



NATURAL RESOURCES BOARD

10 Baldwin Street

Montpelier, VT 05633-3201

Natural Resources Board Meeting Minutes

June 04, 2019

Attendance:

Diane Snelling, Chair
Marty Illick, Vice Chair
Don Turner, Member
Steve Larrabee, Member

Staff Present

Kimberley Lashua, Business Director
Donna Barlow-Casey, Executive Director
Gregory Boulbol, General Counsel
Evan Meenan, Associate General Counsel
Pamela Morin, Legal Technician
Katie Emerson, Legal Technician

11:02 A.M. Welcome, Introductions

The meeting was called to order and Danni Bradtmiller was introduced as the legal intern for the summer. She is a 3rd year student at Vermont Law School.

Review and Action on Minutes

Diane requested a motion to review and approve minutes (we had a quorum to approve):

March 20, 2019, Special Meeting: Marty Illick made a Motion to Approve: Don Turner Seconded, All Approved.

March 12, 2019: Don Turner made a Motion to Approve: Marty Illick Seconded, All Approved.

January 08, 2019: Steve Larrabee made a Motion to Approve: Marty Illick Seconded, All Approved (Don Turner Abstained).

Opportunity for Public Comment on Non-Agenda Items

Nobody from the Public attended this meeting.



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NRB Office Budget Updates – Kimberley Lashua

- Retirement of long-time employee, Joyce Fagan, from the Rutland office. There is a short-term coverage plan with one technician providing support remotely and another working in Rutland one day a week. There are plans to fill the position in the long term.

Budget:

- Approaching the end of the fiscal year. It is unlikely that we will meet our Special Fund target. We are in communications with Finance and Management to address the short and long term issues.
- We started the year with a positive balance. Expenses have not exceeded projections. Vacancy savings contributed to our lower than expected expenses. We will have to look at long term sustainability.
- Don Turner asked about what caused the budget shortfall.
 - Chair Snelling responded that the budget estimate is always variable because there is no way to predict the Board's revenue because our revenue is based on fees associated with Act 250 applications, and the number and type of applications submitted is beyond the control of the Board. However there has been a decline in major applications and a rise in minor applications and administrative amendments. Administrative Amendments have a flat fee of \$62.50.
- Greg Boulbol mentioned that the fees usually have a three-year update cycle and the fees haven't been updated for several years.
- Chair Snelling stated that we will be reviewing fee structure this summer.
- Marty Illick asked for more information on how fees are established and how our budget is established.
 - Chair Snelling explained that we have a known operating budget (salary & benefits) and that is how we arrive at the Special Fund target.
- The Board discussed adjusting fees and other ways to cut costs.
- Don Turner asked for additional information regarding the Board's role in developing and approving the NRB budget. Diane explained that the Board does not participate in budget development or approval, and suggested scheduling a more detailed discussion with Don.

IT Project:

- We are in week 8 of testing our new database and online application. Next steps are stakeholder and staff training. We will provide a demonstration to the Board when possible.

Legislative & Legal Updates

Act 47: Greg Boulbol gave a brief review of pending Act 250 legislation. The House Natural Resources Committee spent a lot of time taking testimony regarding Act 250 this session, but nothing passed out of committee. Chair Snelling, Greg Boulbol and Evan Meenan participated regularly at the legislature by



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providing testimony and observing proceedings. There is no indication that anything will happen before next session.

Comtuck Decision – Greg Boulbol

- One of the first Act 250 permits was for the Haystack Mountain Ski Area, Comtuck is a portion of that property known as the East Track.
- Act 250 subdivision permitted 400 lots, very little was built, the current owner has proposed significant changes.
- There are significant natural resources and habitat concerns, the NRB and ANR argued the proposed changes constituted a *material change*.
- Court agreed and required the owner apply for a permit amendment.

Snyder Decision – Evan Meenan

- Proposed 47-unit residential development in South Burlington.
- This case is notable because it clarified the boundary between party status based on criteria 9B (agricultural soils) and 8 (wildlife)
- People have attempted to gain party status on loss of pastoral view and wildlife.
- The court has decided that while the loss of pastoral views is not sufficient for party status under 9B but is possible under 8.
 - This is significant because the opposition has the burden of proof (under criteria 8) instead of the applicant.
- Danni is helping to draft a summary of the decision for E-Notes.

Other Decisions?

- Steve Larrabee had a question regarding a decision about waste hauling (Casella)
 1. There was a JO request to see if Casella requires an Act250 permit. The JO has not been issued yet. State coordinator, Aaron Brondyke, is working on it and we can circulate it when the decision is made.

No Executive Session

Briefing on Stretch Code Options – Greg Boulbol

- Commercial Building Energy Standards (CBES) is the standard code required by all commercial buildings, and a stretch code required by Act250. Barry Murphy from the Department of Public Service gave a presentation at a previous Board meeting and has some recommendations for an updated stretch code based on the proposed CBES, provided the Board is interested in an updated stretch code.
- The standard CBES are being updated and as drafted they exceed the current stretch code requirements for efficiency by between 20%-30%..



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- We have the opportunity to ask for additional efficiency requirements for the new stretch code after the CBES become final. There is a public hearing on 6/21/19 and the public comment period ends 7/11/19.
- 3 Recommendations
 1. Change the solar panel requirement from 6% to 10% of the commercial building's energy use.
 2. tighten building envelope from 0.3 to 0.2 air leakage rate
 3. Raising the points required to get additional credits for developments from 6 to 8 points.
- May have Barry Murphy from the Department of Public Service to present a presentation to explain the facts/documentation.
- A discussion regarding the Stretch Code was conducted with Board Members and Staff.

Adjourn:

Marty Illick made a motion to adjourn the meeting, Steve Larrabee Seconded, All approved. The meeting was adjourned at 12:08pm