



NATURAL RESOURCES BOARD
Dewey Building
National Life Drive
Montpelier, VT 05620-3201

NATURAL RESOURCES BOARD MEETING
TUESDAY, May 10, 2016

PRESENT

Diane Snelling, Chair
Dominic Cloud, Member
William Boyd Davies, Esq., Member
Don Sargent, Member

ABSENT

Martha (Marty) Illick, Member
Kimberley Lashua, Administration Manager
Alexandra Pastor, NRB Project Manager

STAFF

Gregory Boulbol, General Counsel
Lou Borie, Executive Director
Peter Gill, Associate General Counsel
Aaron Brondyke, Enforcement Officer
Jessie Davignon, Legal Technician

GUEST

Tanya Marshall, State Archivist & Director, Vermont Secretary of State

Public Meeting

The Vermont Natural Resources Board convened at 9:06 a.m. at the Dewey Building Conference Room, Dewey Conference Room, National Life Drive, Montpelier, Vermont, Chair Diane Snelling presiding.

1. Approval of the Minutes

A motion to approve the minutes of the Tuesday, April 12, 2016 meeting was made by Bill Davies, with one correction:

- On page 4, under "Adjourn," insert the word "was" between the words "which" and "seconded."

The motion was seconded by Diane Snelling, and it was unanimously approved by the Board.



2. Rescission of 6086(b) – Interim Procedure. Rescission of Master Permit Policy & Procedure. *(replaced by Rule 21 adopted 12/4/2015); Update from Lou Borie & Peter Gill*

Diane presented a brief overview from the last Board meeting when the Master Permit Policy and Procedure and the 6086b Downtown Findings Procedure were discussed. The Board voted to rescind the Master Permit Policy and Procedure but asked for an update on whether a Guidance Document would be necessary to help implement new *Rule 21: Master Plan and Partial Review*.

Peter Gill explained that the Economic Development Bill, passed by the Legislature in 2015, requires the Board to review the Master Permit Policy and adopt it as a rule. The Board adopted Rule 21 on December 4, 2015. Greg Boulbol added that *Rule 22: Downtown Findings*, also went in effect on December 4, 2015.

Bill Davies made a motion to rescind Master Permit Policy and Procedure and the 6086b Downtown Findings Procedure. The motion was seconded by Don Sargent, who noted that the Board had already rescinded the Master Permit Policy and Procedure at its last meeting. The motion was unanimously approved by the Board.

3. Review of draft 9F (Energy Conservation) Procedure *(Statutory provisions regarding the energy conservation criterion (9(F)) can be found at 10 V.S.A. §6086(a)(9)(F) and 30 V.S.A. §§51 and 53)*

Diane Snelling met with Paul Duane of Efficiency Vermont to better understand Efficiency Vermont's perspective on the proposed Criterion 9F Procedure and updated the Board on the results of their conversation. She recommended the Board move forward with the adoption of said Procedure.

Bill Davies made a motion to adopt the proposed Criterion 9F Procedure with an effective date of June 1, 2016. The motion was seconded by Don Sargent, and was unanimously approved by the Board.

4. Executive Session

Don Sargent made a motion to enter into executive session in accordance with 1 V.S.A. Section 313(a)(1) and (6) to discuss attorney-client privileged documents and civil actions by the State where premature public knowledge

would clearly place the Board at a substantial disadvantage. Bill Davies seconded the motion, and it was unanimously approved by the Board.

The Board came out of executive session at 10:10 AM. The Board consideration of a previous motion by Bill Davies to formally enter an appearance in a new Appeal Case Shires Housing #8B0573-3; 42-4-16 Vtec. Diane Snelling seconded the motion and it was unanimously approved by the Board.

5. Records Management and Policy

Lou Borie introduced Tanya Marshall, State Archivist and Director of the Vermont State Archives and Records Administration (VSARA). Lou updated the Board on the collaboration between the NRB and VSARA on record management policies that started in 2007. Projects include the development of a record management database and the adoption of organizational policies and processes.

Tanya provided an overview of how records management is conducted statewide. Staff members Kimberley Lashua, Alexandra Pastor, Jessie Davignon, and Lou Borie are developing and refining a records management process and policy tailored to the needs of the NRB, closely working VSARA staff. A process and policy draft may be ready by summer 2016.

6. NRB, Office, and Budget Updates

Budget: The FY17 budget was approved by the Legislature. The NRB may need to use a small amount (\$30,000-\$40,000) of special fund monies to balance the year-end total.

Staff: The Springfield District Office is actively seeking to fill the NRB Technician position in the next 3-4 weeks. The district staff began the interview process on Monday, May 9 and is hoping to conclude this part of the process shortly.

Legislation: Legislation that is currently before the governor for approval or veto that involves the NRB is listed below.

- **S123** (*An act relating to standardized procedures for permits and approvals issued by the Department of Environmental Conservation*). This bill passed.

- **S230** (*An act improving the siting of energy projects*). There are concerns that this may end in an appeal, and the NRB would be involved in all such appeals.

- **H.857** (*An act relating to timber harvesting*). If signed into law by the governor, it could have a significant impact Act 250.
 - **Section 18. STUDY AND REPORT; LAND USE REGULATION; FOREST INTEGRITY** Proposes a study committee and report on land use regulation to protect forest integrity.
 - The committee would develop and examine options on revising the statutes on state and municipal land use regulation to protect forestland from fragmentation and promote habitat connectivity.
 - The committee would recommend whether to make such revisions and if so what revisions should be made.
 - The committee also would review the definitions in Sec. 15 and the required plan elements in Secs. 16 and 17 and make recommendations on whether to revise that language.
 - The report would be due by January 1, 2017.
 - Committee membership would include two legislators (one from each chamber), one appointee from VLCT, one from VAPDA (regional planner), the Commissioners of Housing and Community Development and of Forests, Parks and Recreation or designees, the Chair of the Natural Resources Board or designee, a representative of the Vermont Forest Roundtable, a representative of the Vermont Working Lands Enterprise Board, a representative of the Vermont Forest Products Association, and a representative of the Vermont Woodlands Association

H.570 (*An act relating to hunting, fishing, and trapping*). This bill includes a provision that exempts specific improvements at shooting ranges for safety, noise, and lead abatement from Act 250 permit or permit amendment requirements.

Storm Water Permits (Elmore Act 250): The NRB became aware that ANR cannot issue certain Stormwater permits until the Lake Champlain TMDL for phosphorus has been issued by EPA. This may delay the issuance of Act 250 permits for projects in the Lake Champlain Basin.

NOAVs: The Board will no longer post Notices of Alleged Violation (NOAVs) to the NRB website. The Board often uses NOAVs during investigations as a tool for discovery, or as a prelude to an enforcement action. The Board's approach will be consistent with the Agency of Natural Resources, which also does not post NOAVs. Proposed Citations, Assurances of Discontinuance, Administrative Orders, and all adjudicated enforcement actions will continue to be posted on the Board's website.

Other:

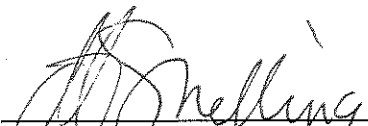


- Bill Davies followed up with a question on the NRB records management policy, asking what retention times apply to Board Member documents. In response, the NRB staff will work with VSARA to establish timeframes since they have not yet been established or addressed.
- The Board and NRB staff are required to preserve all documents related to Jay Peak and Burke projects under a litigation hold.
- NRB will be working with shooting ranges and gravel pits to clarify the permitting process.

7. Adjourn

At 11:00 AM Bill Davies made a motion to adjourn, seconded by Don Sargent, and unanimously approved by the Board.

Respectfully submitted,


Diane B Shelling., Chair

Approved by the Board at its June 14, 2016 meeting.

y:\nrb\nrb - shared\minutes\nrb2016\05-10-16 nrb minutes final.docx