

VERMONT TRANSPORTATION BOARD MEETING FEBRUARY 23, 2012

Board Members Present:

Maurice Germain, Chairman; term expires 2/28/2014
Timothy Hayward, term expires 2/28/2013
Nick Marro, term expires 2/28/2013
Charles Bucknam Jr., term expires 2/28/2013
Robin Stern, term expires 2/28/2012
Wesley Hrydziusko, term expires 2/28/2012

Board Members Absent:

Arthur Sanborn, term expires 2/28/2012

Others Present:

Thomas Viall, Interim Executive Secretary
John Zicconi, Executive Secretary Elect
Karla Perkins, AOT Right of Way
Donna Holden, Board Secretary

Call to Order:

The Chair, Maurice Germain, called the Thursday, February 23, 2012 meeting to order at 9:35 a.m., which was held in the AOT 4th Floor Conference Room #2, at One National Life Drive Montpelier, VT.

1. NEW BUSINESS

- 1.1 Approve the Minutes of the January 6, 2012
February 1, 2012
February 6, 2012*

On a motion by Mr. Marro seconded by Ms. Stern, the Board unanimously voted to approve the minutes of the January 6, 2012, February 1, 2012, and February 6, 2012, meetings, as submitted.

- 1.2 Act on TB-385 – Nael Salha*

Mr. Viall reported that a letter was sent to the claimant on February 7th with instructions that he had until Tuesday, February 21, 2012 to request a hearing and/or provide sufficient information for the Board to deliberate the merits of the case. Mr. Viall reported he had received contact from the claimant, and a hearing should be scheduled.

The Board agreed to hear the case at their March 15, 2011 meeting. Mr. Viall agreed to schedule one-hour hearings for this case and TB-395, Christine Meehan.

Mr. Hayward and Mr. Zicconi arrived during the next item.

- 1.3 Act on TB-390 – Morristown Hearings (held February 16 & 17, 2012)*

Mr. Viall distributed a summary of the proceedings and along with Hearing Officers, Charles Bucknam and Tim Hayward, briefed the Board on the status of the eleven cases scheduled for the February 16 & 17 hearings. Right-

of-Way Agent, Karla Perkins, was invited to provide further information. She noted the Agency settled (without dispute) nine of the eleven compensation cases; however, two of the original eleven cases, which were believed to have been settled with the Agency were being held out from final disposition because appropriate paperwork from 1791, LLC was not received to date, and Sunrise Development, LLC required the release of three mortgages due to the compensation offered. Therefore, she advised these two parcels would be re-warned for the March 13 & 14 hearings scheduled, which would hopefully resolve all the compensation issues included in the third round of hearings for this project.

The Board then reviewed the recommendations for two remaining properties from this, the second round of hearings for this project; Stellar Propane Service, LLC at \$97,950 and The Bishop Marshall School at \$132,411.

On a motion by Ms. Stern seconded by Mr. Hrydziusko, the Board unanimously voted to approve the compensation to Stellar Propane Service, LLC and The Bishop Marshall School, as recommended.

1.4 Welcome New Executive Secretary

The Board welcomed John Zicconi to the position of Executive Secretary, which he will assume on March 11, 2012.

Mr. Zicconi thanked the Board and advised that he has had discussions with individuals that control office space at the National Life Campus and that he hoped to have the Transportation Board Office relocated to the Campus before the end of March, which would provide further continuity in the Board's management.

Mr. Zicconi also provided a transition schedule, noting that he would begin duties on March 12th; however, because of a previously planned trip he would be out-of-state from March 14-21, and return to duty March 22nd.

2. OLD BUSINESS

2.1 Review Status and Plan Assignments for Pending Cases

The Board reviewed the pending case spreadsheet. The Board agreed with Mr. Viall's intent to administratively remove TB-379, understanding it was merely correspondence that was erroneously given a case number.

2.2 Operations Discussion

The Board discussed the status of H. 523 *An act relating to revising the state highway condemnation law*. The Board confirmed that testimony given before a Summer Study Committee regarding this matter (which stated the Board was not interested in having a continued role in Section Design 502 and/or compensation hearings) was inaccurate and given without the Board's knowledge.

Mr. Zicconi advised that he felt the Board's role in Section 502 hearings was to serve as an advocate for the public, and a type of overseer to Agency process. The Board agreed.

Mr. Viall reported, based on his research, that over the past five years the Board participated in only three Section 502 hearings, one of which only one was attended by a Board member as the result of a request from a member of the public, as provided for in Section 502.

Mr. Zicconi agreed to pursue notification to the appropriate legislative parties that the Board wanted to be heard on the H. 523 matter.

Mr. Zicconi further agreed, moving forward, to provide the Board with a summary of any Section 502 hearing notices received and the Board would decide on a case-by-case basis whether it would attend/participate in the hearing.

Mr. Zicconi further agreed to search the statutes to compile a list of other advocacy role language that the Board may not be exercising.

3. OTHER BUSINESS

Mr. Zicconi advised the Board he recently learned of the following, and wanted to provide the Board with the following information: The Natural Resources Board (NRB), in conjunction with the Agency of Transportation (AOT), was investigating possible ways to alleviate the situation when, as part of the Act 250 permitting process, the last entity seeking a land-use permit in a line of any number of permit-seeking entities trips the requirement for traffic improvements such as a roundabout, signals, turning lane, etc. could face large financial costs to complete its project even though other permit holders would benefit from the roadway improvements. As a remedy to the State's long-standing practice that the last one that trips the need for additional transportation facilities suffers the full financial burden for these improvements, AOT and NRB have held discussions regarding the potential of charging a fee when issuing a permit to all entities. The funds would have to be held in escrow, and any such change would require finding a fiduciary body to hold/manage the funds. The NRB expressed interest in whether the Board was interested in being the escrow holder.

Mr. Zicconi advised that the question was posed to the former Executive Secretary, who reportedly said that the Board was not interested in serving as the keeper of the funds. While the Board appeared to agree in principle, it was willing to consider such a proposal should the NRB wish to seriously consider such an approach.

4. ADJOURN

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

Respectfully submitted,

Tom Viall
Interim Executive Secretary

Next Board Meeting:

**March 15, 2012 9:30 a.m.
AOT 3rd Floor Conference Room #1**