



NATURAL RESOURCES BOARD

10 Baldwin Street
Montpelier, VT 05633-3201

NATURAL RESOURCES BOARD MEETING **TUESDAY, November 9, 2021** **11:00 am**

Board Members Present by Phone/ Teams:

Don Rendall, Chair, Brad Aldrich, Vice Chair, Steve Larrabee, Member
Don Turner, Member

ABSENT

Andrew Collier, Member

Staff Present by Microsoft Teams:

Gregory Boulbol, General Counsel; Alison Stone, Associate General Counsel; Aaron Brondyke, State Coordinator; Katie Emerson, Legal Technician; Michaela Stickney, Enforcement Officer

Members of the Public:

The Vermont Natural Resources Board convened at 11:02 a.m. via Microsoft Teams, Chair Don Rendall presiding.

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

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

II. 11:05 a.m. Review and action on Minutes of October , 2021

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

III. 11:15 a.m. NRB office and budget updates

Chair Rendall gave an update on revenues, fees revenues are on track with previous years and indications are that the structural deficit will remain in FY2023. Chair Rendall had his first meeting with Finance and Budget last week, talked about structural deficit and discussed ways to close the gap.



Recruitment for the Business Director position is moving forward, interviews will start the week after thanksgiving. Mr. Greg Boulbol is in a similar timeline for the second enforcement position.

Chair Rendall gave an update on the online application/ database project. Testing has started with district staff. He is optimistic that the new technology will be rolled out in early 2022. It will be a significant improvement in terms of district workflows and will improve the availability of data for performance metrics and other reports.

There is a pending \$500,000 ARPA appropriation to digitize historic permit records. Ms. Kara Wheeler is also spearheading this project. The focus has shifted from District 5 to District 4 because the staff in District 4 have more availability to do a comprehensive digital scanning project. The goal is to eventually repeat the process in the other districts.

Chair Rendall gave an update for October permit numbers including numbers of open and incomplete applications.

IV. 11:28 a.m. Discussion intersection of cannabis and Act250 – Greg

Mr. Greg Boulbol gave a review on cannabis legalization. In October 2020, Act 164 became law and legalized recreational cannabis and set up a framework to regulate it. The Cannabis Control Board (CCB) was created in Jan 2021, it is now staffed and is starting to write rules and develop policy.

As of right now, cultivation of cannabis is not exempt from Act250. Act164 wrote growing cannabis out of the definition of farming. Mr. Greg Boulbol recommended having a discussion with CCB as to what they see the appropriate path forward is for regulating cannabis through Act250.

Chair Rendall remarked that it was unusual for a specific type of crop to be regulated under Act250 when all other types of farming are exempt. There is a concern that district coordinators will be responsible for an overlay of permits and dealing with enforcement. Brad suggested reaching out to legislators to revisit and move cannabis out of Act250 jurisdiction – since that is what the CCB was created for. Some level of environmental permits likely be required from ANR.

There was a brief discussion on processing facilities. The definition of farming in Act250 also includes processing. The specifics depend on ration of ingredients that are grown on the farm.

Currently cannabis business in any form would fall under Act250 providing it meets other act250 thresholds. For example, a retail cannabis business would be treated just like any other retail business. Mr. Don Turner gave the example of Champlain Valley

Dispensary in Milton, VT. It is expanding in the Milton industrial park and is regulated by Act250 but only because the industrial park was already jurisdictional.

V. 11:40 a.m. Enforcement Update

Enforcement and Compliance Officer, Michalea Stickney gave a summary of formal enforcement actions over 2020 and 2021 so far.

18 NOAVs issued (including 3 pits)
6 Final Assurances of Discontinuance
4 Final citations

Pending matters involving Pits/ Quarries:

- One mixed case with ANR at a quarry, it is likely heading towards an Administrative Order because we are not reaching an agreement in a timely matter.
- One AOD, hopefully wrap up by end of year that involves two pits at site

VI. 11:45 a.m. Discussion of appeals, enforcement, and attorney-client memoranda

Mr. Greg Boulbol gave an update on a new appeal that came out of permit denial in Woodstock. The applicant filed for permit application after construction of a restaurant was completed on Peacefield farm. The District 3 Commission held a series of hearings. They issued a denial on criterion 10 – conformance with local town or regional plan because the town/ regional plan prohibits retail establishments in the zone that the farm is located in. The applicant has also not yet received local zoning permits. The applicant has filed an appeal but it is very early in the case. The first prehearing status conference won't be scheduled until late this year or early next year.

There was a brief discussion on the presumptive power of local permits. If a town has adopted the municipal administrative procedures act (MAPA) there is some presumptive effect. But very few towns have adopted MAPA.

Mr. Greg Boulbol and also gave an update on Snowstone, the motion to reargue Supreme Court decision was filed a few weeks ago, and the court has granted the motion to reargue. Briefing should be accomplished in about 5 weeks. The Supreme Court doesn't grant re-arguments very often.

VII. 11:56 a.m. Adjourn

At 11:56 a.m., Brad Aldrich made a motion to adjourn, seconded by Don Turner, and unanimously approved by the Board.