

# VERMONT TRANSPORTATION BOARD MEETING MAY 26, 2016

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## **Board Members Present:**

Nick Marro, Chairman, term expires 2/28/2016  
William Tracy Carris, term expires 2/28/2017  
David Coen, term expires 2/28/18  
Richard Bailey, term expires 2/28/18  
Larry Bruce, term expires 2/28/2018  
Vanessa Kittell, term expires 2/28/2019

## **Board Members Absent:**

Tom Dailey, term expires 2/28/2016

## **Others Present:**

John Zicconi, Board Executive Secretary  
Guy Rouelle, VTrans Aeronautics Administrator  
Jim MacKay, MIO Aviation  
Dan Ober, Lincoln Fire Cheif  
Paul Forlenza, Lincoln Selectman

## **Call to Order:**

Chairman Marro called the Thursday, May 26, 2016 meeting to order at 10:30 a.m., which was held in Burnham Hall, 52 East River Road, Lincoln, VT.

## **1. NEW BUSINESS**

### ***1.1 Site Visit to Proposed Helipad at 736 Notch Road, Lincoln, Vt***

Prior to the meeting, the Board conducted a site visit at 736 Notch Road. The site visit was attended by the same people who attended the meeting.

### ***1.2 TB-449 Rothblatt Helipad Hearing***

Jim MacKay told the Board that typically Ms. Rothblatt travels by helicopter to her Lincoln property about eight times per month, sometimes a few more, sometimes a few less. He said currently Ms. Rothblatt does not anticipate using the helipad at night, although that may change in the future. Thus he would not want a night-flight restriction. While the helipad is not lighted, it can support evening landings with night vision goggles, he said.

Mr. MacKay said the helipad would only be for personal travel by Ms. Rothblatt and her friends and family. No commercial activity is anticipated or sought. He said helicopter flights were only anticipated to be piloted by either a professional pilot like himself or Ms. Rothblatt, and Ms. Rothblatt does not fly solo. She only flies with a professional pilot. Mr. MacKay said he has more than 5,000 hours of flight time.

Mr. Marro asked how long the helipad has been in existence and how long Ms. Rothblatt had been using it without a permit. Mr. MacKay said that he has been employed by Ms. Rothblatt since October, and that he first used the helipad in March. He said he is not aware of how often the helipad was used prior to his employment, but to the best of his knowledge it likely was about two years. Mr. MacKay said that when Ms. Rothblatt hired him that he encouraged her to come to the Board and seek certification of the facility.

Mr. Zicconi asked if Ms. Rothblatt has solo flight experience as Board rules dictate that no private landing area can be used by anyone with less than 15 hours of solo flight experience. Mr. MacKay answered yes, that one must have solo flight time to obtain a flight certificate, and she is certificated by the FAA. However she does not fly her helicopter solo due to both insurance issues and agreements with the Board of Directors of her company.

Mr. MacKay said the type of aircraft that Ms. Rothblatt owned is a 429 WLG. Mr. Zicconi asked what the maximum number of flights into the property per month that the applicant was seeking. Mr. MacKay said 12, although some months there may be zero.

Mr. Rouelle cautioned the Board against restricting the number of flights into a facility that is as isolated as this one, calling it a “slippery slope.” He said there were Federal preemptions about restrictions in terms of operations, but he did say that the Board can restrict the number of times the pad can be occupied.

As for safety flying at night, Mr. Rouelle said private helipads such as this one do not require lights to be used at night, nor does the helicopter need to use a landing light. He said it is common practice for helicopter pilots to use night-vision goggles to land. Given that there are no immediate neighbors, Mr. Rouelle said he did not believe there was any reason for the Board to restrict night usage in this case.

Mr. Rouelle said the only restriction he would consider has to do with bad weather and the need to use instrumentation to land. In this case, the FAA would have to certify an instrument procedure for the facility to be used safely in bad weather due to the surrounding topography and nearby hillsides and trees. He said in this case the applicant has no intention of using the helipad in bad weather. In fact, in this case the nearby terrain would likely make it impossible for the FAA to certify an instrument procedure that could be used in bad weather. Mr. MacKay agreed, saying Ms. Rothblatt explored the possibility of instrument certification to land and takeoff in bad weather, but found it not feasible.

Mr. Rouelle said the proposed helipad location meets all state and federal safety specifications for a class of helicopter being 12,500 pounds or less. Mr. MacKay agreed, and also said the applicant does not intend to store fuel on the property.

Ms. Kittell asked if the applicant had any intention of running conferences at the property that would involve flying in large groups of people. Mr. MacKay answered no.

Mr. Zicconi asked Fire Chief Ober if he or the Town of Lincoln had any concerns or requests regarding training related to potential accidents that could happen as a result of the helipad. Chief Ober said that Mr. MacKay approached him and offered emergency training regarding the helicopter. From a safety perspective, Chief Ober said he supported having a helipad in town that could be used by DHART, search and rescue operations, and potentially other emergency operations.

Mr. Florenza said the Lincoln Select Board reviewed the proposal and signed off. He also said he spoke with Linda Goldstein, the property's closest neighbor, and that she did not have any objections so long as the helipad was not used for commercial activities.

Mr. Zicconi asked Mr. Rouelle if he thought there was any need to restrict or dictate flight patterns into the facility. Mr. Rouelle said the wind is really the determining factor, so he did not want to restrict a pilot's decisions. Mr. Rouelle said if there were homes in the area, he could see a possible need for some restrictions, but in this case there are none so no restrictions are needed.

Chairman Marro closed the hearing, and informed the applicant that the Board would deliberate later in the meeting and that a written decision would eventually be issued.

### ***1.3 Review/Approve Minutes of the May 26, 2016 Meeting***

**On a motion by Mr. Bruce seconded by Mr. Coen, the Board unanimously voted to approve the minutes with corrections.**

### ***1.4 Tom Viall Contract***

Mr. Zicconi informed the Board that the two-year contract of Board legal consultant Tom Viall expires in September. The contract, however, includes a provision that allows the Board to extend the contract one additional year subject to the parties agreeing on an hourly rate. Mr. Zicconi said he discussed this with Mr. Viall, and that he is satisfied with the current hourly rate, which is \$110 per hour. Mr. Zicconi said that Mr. Viall provides a valuable service to the Board on an as-needed basis, and that he recommends that the Board approve a one-year extension of his contract.

**On a motion by Mr. Bruce seconded by Mr. Bailey, the Board unanimously voted to extend the contract of Tom Viall for an additional year to September of 2017.**

### ***1.5 TB-441 Pike Contractor Claim***

Mr. Bruce, who is the pre-hearing officer in this case, informed the Board that he and Mr. Zicconi met with the parties just yesterday to discuss timing. The parties agreed they needed until August 31, 2016 to complete depositions of hearing witnesses, and that unless there were any surprises that the case would be ready for hearing in October. Mr. Zicconi informed the Board that he and Mr. Bruce have already scheduled a pre-hearing conference for September 13 to keep the process on track.

### ***1.6 Executive Secretary's Report***

**TB-431:** Mr. Zicconi informed the Board that on May 23 he attended a status conference related to the appeal of TB-431, the Small Claim of Lisa Eastman. VTrans appealed the decision, which is now before a District Court judge. The judge at the status conference requested a transcript of the hearing, which presently does not exist. The meeting, however, was recorded so Mr. Zicconi is in the process of transcribing the recording.

### ***1.7 Appoint an Acting Chair***

Mr. Zicconi told the Board that he had a recent conversation with the Governor's office regarding Chairman Marro's retirement. Today is Mr. Marro's last meeting. Before the Governor attempts to appoint a new Chair, his office would like to know if any current Board members are willing to be appointed. In the meantime, the office was OK with the Board electing someone to serve as Acting Chair until the Governor appoints someone new.

Mr. Coen said he was willing to serve as Acting Chair until the Governor appoints someone, but that he has no interest in a long-term appointment. Ms. Kittell said she was willing to be appointed Chair by the Governor, but not until after the November elections.

**On a motion by Mr. Bailey seconded by Mr. Bruce, the Board voted to elect Mr. Coen Acting Chair. Mr. Coen abstained from the vote.**

### ***1.8 Fall Hearing Topics***

Mr. Zicconi said he would like the Board to begin discussions on potential topics for the Board's 2016 fall forums. He said that he is just starting to research potential topics, but at the moment he does not have any suggestions. Topics need to be identified by the end of the summer for the forums to take place in October and November.

Mr. Coen suggested a focus on rail could be timely given that Vermont Rail Systems has been having issues with some of its host towns, as well as the fact that VTrans just completed a new rail plan and the state is about to begin millions of dollars in upgrades to the Western Corridor in order to expand passenger service. Ms. Kittell suggested a forum focused on transportation and water quality would also be timely given Lake Champlain's recent issues and the state's focus to reduce pollution. Mr. Zicconi said he would discuss both topics with VTrans, as well as solicit the thoughts of the state's various Regional Planning Commissions.

### ***1.9 Legal Opinion Regarding CCRPC Contract***

This topic was taken up in deliberative session along with TB-440 (see below)

## **2. OLD BUSINESS**

### ***2.1 TB-387 Route 7 Rutland Town Break in Limited Access***

Mr. Zicconi told the Board that VTrans contacted him to let him know that it likely will take into early June for the Agency and the Town of Rutland to complete discussions regarding the town's traffic analysis. As a result, June 16 is too soon to schedule a hearing. Mr. Coen suggested that the tentative date for a site visit and hearing be moved to the Board's meeting on August 11. Everyone agreed.

### ***2.2 TB-446 Petition to Name Route 103***

After receiving this petition, it was discovered that due to a typo in an official state document that neither the petitioner nor the Board was aware that the section of Route 103 that stretches from Rockingham to Ludlow is already part of the Calvin Coolidge Memorial Highway. Upon discovering this, Mr. Zicconi informed the petitioners, who have requested time to reconsider whether they wish to move forward or target another State Highway. The petitioners hope to decide on a course of action in early June. As a result, June 16 is now too soon to hold a public hearing. Fortunately no hearing was officially warned.

### ***2.3 TB-440 Roos Small Claim***

**At 12:08 p.m. the Board on a motion by Mr. Carris seconded by Mr. Coen entered into deliberative session, pursuant to Title 1 § 313, to discuss TB-440 Roos Small Claim, TB-449 Rothblatt Helipad Application, and a Board-sought legal opinion regarding the CCRPC's Contract with VTrans.**

Mr. Zicconi was invited to join the deliberative session.

**The Board exited deliberative session at 12:35 p.m.**

## **3. OTHER BUSINESS**

### ***3.1 Round Table***

No one had any issues to discuss

## **4. ADJOURN**

**On a motion by Mr. Bailey seconded by Mr. Coen, the Board unanimously voted to adjourn at 12:35 p.m.**

Respectfully submitted,

John Zicconi  
Executive Secretary

**Next Board Meeting: June 16 at 9:30 a.m.**