



## NATURAL RESOURCES BOARD

Dewey Building  
National Life Drive  
Montpelier, Vermont 05620-3201

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### NATURAL RESOURCES BOARD MEETING TUESDAY, FEBRUARY 10, 2015

#### MINUTES

#### PRESENT

Jon M. Groveman, Esq., Chair  
William Boyd Davies, Esq., Vice Chair  
Martha (Marty) Illick, Member  
Don Sargent, Member  
Gail Fallar, Alternate Member, (participated by telephone)

#### STAFF

Lou Borie, Executive Director  
Melanie Kehne, General Counsel  
Peter Gill, Associate General Counsel  
Greg Boulbol, Associate General Counsel  
Aaron Brondyke, Permit Compliance Officer  
Kimberley Lashua, Administration Manager  
Karen Dupont, Program Technician  
Lauren Gates, Legal Intern

#### ALSO ATTENDING

Kate McCarthy, Sustainable Communities Director, Vermont Natural Resources Council

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The Vermont Natural Resources Board convened at approximately 10:30 a.m. on Tuesday, February 10, 2015 at the Dewey Building Conference Room, National Life Drive, Montpelier, Vermont; Chair Jon M. Groveman presiding. Chair Groveman welcomed everyone to the meeting and started introductions.

#### **1. Approval of Minutes**

Bill Davies moved to approve the minutes of the January 13, 2015 meeting as printed with no correction. The motion was seconded by Marty Illick and approved by the Board a 4-0-1 roll call vote:

Jon Groveman – Abstained  
Bill Davies – Yes



Marty Illick – Yes  
Don Sargent – Yes  
Gail Fallar – Yes

## 2. Office and Budget Update

Chair Groveman gave an overview of the budget; in particular, the provision to consolidate the NRB with the Agency of Natural Resources (ANR) in an effort to save \$200,000. Chair Groveman explained that the intent of the provision is to require ANR and the NRB to explore budget savings that can be found by exploring back office administrative efficiencies in the way the NRB and ANR operate. Chair Groveman noted that the ANR and NRB currently share HR and IT resources, and the idea is whether this type of sharing administrative services can be expanded. Chair Groveman commented that most importantly, the budget clearly requires the NRB to reduce its budget by \$200,000. The Administration is not limiting where the \$200,000 comes from; Jon Groveman as Chair, working with the staff and the Board will identify options for reducing the budget by \$200,000. Chair Groveman indicated that his goal is to determine where reductions can be made that do not adversely affect the NRB's ability to provide services to Vermonters, and that strengthen the Act 250 program. A proposal must be presented to the Legislature by the end of March.

Chair Groveman also wanted to make everyone aware of how honored he is to be given the opportunity to work with the NRB members and the staff. Chair Groveman wants to work to strengthen the Act 250 program, not weaken it. He also noted that every agency in state government has been asked to make cuts, not just the NRB.

Marty Illick commented regarding the high quality and professionalism of the NRB staff and she feels that Ron Shems should be honored in some way.

Chair Groveman explained that the Chair of the NRB is appointed by and serves at the discretion of the Governor and can be removed at any time. Other Board members are removable only for cause.

Bill Davies commented that the good news was the \$200,000 cut was not in the form of a merger with ANR and the focus should be on moving forward.

Chair Groveman indicated that further discussion of the report that is due the end of March will take place at their next meeting scheduled for March 10, 2015.

Lou Borie will work with Chair Groveman to arrange a meeting with ANR to discuss areas for possible savings and will continue to work with ANR. Actual numbers from last meeting have not changed.

Lou Borie advised that he has testified on this year's budget and the fee proposal. The fee proposal passed the House Ways and Means Committee with the exception of the master plan increase. The fee proposal increase would generate an additional \$459,000 in fees, which



would support the Special Fund portion of the NRB's budget. The fee bill is headed to the House floor as H.184.

Chair Groveman and Lou Borie will testify on the FY2016 budget before the House Appropriations Committee on Wednesday, February 11, 2015.

### **3. Legislative Update**

Melanie Kehne gave a legislative update. The budget and fee bills, as outlined by Chair Groveman and Lou Borie, are the top legislative priorities this year. There will also be an Act 250 technical corrections bill, which Rep. Rebecca Ellis has agreed to sponsor. There are two remaining issues that may result in changes to that bill.

First, there is a question of whether to extend the Act 250 exemption for priority housing projects to amendment jurisdiction. District coordinators are looking into potential impacts on permitted projects in designated Growth Centers, Neighborhood Development Areas, and New Town Centers. Priority housing projects in designated Downtown Development Districts are already exempt from both original and amendment jurisdiction. Kate McCarthy clarified that only "priority housing projects" would be exempt from amendment jurisdiction, not all projects, and that the state designation programs require zoning and natural resource protections in these specific designated centers. Chair Groveman and Lou Borie will meet with the Department of Housing and Community Development and other agency partners to discuss this issue next week.

The second issue is whether and how to revise the proposed Sections 6090 and 6091 language concerning permit expiration, revocation and abandonment. Some good suggestions were made at a recent staff meeting, and District 1 Coordinator Bill Burke drafted suggested revisions. This draft is being reviewed and incorporated as appropriate into the draft legislation. The Attorney General's Office, which handled a recent Vermont Supreme Court appeal involving these issues, is helping with suggested language on these issues.

There have been multiple hearings on Criterion 9L, and Ron Shems testified and provided the statistics and other information to Committees of jurisdiction. Copies were distributed to the Board. There is also a bill, H.158, to amend Criterion 9L so that projects in municipal districts zoned for commercial or industrial growth comply with Criterion 9L if they have a municipal permit. No hearings have been scheduled on this bill.

### **4. Update on Act 250 Rule Revisions**

Hearings on the proposed Act 250 Rule revisions will be held at four Vermont Interactive Technologies (VIT) studios in Randolph Center, Newport, Middlebury and Williston the evening of February 25, 2015; at the Board's March 10, 2015 meeting in Montpelier; and at the Rutland Free Library on the evening of March 18, 2015. Details are on the NRB website.



Windham Regional Commission and Bennington Regional Planning Commission invited the Board to hold another hearing in Wilmington on the evening of March 10 or 11, 2015. Bill Davies suggested that to save costs, Board members could participate by telephone. Others agreed. The better date for Board members is March 11, 2015. Don Sargent will be out of town on both dates, and Bill Davies is unavailable on March 10<sup>th</sup>.

Staff will continue to work on the issues raised by district coordinators concerning involved land, material change, and person definitions. It is important to get this right, and staff input is valuable.

#### **5. Delegation of Authority to Chair**

Bill Davies made a motion to delegate the Board's authority to the Chair over the following:

1. day-to-day administration of the Board, including budget oversight;
2. personnel matters including hiring;
3. enforcement;
4. participation in appeals and other litigation, subject to appropriate Board ratification on basic positions;
5. coordinating policy issues with the Governor's office, other agencies and persons;
6. appearing in the Legislature on behalf of the Board, subject to appropriate Board ratification on basic positions;
7. day-to-day administration of Jurisdictional Opinion Reconsideration matters, as needed, between Board meetings; and
8. other authority and duties as appropriate, or where it is not practical for the Board to act, or where action is necessary prior to convening a Board meeting.

Marty Illick seconded the motion, which was approved 5-0.

Jon Groveman – Yes  
Bill Davies – Yes  
Marty Illick – Yes  
Don Sargent – Yes  
Gail Fallar – Yes

#### **6. Discussion of Litigation and Attorney – Client and Work Product memoranda (Executive Session)**

Bill Davies made a motion to go into executive session in accordance with 1 V.S.A. Sec. 313 (a)(1) for discussion of privileged documents and civil actions by the State where premature public knowledge would clearly place the Board at a substantial disadvantage, and invited its legal and administrative staff into the executive session. Marty Illick seconded the motion, which was approved 5-0. The Board went into executive session at 11:30 am.

Jon Groveman – Yes



Bill Davies – Yes  
Marty Illick – Yes  
Don Sargent – Yes  
Gail Fallar – Yes

**7. Action on Pending Appeals and Enforcement Matters**

The Board came out of executive session at 11:40 a.m.

Bill Davies made the motion to participate in the Saxon Partners, LLC appeal (LUP #1R0948-2), Docket No. 8-1-15 Vtec. The motion was seconded by Marty Illick and approved by the Board by roll call vote.

Jon Groveman – Yes  
Bill Davies – Yes  
Marty Illick – Yes  
Don Sargent – Yes  
Gail Fallar – Yes

**8. Other Business – Scheduling**

The Board’s next meeting is set for March 10, 2015. Don Sargent will be unavailable. All other members will be present for the scheduled meeting, which will start with a hearing on the proposed Act 250 Rules.

**9. Adjournment**

At approximately 11:45 a.m. Bill Davies moved to adjourn. Don Sargent seconded the motion, and it was approved by unanimous roll call vote:

Jon Groveman – Yes  
Bill Davies – Yes  
Marty Illick – Yes  
Don Sargent – Yes  
Gail Fallar – Yes

Respectfully submitted,

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Jon M. Groveman, Chair

Approved by the Board at its \_\_\_\_\_ meeting.

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