

## WATER COUNCIL MEETING

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

July 11, 2007  
9:00 a.m.

**Members present:** Chairman Bridges, Councilors Bradley, Butler, Christie, Cowan, Czysz, Densberger, Dupee, Lussier, Lyons, Rawnsley, Rastaulis, Phillips, and Varotsis

**Members absent:** Councilors Barrett and Lynch

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

**1. Approval of Minutes of May 9, 2007 Meeting**

***A motion was made by Councilor Varotsis to accept the minutes of the May 9, 2007. The motion was seconded by Councilor Bradley. After discussion of the minutes Councilor Varotsis made a motion to change the motion accept the minutes except for references to HB663, HB383, HB665 and HB857 until clarified. This motion was seconded by Councilor Bradley. The Council unanimously voted to approve this motion.***

**2. Approval of State Aid Grants**

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 June 28, 2007.

***Councilor Varotsis 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 Butler seconded the motion and it was unanimously voted.***

**A. 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>
Henniker	C-750	Study and Design of Wastewater Treatment Facility Improvements	\$ 21,695
Franklin	C-751	Route 3A/ 11 Sewer Rehabilitation	\$ 213,452
Conway VFD	C-752	Aeration System Improvements	\$ 109,637
Concord	C-753	SCADA Technology Master Plan and Implementation, Phase I	\$ 44,470
Conway VFD	C-754	Eaton Road Pumping Station Improvements	\$ 30,624

**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.

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 June 28, 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 Varotsis seconded the motion and it was unanimously voted.***

B. WHEREAS, the following municipality is eligible for an amended grant, under the provisions of RSA 486:3,III., in the amount listed to aid in the defraying of the original costs resulting from the construction of facilities which will result in increased septage handling and/or treatment capacity, as defined in said Chapter:

<u>Municipality</u>	<u>Proj. No.</u>	<u>Project Description</u>	<u>Amended Grant Amount</u>
Somersworth	C-739	Wastewater Infrastructure Improvements	\$3,342,884

WHEREAS, The Department of Environmental Services has examined the documentation submitted by the municipality as to the eligibility for the additional State contribution in accordance with RSA 486:3,III.; and finds that the City of Somersworth is eligible for a grant increase of \$60,880 based on additional eligible project costs that are related to increased septage loading and therefore eligible for the additional grant funding; and

WHEREAS, The Water Council finds that said project is intended to meet the septage disposal needs for each additional New Hampshire municipality pursuant to RSA 485-A: 5-b; and

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 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. The amended grant amount for the Wastewater Infrastructure Improvements has been determined to be \$3,342,884 resulting in an additional State contribution of \$60,880. It should be noted that the present state grant in the amount of \$3,282,004 was approved by the Water Council on January 10, 2007 and by the Governor and Executive Council on March 8, 2007.

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 increase of \$60,880 and authorize payment thereof through the Department of Environmental Services as provided for in said Chapter.

It was then asked of Director Stewart to bring in representatives of Concord Water to speak to the Council in regards to the odor.

### 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**  
Stay remains in effect. No action is required by the Council.
- **Docket No. 04-05 WC - Appeal of Freudenberg-NOK General Partnership**  
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**  
Stay remains in effect. No action is required by the Council.
- **Docket No. 05-21 WC - Appeal of Save Our Groundwater**  
The Council voted January 10, 2007 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. 05-22 WC - Appeal of Town of Nottingham**  
The Council voted January 10, 2007 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. 06-08 WC – Conservation Law Foundation**  
At the January 10, 2007 Appeal Hearing the Council votes unanimously to Dismiss. Written Decision and Order to Deny Appeal issued on May 21, 2007. Window for reconsideration has expired. This Appeal is closed. No action is required by the Council.
- **Docket No. 06-13 WC – Administrative Order – Shane Forest**  
Stay remains in effect. No action is required by the Council.

- **Docket No. 07-04 WC – Administrative Order – Gerald A. Bell**  
Council votes to Accept the Appeal on May 9, 2007. On May 10, 2007 Appeal accepted and letter for Pre-Hearing Conference schedule distributed. Pre-Hearing Conference held on June 11, 2007 and Parties ask for a 90-day stay. On or before the 90<sup>th</sup> day the Appellant will either ask for a continuance of the Stay, request that the Pre-Hearing Conference be rescheduled, or withdraw the Appeal. No action is required by the Council.
- **Docket No. 07-05 WC – RRJ Properties Limited Partnership**  
On May 9, 2007 Council votes to accept this Appeal. On May 10, 2007 Appeal Accepted and on May 10, 2007 letter for Pre-Hearing Conference schedule distributed. June 4, 2007 the Pre-Hearing Conference was held, Attorney Allen Brooks files an Appearance on behalf of DES, and parties request a 60-day Stay of the Pre-Hearing Conference to pursue settlement discussion, request granted. After the 60 days the Appellant will withdraw the Appeal, request an additional Stay, or request that a Pre-Hearing Conference be reconvened. No action is required by the Council.

***Councilor Cowan made a motion that the Council set a hearing on this appeal for the September meeting. Councilor Butler seconded the motion. The Council unanimously voted in favor of this motion.***

- **Docket No. 07-11 WC – William and Melissa Brouck**  
On April 27, 2007 the Notice of Appeal was timely filed (30<sup>th</sup> Day). This was not delivered to Michael Sclafani until June 11, 2007. Receipt of Appeal letter was distributed on June 21, 2007.

***Councilor Lussier made a motion to accept the Appeal. Councilor Phillips seconded the motion. The Council unanimously voted in favor of this motion.***

#### **4. Legislative Update by Director Harry Stewart**

Director Stewart reviewed the following bills and explained their status:

**HB 1 & 2** – Budget bills which retained 3 positions in subsurface; 1) Wetlands Program Fee, \$.10 to \$.20 per square foot for applications fees. 2) Alteration of Terrain permits, increased by 2.5 the current application fee and made it an independent fee account with 2 additional positions and a time frame of turn around of 50 days for processing the permits.

**HB 25** designated money to repair 8 dams over the biennium

**HB 318** large ground water withdrawals regulations and permitting clarification

**HB 383** relative to the Shoreland Protection Act has the program/criteria changes. In June HB 383, HB 665, and HB 857 were merged into one bill so all program changes are in this one bill. Signed on Friday, July 6<sup>th</sup> by the Governor.

**HB 663** permit fee for shoreland activities. It is \$100 per permit plus \$.10 per foot. This also adds 6 positions over time.

**HB 664 – FN** to increase annual dam registration and permit application fees to cover inspection program, follow-up compliance of deficient dams, 2 more positions, and the bureau will now be solvent. The City of Manchester had the bill amended to give authority for the establishment of a stormwater utility for the city of Manchester.

Also established were commissions to study 1) the feasibility of tidal power generation under the Little Bay and General Sullivan Bridges 2) methods, costs of sewage, sludge and septage disposal(they will evaluate land application of sludge). And a seacoast based commission was formed to study the causes, effects and remediation of siltation in Great Bay.

HB 458 accepts replacement for redundant wells from the large groundwater withdrawal permitting process.

HB 459 requires an identifier for wells and monitoring wells.

HB 72 the Winnepesaukee River Basin Program is allowed to collect money and make payment requests from the communities.

Director Stewart will ask one of the DES staff make a presentation on changes to the CSPA at an upcoming meeting of the Water Council.

#### 5. Other Business

The correction was noted to the April 11, 2007 minutes that the Shoreland fee does sunset in 2011 and the inclusion is to 4<sup>th</sup> order streams

***Councilor Lussier made a motion to accept the April 11, 2007 minutes with the corrections of the shoreland fees to sunset in 2011 and the protection goes to 4<sup>th</sup> order streams. Councilor Varotsis seconded the motion. The Council unanimously voted in favor of this motion.***

DES Attorney Gretchen Hamel reported the existing subsurface rules are scheduled to expire in August. A stakeholder work group has been established to go through internal changes. Interim rules are exactly the same as existing rules but will be extended to allow time to work on the amendments and readoption.

***Councilor Lussier made a motion to extend the subsurface rules for 180 days. Councilor Varotsis seconded the motion. The Council unanimously voted in favor of this motion.***

***Councilor Densberger made a motion to go into recess at 9:45. Councilor Cowan seconded the motion. The Council unanimously voted in favor of this motion.***

***Meeting was called to order at 10:05.***

The Public Hearing on Proposed Water Council Rules began with Chairman Bridges reading the Hearing Notice on Proposed Water Council Rules, Env-WC 100 Water Council Organizational Rules and Env-200 Water Council Procedural Rules.

***Councilor Cowan moved to go into recess at 10:10. Councilor Lussier seconded the motion. The Council unanimously voted in favor of this motion.***

***Meeting was called to order at 10:25.***

DES Attorney Gretchen Hamel reviewed the changes to the above noted rules as proposed by DES Counsel, Attorney Allen Brooks.

***Councilor Densberger moved to accept the comments from Attorney Brooks. Councilor Bradley seconded the motion. The Council voted 13 to 1 in favor of this motion.***

**6. Next Meeting**

The next meeting is scheduled for September 12, 2007.

**7. Adjournment**

***A motion was made by Councilor Butler to adjourn. The motion was seconded by Councilor Densberger and unanimously voted.***