



NATURAL RESOURCES BOARD

10 Baldwin Street
Montpelier, VT 05633-3201

NATURAL RESOURCES BOARD MEETING **TUESDAY, February 16, 2021** **11:00 am**

Board Members Present by Microsoft Teams:

Diane B. Snelling, Chair, Brad Aldrich, Vice Chair, Steve Larrabee, Member, and Don Turner, Member

ABSENT

Andrew Collier, Member

Staff Present by Microsoft Teams:

Kimberley Lashua, Business Director; Gregory Boulbol, General Counsel; Evan Meenan, Associate General Counsel; Aaron Brondyke, State Coordinator; Michaela Stickney, Enforcement & Compliance Officer; Katharine Servidio, Enforcement & Compliance Officer; Alex Pastor, Project Manager; and Katie Emerson, Legal Technician

Public

Henry Mauck, intern at VNRC

The Vermont Natural Resources Board convened at 11:00 a.m. via Microsoft Teams, Chair Diane B. Snelling presiding.

I. 11:00 a.m. Welcome and Introductions

Chair Snelling welcomed Henry Mauck, an intern at the Vermont Natural Resources Council.

II. 11:03 a.m. Opportunity for public to comment and agenda and non-agenda items.

Chair Snelling offered the public the opportunity to comment, no comments were made.

III. 11:05 a.m. Review and action on Minutes of January 12, 2021

A motion to approve the minutes of the Tuesday, January 12, 2021 meeting was made by Mr. Brad Aldrich and seconded by Mr. Don Turner and approved unanimously.



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

Ms. Kimberley Lashua, Business Director highlighted the major budget changes since the last meeting:

- \$1 million added to budget to help with special fund deficit.
- Additional \$500,000 added to the general fund to cover the Governor's executive order directive to form a professional board. That money has been put aside for now.
- Additional \$500,000 one-time funds to digitize about 10,000 Land Use Permits for District 5 and District 7. This funding comes from the Agency of Digital Service's budget for the governor's priority projects.

Chair Snelling followed up with lessons learned from CRF digitization project which highlighted the need to be cognizant of archiving and file management. To that end, Alex Pastor's position has been expanded to encompass records management and her new title is Information Management Officer.

There has also been a change in the open position created from Bill Burke's retirement. That position will become a Records Management Technician.

The Information Management Officer will facilitate NRB's records governance going forward. Land Use Permit files in particular, have a huge variety of contents, including oddly sized and fragile documents which require both in-house scanning and, for some document types, contracting with scanning vendors.

V. 11:15 a.m. Discussion regarding Executive Order 02-21

Mr. Gregory Boulbol reviewed Executive Order 02-21 which sought to reorganize the Natural Resources Board to a professional Board with three full time members and two representatives from local districts. The Vermont Senate voted to not support the executive order. In addition to the Senate disapproval, there is also a lawsuit regarding the constitutionality of the Governor's use of executive orders to reorganize executive agencies. There is also disagreement on the standard for legislative disapproval. The Governor believes that both chambers need to disapprove an executive order. The Legislature believes that only one chamber must reject the executive order.

VI. 11:23 a.m. Update on impending rule updates

The last significant update of rules was 2014/2015, which was a significant update. Since then, Act250 has been the subject of comprehensive review from the Legislature. A few things over the course of the past few years have led to the need to update. Proposed updates include:

- Removing potential ambiguities;
- Changing the way time is counted, to be consistent with the courts and to work with our new database that can only count in calendar days;

- Clarifying trails jurisdiction; and
- Incorporating other stand-alone procedures which, in some cases, are outdated.

Our attorneys have drafted the rules and circulated the draft internally for feedback (primarily from coordinators, whose job it is to implement the rules on a regular basis). The next step is to bring the draft rules to the Board for consideration. This may happen by next month's meeting. External feedback will come from the ICAR/LCAR process, but we are not there yet.

VII. 11:30 a.m. Discussion and possible vote regarding the draft Temporary Guidance on Act 250 Rule 71: Jurisdiction over Trails

The Governor asked the NRB to clarify rule 71 in Executive Order 4-20. The executive order also required ANR to develop a report detailing an alternative system to regulate trails (due March 1, 2021) and for the NRB to suspend proceedings that involve trail jurisdiction. Since a rule to address trail jurisdiction may take significant time, the NRB has developed guidance that can be issued sooner. This will allow us to resume issuing jurisdictional opinions regarding trails.

Draft guidance was circulated to the Board. The guidance restates the applicable sections of statute and rule. It does not contain new policies. It sought to answer the following questions:

1. What is the correct jurisdictional trigger for Vermont Trails System Trails and for non-Vermont Trail System Trails?
2. How is involved land calculated over trails?
- 3.
4. Once a trail is considered jurisdictional, how far does Act 250 jurisdiction extend?

Mr. Steve Larrabee raised a concern about this guidance possibly changing the outlook of the Lamoille Valley Rail Trail which was approved a number of years ago. Mr. Boulbol confirmed that this guidance wouldn't override previous agreement, because it doesn't change any of the existing law. Chair Snelling remarked that the only reason Act250 would get involved with that project would be if VTrans was not meeting its permit conditions.

Mr. Brad Aldrich made a motion to approve the temporary guidance. The motion was seconded by Mr. Steve Larrabee and unanimously approved by the Board.

The guidance can be found on the NRB website at:
<https://nrb.vermont.gov/documents/trails-guidance>

VIII. 11:48 a.m. Adjourn

At 11:48 a.m., Mr. Brad Aldrich made a motion to adjourn, seconded by Mr. Steve Larrabee and unanimously approved by the Board.