

VERMONT TRANSPORTATION BOARD MEETING MAY 16, 2013

Board Members Present:

Maurice Germain, Chairman; term expires 2/28/2014
Tom Dailey, term expires 2/28/2016
Robin Stern, term expires 2/28/2015
Vanessa Kittell, term expires 2/28/2016
Nick Marro, term expires 2/28/2016
James Fitzgerald, term expires 2/28/2015
Wesley Hrydziusko, term expires 2/28/2015

Board Members Absent:

None

Others Present:

John Zicconi, Executive Secretary
Tom Viall, Board Consultant
Robert Chamberlin, Consultant for the Town of Rutland
Joe Zingale, Town of Rutland
Susan Schriebman: Rutland Regional Planning Commission
Craig Keller, VTrans Head of Utilities and Permits Section
Joe Sagale, VTrans Senior Planner

Call to Order:

Chairman Maurice Germain called the Thursday, May 16, 2013 meeting to order at 9:45 a.m., which was held in the Dewey Building, Conference Room R235 at One National Life Drive Montpelier, VT.

1. NEW BUSINESS

1.1 Review/Approve the Minutes of April 18, 2013 meeting

On a motion by Mr. Fitzgerald seconded by Mr. Marro, the Board unanimously voted to approve the Minutes of the April 18, 2013 Board meeting as presented.

1.2 Review/Approve the Minutes of March 21, 2013 meeting

On a motion by Mr. Fitzgerald seconded by Mr. Marro, the Board unanimously voted to approve the Minutes of the March 21, 2013 Board meeting as presented.

1.3 Executive Secretary's Report

Executive Secretary John Zicconi told the Board that the 2013 Legislative session was complete, and that a statutory change will allow the Board to hear small claims filed by citizens of up to \$5,000 instead of \$2,000. Mr. Zicconi then asked the Board if it wanted to consider asking the Vermont Agency of Transportation if it would support a future change in statute that would allow the Board to hear small claims initiated by the State? Mr. Zicconi said if the Board agreed this was worth pursuing that he would initiate discussions with VTrans officials.

Ms. Kittell asked if the Board took this on would it begin to be looked upon as VTrans "home court" and potentially change or diminish the deference the Board is given when adjudicating other types of cases? Mr. Zicconi said the Board has jurisdiction over some 30 different types of cases, and while taking on small claims

could provide the Board a steady stream of work that he did not believe it would diminish the Board's overall authority or its reputation.

Mr. Germain said altering statute would require legislative action, and inquired how that would work. Mr. Zicconi said that if the Board and VTrans agreed that expanding the Board's small-claims jurisdiction was a good idea that the likely place to propose such a change would be as part of next year's Transportation Bill.

The Board agreed that having such a conversation with VTrans officials was worthy, and authorized Mr. Zicconi to initiate such discussions.

1.4 TB-403 Stowe Gold Brook Compensation Hearing

Mr. Zicconi told the Board that two days prior to the May 9, 2013 compensation hearing in Stowe, the last of the affected landowners called his office to inform the Board that he had settled with VTrans. Since this settlement, as well as two others, was only verbal and not yet recorded in the land records, the Board was still compelled to hold a hearing, which he attended as hearing officer. While originally three Board members were to act as hearing officers, Chairman Germain changed the plan just prior to the hearing because the proceedings were expected to be "friendly" rather than adversarial, Mr. Zicconi said.

Prior to the hearing, Mr. Zicconi said he spoke with all three land owners as well as VTrans officials, and everyone confirmed the settlements and their agreed to amounts. Everyone also agreed that they supported the Board condemning the affected properties for the settlement amounts, thereby legally locking in the amounts. Once locked in, only a court upon the landowner filing an appeal could alter the amounts, Mr. Zicconi said.

Mr. Zicconi also said there were three utilities that VTrans believed could have property rights in the area, and that all the parties agreed that a settlement amount of \$10 to condemn those potential rights was acceptable.

The Board agreed to condemn the properties at the settlement amounts.

On a motion by Mr. Marro seconded by Mr. Fitzgerald, the Board unanimously voted to condemn Parcel 2A owned by Gold Brook Campground for \$11,500.

On a motion by Ms. Kittell seconded by Mr. Marro, the Board unanimously voted to condemn Parcel 4 owned by Stewart and Priscilla Bouchard for \$65,000.

On a motion by Ms. Kittell seconded by Mr. Marro, the Board unanimously voted to condemn Parcel 6 owned by the Town of Stowe for \$400.

On a motion by Ms. Kittell seconded by Mr. Marro, the Board unanimously voted to condemn Parcel 7 owned by the Telephone Operating Company of Vermont, LLC for \$10.

On a motion by Ms. Kittell seconded by Mr. Marro, the Board unanimously voted to condemn Parcel 8 owned by the Town of Stowe Electric Department for \$10.

On a motion by Ms. Kittell seconded by Mr. Marro, the Board unanimously voted to condemn Parcel 9 owned by Stowe Cablevision, Inc. for \$10.

2. OLD BUSINESS

2.1 TB-387 Rutland Route 7 Master Plan

In January 2011, the Board granted the Town of Rutland a break in Route 7's limited access (near its intersection with Route 4 west) so that a development called Rutland Commons could be built. At the time of granting the break, the Board notified Rutland that it would not grant additional breaks in limited access along Route 7 until the town first presented the Board with a master plan for the area. Rutland submitted such a master plan in October, and appeared before the Board on December 6, 2012 to discuss the plan. At that meeting, the Agency of Transportation, the Federal Highway Administration (FHWA) and the Rutland Regional Planning Commission said they had not been consulted regarding the plan and had suggested changes. All parties agreed they would meet outside the Board process, and return to the Board with a second draft. This second draft is presented to the Board today.

The purpose of the master plan, Mr. Chamberlin said, is to respond to the Board's request to develop an access master plan for the "highest and best use of land along the corridor," as well as to preserve the State's investment in the highway system while fostering commerce in the areas adjacent to Route 7 in Rutland Town.

Mr. Chamberlin said the town is submitting this master plan at this time because in the future it anticipates applying to the Board for an additional break in Route 7's limited access at Ferrell Road, which is just north of the Rutland Commons break the Board granted in January 2011. At issue today, however, is only the master plan, he said. Should the Board accept the master plan, the town likely would return to the Board in the future for a break at Ferrell Road, he said.

Mr. Chamberlin said the area affected by the master plan includes only the limited-access section of Route 7 within Rutland Town. The master plan addresses three areas where there are either existing, granted, or potential future access-break requests. The existing break is located at Holiday Drive; the granted access, which has not yet been built, is at Rutland Commons; and the future break is at Ferrell Road, Mr. Chamberlin said.

Mr. Chamberlin said several main points had been generated during recent discussions with VTrans, FHWA and the Rutland Regional Planning Commission. The first draft master plan was very general, where this draft is specific as to where future access breaks could occur, Mr. Chamberlin said. Also, the new draft refers to and incorporates other documents – VTrans Access Management Guidelines and AASHTO's so-called Green Book – when the original draft did not, and the new draft directly refers to highest and best use of surrounding land as is spelled out in the Rutland Regional Plan.

This new draft has been reviewed by VTrans, FHWA and the Regional Planning Commission. All comments that were received have been incorporated into the new document, Mr. Chamberlin said.

The master plan establishes performance standards by which the Board can determine whether a future break in public access is in the public interest, Mr. Chamberlin said. And those performance standards are transportation oriented: some relate to safety, while others establish traffic-related operational performance measures. The performance measures conform to standard engineering procedures, he said. The plan also refers to potential improvements and expansions to the local road network west of Route 7 the Town of Rutland may make in the future.

Mr. Chamberlin said the performance standard called for in the master plan are “strict and hard to meet.” He said access control to Route 7 is important and that these standards “set a very high bar” as to whether a new break in limited access could be approved.

Mr. Zicconi told the Board that if it adopts this master plan that it is under no obligation to approve a break at Ferrell Road in the future. What the master plan does, however, is establish standards that would have to be met before the Board would make such an approval. Mr. Zicconi also noted that master plans can change, so if the town for some reason in the future is not satisfied with the plan, it can seek changes. However, any changes would be highly scrutinized by not only the Board, but by VTrans and FHWA as well.

Mr. Marro said the limited access section of Route 7 is already very developed, and that there is local concern that if Ferrell Road was granted a break in limited access what that would mean for additional development to the west of Route 7. Mr. Zicconi said any request to grant a limited-access break would require that a public-hearing process be held in Rutland that would provide locals an opportunity to inform the Board of their concerns.

Mr. Fitzgerald asked if it was “likely” that the town would request a limited access break at Ferrell Road in the future? Mr. Zingale said yes, and explained that the current way trucks use Ferrell creates problems and that the town believes a well designed access directly connecting with Route 7 would alleviate those issues.

Mr. Sagale said VTrans is “very comfortable” with the new draft of the master plan largely because the performance measures present a really good framework for how to evaluate future requests. He called the plan “comprehensive,” and said it provides VTrans the tools it would need to evaluate any future proposed break in limited access.

Ms. Schriebman said the Regional Planning Commission also likes the performance measures, as well as how the master plan recognizes the potential for future roadway development west of Route 7.

Mr. Zicconi asked if the Town of Rutland Selectboard had adopted the new draft of the master plan? Mr. Zingale said he did not know. Mr. Zicconi said he thought it best that the Board, before voting to approve or reject the master plan, first know whether the Selectboard approves. The Board agreed, and Mr. Zingale said he would find out and let the Board know.

The Board agreed not to take action on the plan until it knew if the selectboard approved. Mr. Zicconi said once the Board receives this information, it would not have to delay and could vote via email to approve the master plan.

Since the Meeting adjourned, Mr. Zingale provided the Board documentation that the Town of Rutland Board of Selectmen approved the master plan. The Board then voted unanimously, via email, to approve the master plan.

2.2 *TB-383 Winterset Construction*

2.3 *TB-386 Miller Construction*

At 11:04 a.m. the Board on a motion by Mr. Marro seconded by Mr. Fitzgerald entered into deliberative session, pursuant to Title 1 § 313, to deliberate on TB-383 Winterset Construction and TB-386 Miller Construction.

Mr. Zicconi and Mr. Viall were invited to attend the deliberative session.

At 12:44 p.m. the Board exited deliberative session.

3. OTHER BUSINESS

3.1 Round Table

No Board members had anything to discuss.

4. ADJOURN

On a motion by Mr. Marro seconded by Mr. Fitzgerald, the Board unanimously voted to adjourn at 12.45 p.m.

Respectfully submitted,

John Zicconi
Executive Secretary

**Next Board Meeting:
June 20, 2013 at 9:30 a.m.
Via Conference Call**