the issue of recognition and Commission members agreed. Don noted that he had spoken with Mike McShane and Susanne Young, and that both felt the Commission needs to establish vested authority. Judy asked that Don bring these conversations to the Commission. Commission members felt that all native entities need to work together. Brad said that the Commission can learn from their mistakes, and that vested authority is the only way the Commission can assist native people. The Commission discussed adding a request for a budget to the amendment. Charles said the Commission needs to focus on one bill at a time to be affective and that vested authority will empower the Commission.

Judy motioned to have Charles obtain a legislative sponsor and write a limited amendment to §852 to be presented to the legislature for vested authority only. Tim seconded and the Commission unanimously agreed that Charles will recruit a sponsor and write a limited amendment to §852 for vested authority only, to be presented at the opening of the 2009 Legislative Session.

Judy and Jeanne felt that the amendment to §852 should be in draft form, and presented to the Commission and public for approval at a special meeting that will be held on December 30, 2008 in the Calvin Coolidge Conference Room, 6<sup>th</sup> floor of the National Life Building in Montpelier from 3-4pm, before it is presented to the Legislature. Judy motioned to hold this special meeting on this day and time and Jeanne seconded. Commission members unanimously approved of this procedure. Guest, Ellen Maxon from the VT Human Rights Commission spoke, and said that the most important first step is to recruit a strong sponsor for this bill.

#### **b. Burial Laws**

Judy felt that the Commission needs to be informed about the state protocol for repatriation of human remains at the Intervale; a highly documented and protected archeological site listed on the State Register and subject to Act 250. When hundred year old Native American remains were found in the Medical Examiner’s office the Division for Historic Preservation was contacted. Although Judy had found a site for repatriation at Malletts Creek, the remains were given to April St. Francis Merrill and repatriated in a highly sensitive part of the Intervale where leachate is being spread and has been in the past. It was suggested that Giovanna Peebles, VT State Archeologist be contacted to attend a meeting with the Commission to discuss the current DHP protocol.

### **3. Other Business**

Don informed the Commission that he was in contact with Mike McShane. He said the Intervale Center feels that the Commission is overstepping their authority concerning the Intervale. The Intervale has requested that McShane write a letter of opinion on the legal authority of the Commission. McShane will send a copy of his opinion to the Commission. Commission members wondered how he will support them. Judy said if the Commission cannot protect the Intervale, then they will not be able to protect anything.

Don presented information from April St. Francis Merrill requesting that the Commission report any findings of burial sites or Native American remains to the Missisquoi tribe for repatriation. Judy noted that traditionally Native remains are repatriated where they are found, within their own watershed. Not just one tribe, but all tribes/bands need to be informed of these findings for repatriation in the proper geographical area. Judy motioned to report any findings to the appropriate tribe/band from the geographical area where the remains were found. Jeanne felt that no one person/tribe/band should be notified. Guest, Doris Seale spoke and said "Let it lay [the request from Merrill]... it's where you find the remains that they should be buried." The motion was shelved. Jeanne motioned to have a meeting with Giovanna Peebles about the state protocol before responding to April's request and Charles seconded. The Commission agreed unanimously to contact Giovanna for information on the state protocol when Native American remains are found. Charles said there should be a willingness to understand turning over the remains to the proper watershed. Judy requested that an update about the Intervale be on the January agenda.

Commission members were torn between taking action/no action on Merrill's request. Tim felt that Commission members need to have more information and that April should address the Commission as a whole with her request not just the Chair. Tim also felt that with no rules, or guidelines established by the Commission, it is impossible to deal with information and issues presented before the Commission. Charles motioned to consider the request at a future meeting after Commission members had time to read the information on federal regulations that Merrill submitted. Brad seconded and the Commission voted. Jeanne nay, Judy nay, Tim nay, Brad yah, Charles yah and Don yah. The Chair's decision tied the vote. Commission members said that Don, as the Chairman, should not be able to vote. Judy read from Public Meeting Policy that the Chair can only vote to break a tie, or if he constitutes a quorum. Don asked that his vote be counted until further information on the proper procedure was determined. With a tie vote, there will be no action taken on the motion to consider the request of April St. Francis Merrill until Commission members are given time to read the request.

Brad expressed his feelings and noted that, as a Commission member, he will leave his personal opinions outside all meetings.

Diane presented Commission members with business cards that were created according to state standards and the, Commission approved, state logo. The watermark Jeanne had created did not conform to the standards and could not be used on the business card.

The meeting was adjourned at 3:09 pm.

Respectfully submitted, Diane McNerney (say-air-kee-wayn-chukws).