

# VERMONT TRANSPORTATION BOARD MEETING MARCH 15, 2012

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## **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  
Arthur Sanborn, term expires 2/28/2015  
Robin Stern, term expires 2/28/2015  
Wesley Hrydziusko, term expires 2/28/2015

## **Board Members Absent:**

None

## **Others Present:**

Thomas Viall, Interim Executive Secretary	Nael Salha, Claimant TB – 385
Donna Holden, Board Secretary	Toni Clithero, Assistant Attorney General
David Blackmore, District 5 Administrator (via telephone)	

## **Call to Order:**

The Chair, Maurice Germain, called the Thursday, March 15, 2012 meeting to order at 9:05 a.m., which was held in the AOT 3<sup>rd</sup> Floor Conference Room, at One National Life Drive Montpelier, VT.

## **1. NEW BUSINESS**

### ***1.1 Approve the Minutes of February 23, 2012***

**On a motion by Mr. Marro seconded by Mr. Bucknam, the Board unanimously voted to approve the minutes of the February 23, 2012, meetings, as submitted.**

*With the Board's permission, items on the agenda were taken out of order.*

### ***1.2 Hearing re: TB – 395 – Christine Meehan***

Mr. Viall advised the Board, information was submitted by Legal Program Administrator, Kevin Oddy, stating that the line painting in the location identified by the claimant, Ms. Meehan, was conducted on the day of the incident by a contractor (L&D) and not Agency personnel, therefore, the claim was withdrawn with notification that Ms. Meehan would pursue damages against the vendor.

### ***1.3 T-Board Website Page***

**The Board discussed and agreed** that the current Web page should be updated to include meeting agendas and approved minutes. **Also agreed** was to bring future changes to the Web page to the Board prior to deployment.

## **2. OLD BUSINESS**

### ***2.1 TB – 390 Morristown Hearings Update***

Mr. Viall advised the Board that Assistant AG, Toni Clithero reluctantly requested the Transportation Board postpone its third (and final) round of compensation hearings, which had been scheduled for March 13-14. While preparing for the March 13-14 hearings, it became evident that the appraisal relied upon by VTrans for determining “just compensation” for the Stewart property (Parcel 36) required additional, in-depth analysis. (The Stewart property, which fronts on VT 100 just westerly of Dunkin Donuts, is quite deep and required careful assessment of development scenarios.) VTrans notified property owners of the delay and also informed them that VTrans’ consultant appraiser was reviewing his report, which would likely be rewritten by the end of May, potentially with a new value for that parcel.

Mr. Viall also reported that Ms. Clithero, on VTrans’ behalf, apologized to the Board acknowledging that obviously a last-minute postponement of this type was inconvenient to the Board and affected landowners, and that it was not the way they prefer to do business; however, from time-to-time some matters warranted a delay.

## ***2.2 Review Status and Plan Assignments for Pending Cases***

The Board reviewed the pending case spreadsheet.

Mr. Viall advised that case TB393 – Access Appeal by John Hathaway, Fairfax, VT, had now been acted upon by the Agency via a denial, which would next be appealed to the Secretary of Transportation and most likely assigned to the Agency’s hearing officer. If the party chose to appeal further, it would then be brought to the Board; therefore, the current appeal was untimely, and the Board had no current jurisdiction.

**On a motion by Ms. Stern seconded by Mr. Hayward, the Board unanimously voted to dismiss case #TB-393, as untimely.**

Mr. Viall provided information regarding potential cases.

## **3. OTHER BUSINESS**

### ***3.1 Round Table***

Mr. Viall reported that H.523 was expected to be passed by the House today or tomorrow and reported to the Senate. Mr. Zicconi advised Mr. Viall that he had spoken to parties and made arrangements for testimony on the matter to take place after he returned from being out-of-state.

## **4. NEW BUSINESS**

### ***4.1 Hearing re: TB 385 – Small Claim of Nael Salha (highway snow maintenance)***

Mr. Salha appeared before the Board to give testimony related to his small claim of 2/6/11, alleging VTrans’ neglect in removal of snow/ice on I-89 (south near Richmond between exit 11 & 10), which he struck with his vehicle causing \$1,149.18 in damage.

Assistant AAG Toni Clithero and Mr. Salha provided a drawing on the room’s whiteboard. Assistant AG Clithero questioned District Administrator, David Blackmore, who joined the meeting via conference call.

Ms. Clithero acknowledged the distress Mr. Salha sustained as a result of the incident. However, she explained the only way the Agency could be held liable for negligence, is if there was proof that the Agency was negligent.

**At 11:29 a.m. on a motion by Mr. Hayward, seconded by Mr. Bucknam, the Board unanimously voted to enter executive session, pursuant to Title 1 § 313, to deliberate testimony.**

Mr. Viall and Mrs. Holden were invited into the executive session.

**At 11:54 a.m. the Board exited executive session.**

**On a motion by Mr. Hrydziusko seconded by Mr. Marro, the Board voted to award the amount of Mr. Salha's request for small claim compensation, and instructed the Executive Secretary to notify the claimant. Motion passed 4 to 3.**

The Board acknowledged the matter was a difficult decision.

**5. ADJOURN**

**On a motion by Mr. Bucknam seconded by Mr. Marro, the Board unanimously voted to adjourn at 12:00 p.m.**

Respectfully submitted,

Tom Viall  
Interim Executive Secretary

**Next Board Meeting:**

**April 19, 2012      9:30 a.m.  
AOT 3<sup>rd</sup> Floor Conference Room #1**