

VERMONT TRANSPORTATION BOARD MEETING JANUARY 18, 2019

Board Members Present:

David Coen, term expires 2/28/21
T. Faith Terry, term expires 2/28/19
Wendy Harrison, term expires 2/28/19
Richard Bailey, term expires 2/28/21
Vanessa Kittell, term expires 2/28/19

Board Members Absent:

Tim Hayward, term expires 2/28/2020

Others Present:

John Zicconi, Board Executive Secretary
Ron Shems, Board Attorney
Daniel Delabruere, VTrans Head of Aviation and Rail (via phone)
Craig Zondag, Lemon Fair Insect Control District (via phone)
David Dodge, Lemon Fair Insect Control District (via phone)

Call to Order:

Chair David Coen called the Friday, January 18, 2019 meeting to order at 9:30 a.m., which was held in Dewey Conference Room R236 at 1 National Life Drive, Montpelier, VT.

1. NEW BUSINESS

1.1 Review/Approve Minutes of the October 31, 2018 Meeting

On a motion by Ms. Harrison seconded by Mr. Bailey, the Board unanimously voted to approve the minutes of the October 31, 2018 Board as submitted.

1.2 Helipad Permit Discussion with Dan Delabruere

Mr. Delabruere expressed concern regarding the current RLA review system which he believes places VTrans in the position of helping the applicant design proposed helipads and airstrips. He said he had no issues with VTrans evaluating an application, but that he did not want the Agency being the “upfront designer of the project.” Mr. Delabruere suggested that the permit process instead require the applicant to have an engineer design the facility and that VTrans would review that proposal. This way VTrans only would be in the position of evaluating something that is “already on paper” rather than exposing itself to the liability associated with actually creating the proposal.

Mr. Zicconi asked if VTrans aviation staff, which does not contain any engineers, was qualified to review such an engineering proposal and offer the Board an informed opinion. Mr. Delabruere said VTrans would review the proposal and offer comments. VTrans does contain aviation expertise and the Agency is happy to use that expertise to aid the Board’s review, he said.

Mr. Coen asked if the Agency was willing to review applications for both airstrips and helipads, even though the Agency no longer has a helicopter pilot on staff? Mr. Delabruere said yes as his staff does keep up with FAA regulations and has a certain amount of expertise it can lend to the process. Also, if an engineer designs the facility then the engineer also has to stamp such a proposal and that would limit the Agency's liability. Mr. Delabruere said working this way would be a better system than we have now.

The Board agreed that this process change would work and allow the RLA process to proceed without overburdening the applicant. Mr. Zicconi and Mr. Delabruere will work out details.

1.3 TB-462 Mather Airstrip Certificate of Operation

The Board on December 17, 2018 approved an airstrip for Charles Mather at 490 Shadow Glen Road in Panton, VT. A condition of that approval was that Mr. Mather obtain a positive FAA determination that the airstrip could operate safely. Mr. Mather received a positive FAA determination on December 13, 2018. He submitted the paperwork to the Board and asked that it issue him a Certificate of Operation so that he could begin using the facility.

On a motion by Mr. Bailey seconded by Ms. Harrison, the Board unanimously voted to issue a Certificate of Operation to Charles H. Mather for an airstrip at 490 Shadow Glen Road in Panton, VT. Ms. Kittel abstained.

1.4 TB-482 Lemon Fair Helipad Applications

The Board discussed the Lemon Fair Insect Control District's applications for helicopter landing areas in both Cornwall and Weybridge with Lemon Fair Executive Director Craig Zondag and Board Chair David Dodge.

Mr. Coen questioned the applications answer to the question "is the site for personal use or will others use it?" On the applications, the applicant answered "other use/private." Mr. Coen asked if the applicant was asking for the Restricted Landing Area to be used only for the District's mission of controlling the insect population in parts of Addison County, or did the answer indicate that the District wished the RLAs to be able to be used at other times as well?. Mr. Coen indicated that the Board would view the applications differently depending on the answer.

Mr. Zondag said it was the District's thought that one of the land owners might use the RLA for flights not connected to insect spraying, but now that he understood that would impact the way the Board reviews the application that the District no longer will seek permission for that to occur. Mr. Coen encouraged the District to alter the application to reflect this and asked the Board to find the application complete with the condition that this alteration occur. Mr. Zondag said he would make those changes and resubmit the applications.

On a motion by Ms. Kittel seconded by Ms. Terry, the Board unanimously voted to find the Lemon Fair Insect Control District's applications for Restricted Landing Areas in both Cornwall and Weybridge to be complete as long as they were amended to seek permission for the Lemon Fair Insect Control District's use only.

1.5 Executive Secretary's Report

Lemon Law Administrator: Mr. Zicconi informed the Board that Lemon Law Administrator Pauline Liese is retiring with an effective last day of today. As a result, he will propose, as he has discussed with the Board in the past, to VTrans that the duties of the Lemon Law Administrator be rolled into those of the Transportation Board's Executive Secretary and that the Executive Secretary into the future administer both the Transportation Board and the New Motor Vehicle Arbitration Board. The savings associated with combining the two positions would be more than \$100,000 annually, Mr. Zicconi said.

New Mileage Rate: Mr. Zicconi informed the Board that as of January 1, the new rate for mileage reimbursement is 58 cents per mile. He will place the change into new expense sheets and distribute via email.

1.6 TB-483 Town of Derby Request to Name Bridge

The Town of Derby petitioned the Board to name a state-owned bridge in Derby after Joseph Queenin, a long-time town resident who recently passed away. Mr. Coen appointed Mr. Bailey to serve as hearing officer for the required public hearing regarding the request, which Mr. Zicconi has scheduled for April 8, 2019 in Derby. Ms. Kittel referenced a caution about naming things after individual people that the former Commissioner of the Department of Libraries several years ago issued to the Board when the Board was first assigned the duty of naming transportation infrastructure. Mr. Coen said the Board should discuss the issue at a future meeting, and instructed Mr. Zicconi to place such a discussion on a future Board agenda.

1.7 Chair's Report

Mr. Coen informed the Board that he and Mr. Zicconi recently met with the Governor to discuss several things. One was the appointment of new Board Members as the Board will soon have three vacancies. Since that time, Governor Scott appointed two new Board members: Jim Fitzgerald of St. Albans who will fill the Board's vacant position beginning February 1, and Philip Zalinger of Montpelier, who will replace Ms. Kittel when her term ends on February 28. The Governor is still searching for someone to replace Ms. Terry when she steps down on February 28. The Governor also reappointed Ms. Harrison to a new, three-year term beginning March 1. Mr. Coen, on behalf of everyone, thanked Ms. Kittel for her services.

Mr. Coen said he also spoke to the Governor about the recent increase the Board has seen in applications for Restricted Landing Areas, in particular helipads. Mr. Coen said he raised the issue of instituting an application fee for Restricted Landing Areas. He also informed the Governor of the issues the Board has

struggled with related to RLA applications to establish such facilities in fairly populated areas as well as the Board's struggles on how to define public interest. One solution that was discussed, Mr. Coen said, was potentially providing Act 250 some oversight of RLAs. Mr. Zicconi said that there was also acknowledgement that doing that would be tricky as Act 250 currently deals only with commercial property while many helipads are requested for non-commercial property.

Mr. Coen also said he spoke with the Governor about the Board's relationship with VTrans and the fact that the Agency basically appeals every decision the Board makes that is not in the Agency's favor, which often results in increased costs and use of resources. He said he did not ask the Governor to intervene in anyway, but instead alerted him to the issue and that as Chair of the Board he would be reaching out to the Agency Secretary to discuss the matter. Mr. Coen asked if any other Board members would like to attend such a meeting when it is scheduled. Mr. Bailey volunteered.

2. OLD BUSINESS

2.1 Board Rules – Aviation

Mr. Shems and Ms. Harrison shared with the Board a combination problem statement regarding its struggles defining "public interest" when citing restricted landing areas, as well as proposed statutory language that if adopted would help the Board find whether such a proposal actually serves the public interest.

A lengthy discussion ensued with the outcome being that the Board would ask VTrans to place in this year's Transportation Bill the following statutory addition to 5 V.S.A. Section 207:

(j) The Board shall, in addition to the other factors in this section, consider the following in determining whether a proposed airport, restricted landing area, or seaplane landing serves the public interest:

(1) whether the proposal has environmental permits, or if such permits are not required, whether the proposal has undue adverse effects to the environment and wildlife;

(2) whether the proposal has a local land-use permit, or if the municipality does not have an applicable permitting process, whether the proposal:

(A) is a land use consistent with local and regional plans and any land-use purposes; and

(B) has no undue adverse effect on surrounding land uses and the character of the area affected;

(3) economic benefit to the area;

(4) whether alternative sites can serve the applicant, public, and emergency service needs;

(5) the proximity of other airports, restricted landing areas, or seaplane landing areas; and

(6) whether the applicant will mitigate adverse effects of the proposal related to the factors in this subsection (j).

3. OTHER BUSINESS

3.1 Round Table

No one had any issues to discuss

4. ADJOURN

On a motion by Ms. Terry seconded by Ms. Harrison, the Board unanimously voted to adjourn at 12:10 p.m.

Respectfully submitted,

John Zicconi
Executive Secretary

Next Board Meeting: February 21, 2019