



NATURAL RESOURCES BOARD

10 Baldwin Street
Montpelier, VT 05633-3201

NATURAL RESOURCES BOARD MEETING **TUESDAY, June, 9 2020** **11:00 am**

Board Members Present by Phone:

Diane B. Snelling, Chair, Martha (Marty) Illick, Vice Chair, Brad Aldrich, Member, Steve Larrabee, Member, and Don Turner, Member

ABSENT

Staff by Skype:

Gregory Boulbol, General Counsel; Evan Meenan, Associate General Counsel; Kimberley Lashua, Business Director; Aaron Brondyke, State Coordinator; Katie Emerson, Legal Technician; Michaela Stickney, Compliance and Enforcement Officer; Katharine Haan, Compliance and Enforcement Officer; Paige Beyer, Legal Intern

I. 11:02 a.m. Welcome and Introductions

The Vermont Natural Resources Board convened at 11:02 a.m. via Microsoft Teams, Chair Diane B. Snelling presiding.

II. 11:02 a.m. Opportunity for public to comment and agenda and non-agenda items.

Chair Snelling offered the opportunity for public comment, no members of the public were present.

III. 11:05 a.m. Review and action on Minutes of April 14, 2020 and May 12, 2020

Chair Snelling asked if there were changes to the minutes of April 14, 2020, none were offered. A motion to approve the minutes of the Tuesday, April 14, 2020 meeting was made by Mr. Brad Aldrich and seconded by Ms. Marty Illick and approved unanimously.

Chair Snelling asked for any changes to the minutes of May 12, 2020, none were offered. A motion to approve the minutes of the Tuesday, May 12, 2020 meeting was made by Mr. Steve Larrabee and seconded by Mr. Don Turner and approved unanimously.



IV. 11:10 a.m. NRB office and budget updates

Ms. Kimberly Lashua gave the office and budget update. All agencies and departments have been asked to prepare skinny budget for first quarter of FY21, this involves a reduction of two percent for the general and special fund. The administration did not require new budget documents to support a skinny budget.

We anticipate will be able to meet reductions by reducing discretionary spending, delaying equipment upgrades and in person trainings. Recently the legislature has rejected the skinny budget approach. We will continue to keep costs down while we await further instruction.

Staff Updates:

Katharine Haan started yesterday as our second compliance and enforcement officer. She did similar work for the state of Wisconsin, Katharine grew up in VT and is happy to return.

Mr. Greg Boulbol introduced our summer legal intern, Paige Beyer. He thanked both Paige and Katherine for joining us during COVID which presents its own challenges.

V. Discussion regarding Act 250 legislative initiatives

Greg Boulbol reported that the Legislature has been generally quiet on Act250 matters since crossover (which is approximately when the COVID-19 stay home stay safe went into effect).

The Senate Committee on Natural Resources and Energy has started looking at substantive Act250 changes by looking at the bill passed out of the House. They are taking testimony on housing, trails, forest, downtowns, forest blocks and habitat connectivity this week. They are not taking up the bill in entirety, but are picking issues they would like to see included in S.237 (housing bill). There will likely be a vote at the end of this week. Testimony is limited to the driving forces behind the bill – the VNRC and ANR/DEC.

The Senate Appropriations Committee has taken up S.237, a housing bill. Chair Snelling sent a memo to Senate committee on Finance about how the changes to S.237 to improve affordability could impact Act250 projects.

The Legislature might adjourn at the end of June, but it will return in August.

VI. Legal Update (Appeals and Enforcement)

Appeals:

Mr. Greg Boulbol said that the courts are starting to reopen and schedule status conferences. There is nothing of note to report at this time, but maybe next month more will have happened.

Mr. Evan Meenan agreed and said that conferences happening over the phone, the court is still figuring out how to hold trials with evidence that can't happen over the phone.

Enforcement:

Mr. Evan Meenan reported that we have wrapped up two enforcement matters – D&P Hawk North management and Sportsmen's Inc. The violations happened prior to COVID-19, and court approved Assurances of Discontinuance can be found on our website.

VII. Other Updates:

Mr. Evan Meenan stated the Governor issued addendums 16 & 17 to the executive. They are being reviewed to determine whether and how to update our own COVID-19 statements.

Chair Snelling notes that our biggest concern is in person hearings. 25 person gatherings are allowed, and most hearings have fewer than 25 attendees. The next step is finding a room large enough to socially distance everyone in the room and polishing teleconferences so if people choose to participate this way they can.

Mr. Greg Boulbol reminded the Board of the four statements NRB has drafted in response to the ever-changing circumstances. The fourth one is the most important, it incorporates the first three and how we have adjusted our operations. These documents are on the home page of the NRB website.

Chair Snelling has been advised there will be a surge of applications following the awarding federal stimulus dollars. Projects will have to be approved by Governor and the legislature so expect to see more applications in August.

Vice Chair Marty Illick asked, "what distinguishes an in person meeting from a call that is open to the public?"

Mr. Greg Boulbol replied that some applicants have volunteered to wait until they can have an in person hearing. There are three levels of permits, majors are the only permits that require in person meeting. They are a relatively small percentage of permits, but are the most complex. There are several options for addressing the hearing requirement.

1 – receive evidence by written testimony to process as a minor

- 2 – have the hearing via Teams – does satisfy requirement for hearing, but there are potential technological hurdles we want to address before having a hearing remotely
- 3 – have the hearing in person and incorporate social distancing rules

Mr. Evan Meenan remarked that a merits hearing or pre hearing conference must happen within 40 days of the application being deemed complete. We have been advising districts to have a prehearing conference by phone within 40 days. Once that happens, there is no time requirement for the merits hearing. It is a good idea to ask the parties at the pre-hearing conference, what types of technological obstacles might exist, i.e. bad internet connection, lack of familiarity with technology. They can then discuss what alternative options might exist, such as waiving an in-person hearing, using prefiled testimony, waiving live cross examination questions and submit them in writing, etc.

VIII. 11:31 a.m. Adjourn

At 11:31a.m., Mr. Steve Larrabee made a motion to adjourn, seconded by Mr. Don Turner, and unanimously approved by the Board.