

VERMONT TRANSPORTATION BOARD MEETING MAY 16, 2019

Board Members Present:

David Coen, term expires 2/28/21
Pam Loranger, term expires 2/28/22
Tim Hayward, term expires 2/28/2020
Wendy Harrison, term expires 2/28/22
Philip Zalinger, term expires 2/28/22
James Fitzgerald, Term expires 2/28/21

Board Members Absent:

Richard Bailey, term expires 2/28/21

Others Present:

Ron Shems, Board Attorney
Mike Tarrant, Board Attorney

Call to Order:

Chair David Coen called the Thursday, May 16, 2019 meeting to order at 9:30 a.m., which was held at Dewey Conference Room R235 at 1 National life Drive in Montpelier, VT.

1. NEW BUSINESS

1.1 Review/Approve Minutes of the April 18, 2019 Meeting

On a motion by Mr. Fitzgerald seconded by Ms. Harrison, the Board unanimously voted to approve the minutes of the April 18, 2019 Board meeting with corrections.

1.2 TB-491 Don Weston Excavating Contract Appeal – Deliberation

1.3 TB-443 W.M. Schultz Construction – Application for Fees & Expenses -- Deliberation

At 9:32 a.m. the Board on a motion by Ms. Loranger, seconded by Mr. Fitzgerald and approved unanimously entered into deliberative session, pursuant to Title 1 § 313, to discuss TB-491 Don Weston Excavating Contract Appeal and TB-443 W.M. Schultz Construction Application for Fees and Expenses.

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

The Board exited deliberative session at 10:30 a.m. On a motion by Mr. Hayward seconded by Ms. Harrison, the Board unanimously voted to appoint Mr. Zalinger hearing officer, with authority to make decisions on the Board's behalf, for all prehearing matters related to TB-443 W.M. Schultz Construction Application for Fees & Expenses.

1.4 Executive Secretary's Report

Small Claims Process: Mr. Zicconi informed the Board that he and Mr. Shems met with Assistant Attorney General Toni Clithero to discuss possible ways the Board's small claims process could be reworked to still provide due process to both VTrans and motorists who make claims but result in fewer decisions that are appealed by VTrans. Ms. Clithero, who represents VTrans, was receptive to the effort. The discussion ended with an agreement that Mr. Shems and Mr. Zicconi would draft a proposal for discussion at a future meeting with VTrans representatives.

Electronic Copies of Meeting Material: Mr. Zicconi told the Board that for the first time in his tenure as Executive Secretary that every board member wishes to receive meeting packets in hard copy. As a result, he asked if members still wanted to receive electronic copies. All Board members said they did not need to receive electronic copies.

2. OLD BUSINESS

2.1 Administrative Rules – Revision Process

General Administrative Rules: Mr. Zicconi said the Board back in July first reviewed the proposed changes and offered feedback, but then placed discussions on hold as the Associated General Contractors of Vermont raised some potential concerns. Those concerns now appear to be alleviated. After review, the Board agreed to the changes and instructed Mr. Zicconi to work with VTrans to have the changes implemented.

On a motion by Mr. Zalinger, seconded by Mr. Fitzgerald and approved unanimously, the Board adopted the rule changes as presented and instructed staff to begin the process of having the changes formally promulgated.

Aviation Rules: Mr. Zicconi said the Board last year began discussing these rules but placed any potential alterations on hold as it instead chose to seek statutory changes to the State's laws regarding Restricted Landing Areas. Those efforts were rejected by the Scott Administration, but following a recent discussion with VTrans Secretary Joe Flynn and his staff the door was left open for potentially approaching the issue of Public Interest in a different manor than the Board sought back in January. The Secretary's staff asked to delay any future discussions until the end of the Legislative Session. The Board agreed more discussion is welcome, and as a result placed any rule changes on hold until such discussion could take place.

Naming Rules: Mr. Zicconi said in the past some Board members have requested that the Board review these rules and in particular discuss whether to alter the sections pertaining to naming things after individual people. The question is should the Board somehow limit its own ability to approve petitions to name bridges, roads, buildings, etc. after people? Mr. Zicconi advised that he believed doing so would go against the intent of the Legislature, who several years ago provided the naming duty to the Board. Instead, if the Board wanted to make changes to this part of the rules, he advised focusing on how the Board could alter the process to require that any such request first have local approval. Currently, all a

person needs to do is provide the Board a petition signed by 50 Vermonters. The Board could consider some higher bar, such as local municipal approval, he said. Mr. Coen said he was not primed to have the Board decide this issue today, but that he wanted Board members to think about how, if at all, they may want to alter the rules in this area and that the Board would continue the discussion at a future meeting.

2.2 TB-484 Petition to Name Route 105 from Derby to Bloomfield

Mr. Zicconi said he contacted the Brighton Selectboard and scheduled a public hearing on the petition for 6 p.m. on June 19 as part of the selectboard's regular meeting. At the last Board meeting, Mr. Fitzgerald volunteered to be hearing officer for the public hearing, but since then informed Mr. Coen that he cannot attend a 6 p.m. hearing but could attend one if it was scheduled earlier in the afternoon. Mr. Coen said it is the Board preferred practice to hold the public hearing in conjunction with a selectboard meeting. He then asked if anyone else could volunteer. With no takers, Mr. Coen said he would speak to Mr. Bailey (who was absent) to see if he could be hearing officer, and if not that he would take on the duty himself.

Following the meeting, Mr. Bailey volunteered and was appointed hearing officer for the June 19 public hearing.

3. OTHER BUSINESS

3.1 Round Table

August Meeting: The Board scheduled its August meeting for August 27 at a place to be determined.

4. ADJOURN

On a motion by Mr. Zalinger seconded by Mr. Fitzgerald, the Board unanimously voted to adjourn at 11:30 a.m.

Respectfully submitted,

John Zicconi
Executive Secretary

Next Board Meeting: June 24, 2019