

# Golf and the Larger Environment

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THE VERMONT GOLF Association, organized in 1902, has had the typical purposes of most state golf associations — holding state golf tournaments, administering a handicap system, educating golfers about the Rules of Golf, and rating courses for member clubs. On August 23, 1990, the Vermont Golf Association broadened its function by establishing the *Golf Industry Committee* to coordinate the multiple golf organizations in the state “in developing programs involving external affairs.” I understand this is fairly rare, even unique, among state and regional golf associations. I have been asked to discuss its happening, its organization, and activities. We all applaud and support the efforts on a national basis of the USGA and GCSAA in research and advocacy for the golf industry in the broad field of external affairs. I have been asked to present what we in Vermont have done in the same field at the state level.

If you could drive directly from Massachusetts through Vermont to Quebec at 40 mph, it would take you 4 hours, or from New Hampshire to New York (east to west), it would take you 1 hour at the bottom of the state and 2 hours at the top, all of which is impossible because of the Green Mountains, which split the state from north to south. Vermont has a population of 562,758 (about the size of Rochester, N.Y.), 82 covered bridges, 23 ski areas, and one golf course for every 10,000 people, and something on the order of 10,000 miles of “back roads” in 247 towns. The operative statistic, however, is that it is within driving distance of approximately 50 million people.

Vermont made its choice early to preserve an uncluttered environment. In the 1950s legislation was enacted which led to the current requirement of a deposit on beverage containers; it has restricted outdoor advertising to the business premises — no billboards — but discreet, uniform state highway signs for business. Vermont always had and has continued to attract a strong environmental community. This led to the control of development with enactment of legislation in the early 1970s, Act 250, requiring a state permit designed to control impacts on the natural environment and governmental services. Application for a permit is to a



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regional board, with appeal to the State Environmental Board. Both boards are made up of citizens appointed by the Governor, and they function informally, compared to the court system.

Enter Sherman Hollow, Inc., a cross-country ski facility with plans for a development keyed around a Ray Floyd-designed golf course in the town of Huntington, population 1,609, but within commuting distance of Montpelier, the state capital, and Burlington, one of the fastest-growing regions in New England. It was also located off the main road and on a gravel country road. The application by Sherman Hollow for an Act 250 permit was hotly contested by a group of local citizens who called themselves “The Neighbors.” But these weren’t your usual neighbors. They included, among others, an attorney in the environmental law division of the Vermont Attorney General’s office. Sherman Hollow was supported by the town government, a majority of town residents, and the regional chamber of commerce. The District Environmental Commission denied the application and, on appeal, in the late summer of 1988 the State Environmental Board denied the application and refused to grant a permit to build the golf course on the basis that the applicant had

not persuaded the board that the use of pesticides would not result in undue water pollution. The board could have come to an opposite conclusion based on testimony from witnesses such as Dr. Stuart Cohen, a Ph.D. in physical organic chemistry and for 11 years in charge of the Ground Water Assessment Program in the U.S. E.P.A.’s Office of Pesticide Programs, and a comprehensive integrated pest management program presented by the applicant.

In its decision, the board was also critical of the regulation of the use of pesticides on golf courses by the state.

That State Environmental Board decision set a precedent, which would dictate the decision in subsequent Act 250 cases, effectively blocking permits for expansion of existing or building of new golf courses in Vermont. New golf facilities were dead in the water, literally and figuratively.

Under Vermont law the Commissioner of Agriculture has the jurisdiction to regulate the use of pesticides. The regulations required certification of applicators (course superintendents) and reporting of pesticide use to the Department of Agriculture. The concept was monitoring of use with application by those who are technically competent. There were no regulations, however, specific to use of pesticides on golf courses.

The applicant felt that the Act 250 process was highly political and that the “Neighbors,” including state employees in influential positions, along with environmental groups such as the Ralph Nader-spawned Vermont Public Interest Research Group (VPIRG), appealed to an anti-growth movement and used the Act 250 process as a sword before a receptive tribunal. It is really immaterial whether the findings were a front in order to defeat development. Debate on that issue is meaningless because the decision was on the books and had to be dealt with as the law of the land.

I only comment on the dynamics of the case for one reason. Given the right mix of circumstances, similar blows to the game of golf can be struck by neighbors, municipalities, states, or other authorities, in numerous areas of golf course operations, including permitting, taxation, environmental, or other regulation. The ability of a golfer to strike a shot of a lifetime does not depend on the



*The Golf Industry Committee was organized by the Vermont Golf Association in 1990 to coordinate the state's multiple golf organizations. Rutland Country Club, Rutland, Vermont.*

golfer alone, but also the environment within which the game exists.

Under the leadership of Michael O'Connor, chairman of the Environmental Committee, and Garry N. Crothers, President, the Vermont Golf Course Superintendents Association (VGCSA), all golf clubs in the state were invited to a meeting on November 28, 1988. Most courses in Vermont had been closed for over a month; however, about half of the courses in Vermont sent representatives, an unusually large turnout.

The meeting addressed two items: the impact of the Sherman Hollow decision on future course construction, and the recent response of the regulators, which had been to establish a committee to draft pesticide regulations for golf courses. Mike O'Connor was on that committee and was extremely concerned at the direction and probable impact of that committee's recommendations.

The chair, and therefore the direction of the pesticides committee, was in the hands of the President of VPIRG, Robyn Cook-Hubner, an adversary in the Sherman Hollow case. The committee had engaged a consultant, Jeff Parsons, whose past work with the Adirondack Park Commission gave the industry great concern. Mike felt like a skunk at a lawn party at the pesticides committee meetings.

Most of the courses attending pledged financial support to a special fund established by the Vermont GCSA to finance an industry response. A second meeting was

scheduled for December 19 in order to have time to develop a course of action. That meeting concluded with the appointment of a committee authorized to represent the clubs and urging all clubs not present to contribute financially.

My first involvement was attending these two meetings. I did not remain silent, an occupational hazard of politicians and lawyers, and I was both. Remaining silent may have been a better course to follow as I ended up agreeing to chair the five-member policy committee appointed at the December meeting and charged with the responsibility of determining and implementing a course of action. The committee was purposely selected to be composed of individuals coming from different backgrounds within the industry; a superintendent (Michael O'Connor), a PGA professional (James Remy), president of a club (Ted Price, Mt. Anthony), a Sherman Hollow representative (Peter Wohl), and myself, an attorney with a liberal sprinkling of government and business experience.

The committee met on January 4, 1989, to decide on a strategy to overcome the Sherman Hollow decision and to deal with regulations expected to be proposed by the VPIRG-led pesticides committee. We explored various strategic alternatives, including mounting a massive political campaign to reverse the decision by action in the legislature, trying to reopen the Sherman Hollow case for reconsideration, and opposing any new regulation as unnecessary.

Golf had been a part of Vermont since before 1900 (Dorset Field Club), with many courses dating back over 50 years. There had been no evidence of any water pollution. On the other hand, Vermont has a strong environmental culture. We did not have the money or organization to undertake a massive educational or political campaign, even if such a course of action could be successful, which was doubtful.

Careful analysis of the Sherman Hollow decision led us to the conclusion that one of the main reasons for the decision was that the State Environmental Board viewed the state's regulation of the use of pesticides on golf courses as inadequate to protect the environment. We decided to become a part of the solution and not part of the problem by actively participating in the development of regulations for the use of pesticides on golf courses.

With a direction established, we tried working with the VPIRG-led pesticides committee in development of regulations. Our fears became reality as that committee began developing proposals we could not live with. Our suggestions were going nowhere.

There were two major areas of concern with the proposals being considered by the pesticides committee. The first was a requirement that each course submit a management plan that the Commission of Agriculture had to approve. This meant that an activist Commission could dictate the species of grass, shrubs, and trees; irrigation practices; mowing practices — in short, the vegetative management of a course. The second was a mandatory groundwater monitoring program at every course, estimated by our expert (Stuart Cohen) to cost a minimum of \$50,000 to \$75,000 annually. That amount would have greatly increased the cost of golf to Vermonters, and done so unnecessarily.

Up to this point we were operating on an ad hoc basis and could not honestly say we represented the industry. To correct this, we asked for and received the support of the Vermont Golf Association with the appointment of its executive secretary (James Bassett) as a member of our committee.

The pesticides committee was not making much progress, nor were we able to engage in any meaningful dialogue with its staff or leadership. We concluded that the industry would have to bypass that committee and independently draft proposed regulations if progress was to be made.

As a first step it was necessary to determine if the Commissioner of Agriculture would consider for adoption regulations drafted by our committee. We presented the idea to the Commissioner, Ronald A. Albee, at a meeting March 29th, stressing that any

proposals would be drafted to protect the public interest in a practical and sensible manner. The bottom line, after a wide-ranging discussion, was that our ideas and draft of proposed regulations would be welcomed.

We left the meeting and went to work. With the backgrounds of the committee members, we were able to define the public interest, have excellent technical input, and draft proposals in a professional manner. The final draft of proposed regulations was approved by the Policy Committee on April 24th and mailed to the Commissioner on April 25th. During the spring and summer we worked with the department in their review of our proposed regulations (Debra Rogler/Phil Benedict). The Commissioner started the process of adoption by advertising the proposed regulations and scheduling a public hearing for November 30, 1989.

The industry supported the Commissioner's proposed regulations at the public hearing by testimony from Russell Barrett (V.P., VGA), James Remy (President, Vermont Chapter of PGA), golf course superintendent Michael O'Connor, and myself. Conrad Smith, an attorney in the Environmental Section of the Attorney General's office, who had also actively opposed the Sherman Hollow development, testified as a "private citizen" and submitted 12 pages of typed testimony in opposition. The legislative counsel for VPIRG (Joan Mulhern) also testified in opposition.

Following the hearing we filed a reply brief to each point raised by attorney Smith and strongly criticized him for failure to disclose his employment by the Attorney General, who also is called on by departments of state government for advice. How can someone represent the state and also oppose official action without recognizing the conflict of interest?

On October 25, 1990, the regulations became law. The purpose of the committee had been completed, but the question was, what lay ahead? The experience had sharpened the committee's awareness of the need to be involved with the implementation of the new regulations, and for the industry to be alert to events affecting golf. The question was how a continuing external affairs function should be organized. We identified the following criteria to be considered:

1. To have a membership from all state golf associations in order to coordinate policy and actions between them;
2. To have access to financing;
3. To minimize bureaucracy and administrative expense.

Those objectives ruled out a new state organization and led us to recommend that the VGA establish a standing committee with membership appointed by each state associ-

ation. We recommended that it be comprised of three members selected by the VGA, two by the Vermont GCSA, and one each by the PGA and the Vermont State Women's Golf Association (VSWGGA). This would provide coordination, eliminate unnecessary bureaucracy, minimize administrative expense, and provide the incentive for funding.

The idea was well received, and on August 23, 1990, the VGA Executive Committee voted to establish the committee. Funding has been provided by the VGA and VSWGGA by earmarking up to \$1.00 annually from the charges for each golfer on the GHIN system.

Our committee has found a great deal to do without looking very hard.

Following up on the pesticide regulations is a continuing effort. With the state in deficit due to the recession, we picked up one-half the first year's salary of a new employee in the agriculture department hired to implement the regulations. The committee actively monitors and deals with issues raised in the permit process on an ongoing basis.

We contracted with the Associated Industries of Vermont, a state association for manufacturers, for identifying, tracking, and reporting on legislation and regulatory initiatives affecting the golf industry using their computerized system.

In 1991 and 1994 we published *Golf in Vermont*, based on surveys of courses in the state, which has as its objective being a source of public information about golf as a part of Vermont, its play, and its impact

economically, environmentally, and socially. It has been distributed not only within the golfing community, but, more important, to legislators, congressmen, U.S. senators, the governor, and departments of state government.

We successfully opposed a move by one city to obtain jurisdiction over the use of pesticides with the intent of banning their use entirely.

We are monitoring and are prepared to assist a member club that has been taken to court for damages and for an injunction prohibiting play due to balls being hit onto an adjoining highway.

We were the major force in legislation passed in 1994 dealing with liquor licenses for clubs.

We are negotiating a water sampling program with the Department of Agriculture to determine the existence of chemicals in wells and surface water on a selected number of courses.

We have assisted in writing the golf portion of the state's recreational plan.

I hope this brief description of our activities will give you a flavor of our external affairs program.

Golf benefits not only the environment, charities, and families, but also the soul. It is an integral part of the American quality of life and has an enormous sleeping political base. I do not believe golf is fully understood in those terms. They are values that we can ill afford to lose.

*Vermont ski areas and golf provide beautiful vistas of the landscape and an important economic base for the state. Stratton Mountain Country Club, South Londonderry, Vermont.*

