



NATURAL RESOURCES BOARD

Dewey Building
National Life Drive
Montpelier, VT 05620-3201

NATURAL RESOURCES BOARD MEETING Tuesday, June 9, 2015 MINUTES

PRESENT

Jon Groveman, Esq., Chair
William Boyd Davies, Esq., Member
Martha (Marty) Illick, Member
Dominic Cloud, Member
Don Sargent, Member (participated by phone)

STAFF

Lou Borie, Executive Director
Gregory Boulbol, General Counsel
Peter Gill, Associate General Counsel
Aaron Brondyke, Permit Compliance Officer
Donna Seckington, Administrative Secretary
Warren Foster, District 8 Coordinator

The Vermont Natural Resources Board convened at approximately 9:05 a.m. on Tuesday, June 9, 2015 at the Dewey Building Conference Room, National Life Drive, Montpelier, Vermont, Chair Jon Groveman presiding.

1. Approval of the Minutes

Bill Davies moved to approve the minutes of the May 12, 2015 meeting with corrections as noted. The motion was seconded by Marty Illick and approved by the Board with 5-0 vote.

Jon Groveman, Esq., Chair - Yes
William Boyd Davies, Esq., Member - Yes
Martha (Marty) Illick, Member - Yes
Dominic Cloud, Member - Yes
Don Sargent, Member - Yes

2. Office and Budget Update



Jon Groveman briefly recapped the Commission Trainings held in Montpelier and Rutland. He also noted that a Coordinator's meeting was held recently in Montpelier.

Lou Borie gave a brief update on the budget. Application fees continue to be strong and we have exceeded our Special Fund target. NRB submitted a request to expend excess fee receipts in order to cover the last two payrolls for the fiscal year.

Marty Illick suggested paper packets for Board members again in addition to posting documents on SharePoint because of issues Board members had retrieving information from the SharePoint site. The Board will revisit the sole use of SharePoint in the future.

3. Criterion 9F - Procedure

The Board and staff discussed a draft Interim Procedure on Criterion 9F- Energy Conservation. The purpose of the draft is to guide the District Commissions and applicants on meeting criterion 9F during this interim period where the software to demonstrate compliance has not yet been updated to reflect the 2015 versions of the codes.

Bill Davies moved to approve the draft Interim Procedure with changes as discussed with an effective date of July 1, 2015 for the Interim Procedure. The motion was seconded by Dom Cloud and approved by the Board by a 5-0 vote.

Jon Groveman, Esq., Chair - Yes
William Boyd Davies, Esq., Member - Yes
Martha (Marty) Illick, Member - Yes
Dominic Cloud, Member - Yes
Don Sargent, Member - Yes

4. Discussion of Litigation and Attorney – Client and Work Product Memorandum (Executive Session)

Bill Davies made a motion to go into executive session in accordance with 1 V.S.A. Sec. 313 (a)(1) and (6) for discussion of attorney-client privileged documents and civil actions by the State where premature public knowledge would clearly place the Board at a substantial disadvantage. Marty Illick seconded the motion, which was approved by unanimous roll call vote:

Jon Groveman, Esq., Chair - Yes

William Boyd Davies, Esq., Member - Yes
Martha (Marty) Illick, Member - Yes
Dominic Cloud, Member - Yes
Don Sargent, Member - Yes

The Board came out of executive session at approximately 10:32 a.m. and took no action.

5. Proposed NRB Rules

The Board discussed the comments on, and how to move forward with the NRB proposed rules. Bill Davies made a motion to hold off on moving forward with the proposed rules in category 1 of the memorandum in the Board packet prepared by Jon Groveman at this time. Marty Illick seconded the motion, which was approved by unanimous roll call vote:

Jon Groveman, Esq., Chair - Yes
William Boyd Davies, Esq., Member - Yes
Martha (Marty) Illick, Member - Yes
Dominic Cloud, Member - Yes
Don Sargent, Member - Yes

The Board agreed that there is no mandate to move forward with these rules changes at this time, and given the staff's concern about the rules, the Board should postpone action on these rules pending further discussion and analysis.

Bill Davies also made a motion to approve the following change from a proposed rule in category 2 of the memorandum in the Board packet prepared by Jon Groveman:

Rule 2 (C) (7)

"Substantial change" means any cognizable change into a pre-existing development or subdivision which may result in significant adverse impact with respect to under any of the criteria specified in 10 V.S.A. §§ 6086(a) , including an increase in the annual extraction rate at a pre-existing earth extraction development of 10% or more from annual extraction rate in effect as of June 1, 1970, and shall apply to the entire tract or tracts of land

Marty Illick seconded the motion, which was approved by unanimous roll call vote:

Jon Groveman, Esq., Chair - Yes
William Boyd Davies, Esq., Member - Yes

Martha (Marty) Illick, Member - Yes
Dominic Cloud, Member - Yes
Don Sargent, Member – Yes

The Board agreed that the last clause that was proposed to be added to the definition of “Substantial change” was one example of a substantial change, and not a broader part of the general definition of a “Substantial change” that triggers Act 250 jurisdiction. Accordingly, the Board felt it was appropriate to eliminate this clause.

Bill Davies also made a motion to approve change of 2 (C) (7).

Don Sargent seconded the motion, which was approved unanimous by roll call.

Jon Groveman, Esq., Chair – Yes
William Boyd Davies, Esq., Member – Yes
Martha (Marty) Illick, Member – Yes
Dominic Sargent, Member – Yes
Don Sargent - Yes

The Board discussed comments on proposed amendments to NRB rule 21, that addresses master plans and partial findings. The NRB reviewed comments on proposed rule 21 (I) (A) (3). This proposed rule clarifies that District Commissions have the authority to require an applicant to submit a master plan, and sets forth the factors that a District Commission may consider in deciding to require a master plan. Following a review of all the comments submitted on this issue, the Board decided not to alter the proposed rule. The Board agreed that it wanted to have broader criteria for the Commissions to utilize when determining when to require a master plan. The Board also wants to give the District Commissions an opportunity to implement this rule as proposed to see what the experience with it is, before making any further changes.

Bill Davies made a motion to taken no action until further information. The motion was seconded by Marty Illick.

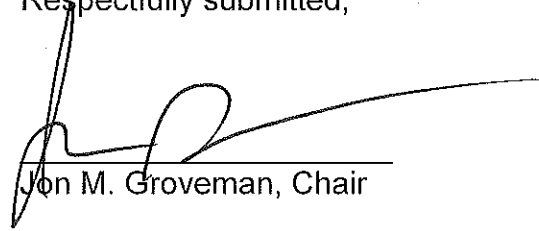
The Board will pick up its review of the comments on Rule 21 and other NRB rules at the next Board meeting on July 14th.

Lou Borie briefly updated the Board on the request for extension from LCAR.

Jon Groveman, Chair confirmed next Board meeting of July 14th.

At approximately 11:57 a.m., Martha (Marty) Illick made a motion to adjourn, seconded by Dominic Cloud, and unanimously approved by the Board.

Respectfully submitted,



Jon M. Groveman, Chair

Approved by the Board at its July 14, 2015 meeting.

y:\nrb\nrb - shared\minutes\nrb2015\6-9-15 nrb minutes final.docx

