



NATURAL RESOURCES BOARD

Dewey Building
National Life Drive
Montpelier, VT 05620-3201

NATURAL RESOURCES BOARD MEETING TUESDAY, SEPTEMBER 8, 2015

PRESENT

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

STAFF

Lou Borie, Executive Director
Gregory Boulbol, General Counsel
Peter Gill, Associate General Counsel
Kimberley Lashua, Administration Manager
Donna Seckington, Administrative Secretary

ABSENT

Aaron Brondyke, Act 250 Permit Enforcement Officer

ALSO ATTENDING

David White

The Vermont Natural Resources Board convened at 9:02 a.m. 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 July 14, 2015 meeting as printed. The motion was seconded by Don Sargent and approved by the Board with a 5-0 vote.

2. Office and Budget Update – Including 9L Guidance/Procedure Update, Work with District Commissions, Outreach on Act 250, Response to Citizens Concerns on NEMG

Lou Borie gave an update on the current fiscal year and the upcoming budgeting process for FY 2017. FY16 fees are strong two months into the new fiscal year. Staff has worked hard to implement the new fee structure that provides a portion of the fee to ANR.



The Administration has asked agencies to submit a level funded budget for FY 17. The retirement incentive program will play a significant role in developing the FY17 budget.

Five employees have been approved for the retirement incentive. Employees are encouraged to let us know as soon as possible whether they are retiring under the incentive program so that the NRB can request staggered retirement dates if requested by the employee and address positions that are vacated.

Chair Groveman expressed that there will be a draft 9L guidance document and procedures for the Board to review at the next meeting. A 9L subcommittee made up of Coordinators and NRB staff has been very helpful in the process of developing the guidance with ACCD and ANR. We will be setting up stakeholders meetings as a next step.

Chair Groveman gave an update on meetings with business organizations, ski areas, Chamber of Commerce, White and Burke, Karen Horn from VLCT, and various environmental groups. He will continue to reach out as this has been a very helpful process.

Chair Groveman advised the Board that he will be setting up a "District Commission Chairs" training. The training will provide an opportunity for the Chairs to delve more deeply into Act 250 legal and technical issues.

Chair Groveman informed the Board that he intends to set up meetings between NRB and ANR/DEC together to discuss the DEC permitting process, and how DEC permits are addressed in Act 250.

Chair Groveman explained that staff (both NRB and ANR) spent time investigating if there was actionable violation in response to Citizen concerns with respect to the NEMG hot mix plant concerning potential odor violations. No actionable violation has been found but staff will continue to monitor the project for compliance.

There was a discussion regarding how joint ANR/NRB enforcement actions are coordinated. Chair Groveman indicated there is an NRB/ANR Enforcement MOU that needs to be revised. Chair Groveman indicated he would keep the NRB updated on the MOU revisions.

Chair Groveman moved the items on the agenda related to ANR going to a paperless permitting system and the NRB Work Plan 2015-16 to the next meeting.

3. Action on Pending Appeals and Enforcement Matters

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 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, Administration Manager, and administrative staff into the executive session. Don Sargent seconded the motion, which was approved unanimously by the Board. The Board went into executive session at 10:03 am.

4. Action on Pending Appeals

The Board came out of executive session at 10:19 am.

No action was taken.

5. Update on NRB Proposed Rules, Discussion and Action on Proposed Changes to Rules Based on LCAR Review

NRB General Counsel, Greg Boulbol, updated the Board on the Proposed NRB Rules. The deadline for final adoption of the Rules is 12/1/15, based on an extension granted by the Legislative Committee on Administrative Rules (LCAR). Mr. Boulbol asked if Board members had any questions about the proposed changes to the NRB Final Proposed Rules that resulted from conversations between the NRB staff and LCAR counsel. Mr. Boulbol noted that the requested changes were mostly clarifications to proposed rules.

Bill Davies moved to approve the proposed changes to the NRB Final Proposed Rules that resulted from conversations between the NRB staff and LCAR counsel. Motion was seconded by Don Sargent, which was approved 5-0 vote. A new memo will incorporate all the changes to the Rules.

David White attended the meeting primarily to discuss Rule 21, which relates to Act 250 Master Plans. Mr. White expressed concern about the aspect of the proposed rule that would allow District Commissions to require an Applicant to file a Master Plan if certain criteria are met. Mr. White expressed concern that applicants should not be forced to address phases of future development that are ultimately determined by market forces. Mr. Groveman noted that the proposed rule is a compromise between the position of some Regional Planning Commissions and environmental advocacy groups, that under certain circumstances Master Plans should be automatically required, and Mr. White's position that they should not be required at all. Mr. Davies expressed concerns that it is too late in the process - after the comment period on the rule had passed - to make substantial changes to the rule.

Mr. White requested the list of changes to the Final Proposed Rule that NRB counsel recommend that the Board make following the conversation between LCAR and NRB counsel. The Board agreed to provide the list of proposed changes to Mr. White.

6. Update On Criterion 9F Interim Procedure

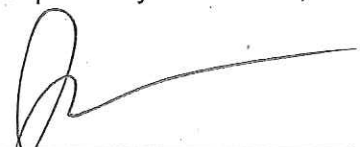
Pete Gill updated the Board on the 9F Interim Procedure stakeholder outreach and comments received. Based on the comments received and stakeholder input the Board will develop a final Procedure to address several issues related to 9F.

7. Other Business

Jon expressed that he would like to continue work on modernizing the program by updating the criteria and administrative procedures. Jon asked the Board to be thinking about legislation for the upcoming session. He wants to take a closer look at the Jurisdiction Reconsideration process. Jon asked the Board to be thinking about what work is most important to them.

At 12:15 p.m., Bill Davies made a motion to adjourn, seconded by Marty Illick, and unanimously approved by the Board.

Respectfully submitted,



Jon M. Groveman, Chair

Approved by the Board at its October 13, 2015 meeting.