

VERMONT TRANSPORTATION BOARD MEETING OCTOBER 23, 2017

Board Members Present:

David Coen, term expires 2/28/18
Richard Bailey, term expires 2/28/18
T. Faith Terry, term expires 2/28/19
Timothy Hayward, term expires 2/28/2020
Wendy Harrison, term expires 2/28/19
Vanessa Kittell, term expires 2/28/19
Lawrence H. Bruce, term expires 2/28/2018

Board Members Absent:

None

Others Present:

John Zicconi, Board Executive Secretary
Ron Shems, Board Attorney
Peter Young, Washington County Railroad
Rick Boucher, Washington County Railroad
John Roback, Kendall Station Road Petitioner
Charles Merriman, Attorney for Roback
Toni Clithero, Assistant Attorney General
Ben Mayes, proxy for Steve Rojek
Tim Chow, Kendall Station Road Resident
Lynne Chow, Kendall Station Road Resident
Gail Langeloh, Kendall Station Road Resident
Glenn Gurman, Kendall Station Road Resident
Herb Durfee, Norwich Town Manager
Sue Hardy, Kendall Station Road Resident
Roger Blake, Kendall Station Road Resident
Ernie Ciccotelli, Kendall Station Road Resident
Coleen Barr, Kendall Station Road Resident
Anne Garrigue, Norwich Resident
Numerous Norwich residents who did not speak or provide their names

Call to Order:

Board Chair Vanessa Kittell called the Monday, October 23, 2017 meeting to order at 10:40 a.m., which was held at the Multipurpose Meeting Room at Tracy Hall in Norwich, VT.

1. NEW BUSINESS

1.1 TB-457 Roback vs. Washington County Railroad

Beginning at 10:40 a.m., the Board conducted an evidentiary hearing regarding TB-458. The hearing lasted approximately one hour and fifty six minutes and was recorded. Anyone wishing to listen to the recording should contact the Board's office.

1.2 Review/Approve Minutes of the September 27, 2017 Meeting

On a motion by Ms. Terry seconded by Ms. Harrison, the Board unanimously voted to approve the minutes of the September 27, 2017 Board meeting with corrections.

1.3 Executive Secretary's Report

Lemon Law Update: Mr. Zicconi informed the Board that the Vermont Motor Vehicle Arbitration Board has requested two changes to the statutes that govern Vermont's Lemon Law and that he will be working with the Department of Motor Vehicles and the Governor's office to hopefully include the proposals in the upcoming DMV miscellaneous bill before the Vermont Legislature.

Supreme Court: Mr. Zicconi informed the Board that he recently learned that the Vermont Legislature as part of Act 167 of 2016 -- an act relating to judicial organization and operations -- redirected Board appeals from the Superior Court directly to the Supreme Court. Mr. Zicconi said neither he nor VTrans was aware of the change until last month when he had reason to review the statute. Mr. Zicconi said he remembers receiving a phone call from Legislative Council prior to the 2016 Legislative session regarding a possible redirect, but that he was never informed that such a change was actually made or even being strongly considered.

Budget Adjustment: Mr. Zicconi informed the Board that he expects the Board to exceed its FY2018 budget by about \$25,000 due to an unusually high need for legal services. As a result, he informed VTrans' business office which is consulting with the Governor's office to determine if the Board needs to appeal to the Legislature for additional funds during the upcoming Budget Adjustment Bill, or if the Agency can simply adjust the Board's budget at the end of the fiscal year using its authority to transfer appropriations.

TB-462 Twin Farms Helipad: Mr. Zicconi informed the Board that he recently learned that Twin Farms Resort in Barnard is operating a helipad that has not been permitted. He said he would reach out to Resort management to begin a review process that would bring the facility before the Board for review.

1.4 Board Retreat

Ms. Kittell said she would like to hold a Board retreat in January. The Board discussed two dates -- either January 4 or January 11. Mr. Hayward said he did not want to meet the first week of the legislative session, so the Board chose January 11. Ms. Kittell asked Mr. Zicconi to research possible locations.

1.5 TB-461 Small Claim of Michele St. Hilaire

Mr. Zicconi told the Board that after speaking to Ms. St. Hilaire and reviewing the details of her claim, he has concluded that it does not involve VTrans or any of its employees. As a result, the Board does not

have jurisdiction as 19 V.S.A. Section 20 only allows the Board to hear small claims involving VTrans and its employees. Ms. Hilaire's claim involves the alleged behavior of an employee of the Vermont Department of Environmental Conservation, which is a department located within the Agency of Natural Resources.

On a motion by Mr. Bruce seconded by Bailey, the Board unanimously voted to dismiss TB-461 for lack of jurisdiction.

1.6 TB-460 Small Claim of Jeff Bogie

Mr. Zicconi informed the Board that Mr. Bogie no longer wishes to pursue a small claim as he has managed to settle his claim through other means. Mr. Zicconi said Mr. Bogie does not use email, but in a text message to him said "All set. Got my money through another avenue from Vermont."

On a motion by Mr. Bruce seconded by Mr. Bailey, the Board unanimously voted to dismiss TB-460.

1.7 TB-455 Barnard Charles French Road Dispute

See below under Old Business 2.2 for motion to discuss during deliberative session.

2. OLD BUSINESS

2.1 TB-443 Schultz Contractor Claim

2.2 TB-456 Rouelle Helipad

The Board at 12:45 p.m. on a motion by Ms. Terry, seconded by Mr. Bruce and approved unanimously entered into deliberative session, pursuant to Title 1 § 313, to discuss TB-457 Roback Railroad Crossing, TB-443 Schultz Contractor Claim, TB-456 Rouelle Helipad, TB-455 Barnard Charles French Road Dispute.

Mr. Zicconi and Mr. Shems were invited to join the deliberative session.

The Board exited deliberative session at 3:15 p.m.

3. OTHER BUSINESS

3.1 Round Table

No one had any issues to discuss

4. ADJOURN

On a motion by Mr. Coen seconded by Bailey, the Board unanimously voted to adjourn at 3:45 p.m.

Respectfully submitted,

John Zicconi
Executive Secretary

Next Board Meeting: TBD