

## WATER COUNCIL MEETING

Dept. of Environmental Services  
29 Hazen Dr., Concord, N.H.

April 11, 2007  
9:00 a.m.

**Members present:** Councilors Bradley, Bridges, Butler, Christie, Cowan, Czysz, Densberger, Lussier, Lyons, Lynch, Rastaulis, Patenaude, and Varotsis

**Members absent:** Councilors Barrett, Dupee, Phillips

John Bridges, Chairman, called the meeting to order at 9:00 a.m.

Chairman Bridges introduced Nancy Christie, new member of the Water Council.

**1. Approval of Minutes of January 10, 2007 Meeting**

*A motion was made by Councilor Varotsis to accept the minutes of the January 10, 2007 meeting as presented. The motion was seconded by Councilor Bradley. The Council unanimously voted to approve the minutes.*

**2. Approval of State Aid Grants**

**State Aid Grants**

1. Steve Snell of the Wastewater Engineering Bureau requested approval of five new state aid grants as set forth in a memo from Bureau Administrator John R. Bush, P.E. to Harry T. Stewart, P.E., Director, Water Division dated March 23, 2007.

*Councilor Varotsis moved to approve the grant and recommend favorable action by the Governor and Executive Council by adoption of the following resolution in its entirety. Councilor Bradley seconded the motion and it was unanimously voted.*

WHEREAS, The following municipalities have applied to the Department of Environmental Services, under the provisions of RSA 486, for grants in the amounts listed, to aid in the defraying of the costs resulting from the construction of sewage disposal facilities, as defined in said Chapter:

<u>MUNICIPALITY</u>	<u>PROJ. NO.</u>	<u>PROJECT DESCRIPTION</u>	<u>AMOUNT</u>
Hanover	C-741	Wastewater Treatment Facility Plan, Phases I & II	\$ 31,246
Conway VFD	C-742	Wastewater Treatment Alternatives Evaluation	\$ 30,247
Newmarket	C-743	Main Street Sewer Improvements	\$ 43,847
Newmarket	C-744	Wadleigh Falls Sewers & Pumping Station	\$ 88,482
Salem	C-745	Sewer System rehabilitation, Contract I	\$ 39,622
Merrimack	C-746	Biofilter heating & Dewatering Air Handling	\$ 2,956
Merrimack	C-747	Comprehensive Odor Control Study	\$ 12,000
Merrimack	C-748	Study & Design of Wastewater Treatment Facility Upgrade, Phase I	\$ 74,103

WHEREAS, The Department of Environmental Services has examined said applications as to the eligibility of the construction costs for State Contributions; and

WHEREAS, The Water Council finds that said projects are intended to control or reduce pollution in the surface waters of the State, as defined in RSA 485-A.

NOW THEREFORE, The Water Council finds that all of the provisions of RSA 486 have been met by said applicants, and respectfully recommends that the Governor and Executive Council approve said grants and authorize payment thereof through the Department of Environmental Services as provided for in said Chapter.

2. Steve Snell of the Wastewater Engineering Bureau requested approval of the amendment to a grant as set forth in a memo from Bureau Administrator John R. Bush, P.E. to Harry T. Stewart, P.E., Director, Water Division dated March 23, 2007.

***Councilor Bradley moved to approve the grant amendment and recommend favorable action by the Governor and Executive Council by adoption of the following resolution in its entirety. Councilor Butler seconded the motion and it was unanimously voted.***

WHEREAS, the following municipality is eligible for an amended grant, under the provisions of RSA 486:3,II., in the amount listed to aid in the defraying of the original costs resulting from the construction of sewage disposal facilities, as defined in said Chapter:

<u>Municipality</u>	<u>Proj. No.</u>	<u>Project Description</u>	<u>Amended Grant Amount</u>
Swanzey	C-731	North Swanzey Wastewater Improvements	\$1,901,439

WHEREAS, The Department of Environmental Services has examined the documentation submitted by the municipality as to the eligibility for the additional 10% State contribution in accordance with RSA 486:3,II.; and

WHEREAS, The Water Council finds that said projects are intended to control or reduce pollution in the surface waters of the State, as defined in RSA 485-A.

WHEREAS, The Department of Environmental Services has made tentative offer of said grant amendment, subject to final approval and authorization by the Governor and Executive Council; and

WHEREAS, The listed municipality has accepted the tentative offer; and

WHEREAS, Based on the determination of eligibility for the additional 10% State contribution, the State Aid Grant for this project has been recalculated and is greater than the grant amount originally approved by the Governor and Executive Council. It should be noted that the present State grant in the

amount of \$1,375,279 was approved by the Water Council on October 11, 2006 and by the Governor and Executive Council on November 29, 2006.

NOW THEREFORE, The Water Council finds that all of the provisions of RSA 486 have been met by said grantee, and respectfully recommends that the Governor and Executive Council approve said grant amendment and authorize payment thereof through the Department of Environmental Services as provided for in said Chapter.

3. Robert Mann of the Ground Water Drinking Water Bureau requested approval of four Public Water System Interconnection Grants as set forth in a memo from Bureau Administrator Sarah Pillsbury, to Harry Stewart, P.E., Director, Water Division dated April 3, 2007.

***Councilor Cowan moved to approve the grants and recommend favorable action by the Governor and Executive Council by adoption of the following resolution in its entirety. Councilor Patenaude seconded the motion and it was unanimously voted.***

WHEREAS, the following water systems have applied to the Department of Environmental Services, under the provision of RSA 486-A, for grants in the amount listed to aid in defraying the costs of establishing regional water systems and investigating well contamination as defined in said Chapter:

<u>GRANT RECIPIENT</u>	<u>GRANT #</u>	<u>OBJECTIVE</u>	<u>AMOUNT</u>
Lower Bartlett Water Precinct	07-0161020-01	Connections to various small water systems in the Rte 302 & 16 corridor	\$469,048.50
North Conway Water Precinct	07-0511030-01	Connection to Conway Village Fire District	\$955,068.00
Fitzwilliam Village Water District	07-0821010-01	Connection of two separate water service areas	\$ 48,631.75
Rochester Water Department	07-2001010-01	Connection to Somersworth Water	\$168,272.00

WHEREAS, the Department of Environmental Services has examined said applications as to the eligibility of the projects for state contributions; and

WHEREAS, the Water Council finds that said water projects are consistent with establishment of a regional water system as defined in RSA 486-A;

NOW THEREFORE, the Water Council finds that all provisions of RSA 486-A have been met by said applicants, and respectfully recommends that the Governor and Executive Council approve said grants and authorize payments thereof through the Department of Environmental Services, as provided for in said Chapter.

**3. Status of Appeals**

Michael Sclafani distributed an Appeals Status Report and reviewed pending appeals with the council.

- **Docket No. 03-14 WC - Gerald A. Bell – Water Division Denial of Application for Waiver of Septage Rules**  
Pending results of Declaratory Judgment in Merrimack Superior Court.  
Stay remains in effect pending the resolution of the declaratory judgment action.  
No action is required by the Council.
- **Docket No. 04-05 WC - Appeal of Freudenberg-NOK General Partnership**  
Trial on Petition for Declaratory Judgment in Grafton Superior Court has been continued. Stay remains in effect.  
No action is required by the Council.
- **Docket Nos. 04-18 WC and 04-19 WC – Appeal of Thaddeus Dymon and Town of Newport**  
A stay remains in effect pending the resolution and a final decision is expected soon from Sullivan County Superior Court.  
No action is required by the Council.
- **Docket No. 05-21 WC - Appeal of Save Our Groundwater**  
The Council voted unanimously to decline to accept this appeal finding that the Appellant(s) failed to establish standing in their Notice of Appeal.  
No action is required by the Council.
- **Docket No. 05-22 WC - Appeal of Town of Nottingham**  
The Council voted unanimously to decline to accept this appeal finding that the Appellant(s) failed to establish standing in their Notice of Appeal. A written Decision and Order will be issued.  
No action is required by the Council.
- **Docket No. 06-04 WC - Appeal of Andrews and Carpenter**  
Draft of Written Decision and Order was reviewed and Michael Sclafani was directed to issue this Decision and Order as is.
- **Docket No. 06-08 WC – Conservation Law Foundation**  
At the January 10, 2007 Appeal Hearing the Council votes unanimously to dismiss.  
Written Decision and Order not yet issued.  
No action is required by the Council.
- **Docket No. 06-13 WC – Administrative Order – Shane Forest**  
Appellant files Monthly Status Reports on February 2, 2007 and March 5, 2007.  
No action is required by the Council.
- **Docket No. 06-15 WC – Administrative Order – Andrew P. and Christine J. Lane**  
On February 2, 2007 the Administrative Order is withdrawn and will wait until Appellant withdraws the Appeal.  
No action is required by the Council.

**4. Rules: Proposed Revised – Env-Wq 200  
Procedural Rules**

Gretchen Hamel, Administrator of the DES Legal Unit, presented the Council's procedural rules. Current rules will expire June 9, 2007. Adoption of interim rules (existing rules with no changes) will allow an additional 180 days to go through regular rule making process. Under a new statutory change, if these rules are re-adopted with no objection from the Joint Legislative Committee on Administrative Rules (JLCAR) these won't expire again.

Gretchen reviewed the history of the current rules. The Water Council, Air Resources Council, and Waste Management Council, to the extent possible, have the same rules so that procedures are similar. Most of changes now are statutory changes or items that JLCAR has asked for through their legal staff.

***Councilor Densberger made a motion to adopt the current rules as interim rules presented and that a committee be set up to look at the rules with staff and make recommendations to the Council. Councilor Butler seconded the motion and the vote was unanimous.***

Committee volunteers were Councilors Densberger, Cowan, Butler and Varotsis.

Councilor Cowan asked that RSA 21-0-2:3A, regarding consulting with the Commissioner on the Director's position, be added to the 100 Organizational Rules.

**Rules: Notice to Municipalities – Env – Ws 386.05**

Gretchen explained that this is a rule to be added to the watershed protection rules. The Town of Barrington requested that this provision be added to the rules. This formalizes a process is already in place.

***Councilor Varotsis made a motion to accept this recommendation. Councilor Bradley seconded the motion and the vote was unanimous.***

**Readoption with Amendments for Env-Dw 303**

Tim Nowack with the Drinking Water Ground Water Bureau brought these rules (currently interim Env-Ws 389) Groundwater Sources of Bottled Water Rule. This pertains to ground water resources used for bottled water and focuses on water quality. There will be a public meeting in June for any further questions and comments. Councilor Christie noted the language for approval discrepancies between "Requirements for Approval" and then the conditions for which it can be denied if additional evidence is submitted by the public.

***Councilor Cowan made a motion to allow the procedure to continue with the proviso that next month the Council will revisit. Councilor Bradley seconded the motion and the vote was unanimous.***

**6. Legislative Update by Director Harry Stewart**

Director Stewart referred to the hand out "DES-Related Bills in the 2007 Session". There were about 40 water related bills in this legislature. First reviewed were those that did not pass the House. A number of fee increases have been proposed by the Legislature that in general making a number of general fund programs less draining on the general fund. These include 2 fee water related program fee increases, an increase in the wetlands fee and the Alteration of Terrain fee. The dam regulatory program also is proposed to be supported by a number of fee increases. There are also 4 bills related to the Shoreland Protection Act and 3 bills concerning large groundwater withdrawals that came out of commissions established by the legislature to develop program improvements. These bills had just, or were about to, pass the House and move to the Senate at the time of the Council meeting. There also were 4 bills related to biosolids; three were killed in the House and one passed, which will establish a commission to study issues related to the land application of biosolids.

**7. Other Business**

A presentation was given by Greg Comstock on the draft Northeast Regional Total Maximum Daily Load (TMDL) Report. This TMDL is a plan to reduce mercury concentrations in fish so that water quality standards can be met. An informational public meeting will be held on May 10, 2007 from 1 to 10:30 AM at the NH Department of Environmental Services Auditorium located at 29 Hazen Drive, Concord. The public comment period is through the close of the business day May 25, 2007. Following the comment period, NEIWPC and the states will revise the document in consideration of the comments received and submit a final TMDL to EPA.

**8. Next Meeting**

The next meeting is scheduled for May 9, 2007.

**9. Adjournment**

***A motion was made by Councilor Bradley to adjourn. The motion was seconded by Councilor Lussier and unanimously voted.***