

WATER COUNCIL MEETING

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

January 14, 2009
9:00 a.m.

Members present: Chairman Bridges, Councilors Butler, Czysz, Densberger, Harrington, Rastallis, Rawnsley, and Varotsis

Members absent: Vice Chairman Christie, Councilors Barrett, Cowan, Dupee, Henderson, Lyons, and Phillips

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

1. Approval of Minutes of December 10, 2008 Meeting

A motion was made by Councilor Varotsis to accept the minutes of December 10, 2008, second by Councilor Rawnsley. The Council unanimously voted to approve this motion.

2. Rules

Env-Dw 1002, Water Supply Land Protection Grant Program

Holly Green, Drinking Water Ground Water Bureau, and Gretchen Hamel, DES Legal Unit, reviewed the changes made to the rules that were distributed in December. Gretchen reviewed the structural/editorial changes made. Holly reviewed the substitutive changes made regarding the use of snowmobiles on the property.

Councilor Varotsis moved to accept the draft rules that have been presented to the Council, second by Councilor Butler. Motion passed with a majority vote, 6 to 1.

3. Status of Appeals

Amy Samson, Appeals Clerk, presented an update on a number of appeals and requested Council action on several, as noted below.

I. **Cases awaiting Council action.**

Docket Number: 08-57 WC

Appellant: Eric W. Waleryszak

Subject of Appeal: DES Decision

Status: October 27, 2008, Notice of Appeal Received (Insufficient). The appellant had until the next Council meeting to submit a sufficient appeal.

January 9, 2009, Appellant submitted a sufficient appeal.

Councilor Rawnsley made a motion to combine 08-57 WC with 08-59 WC and to accept both, second by Councilor Densberger. The Council unanimously voted to approve this motion.

Docket Number: 08-59 WC

Appellant: Brian T. and Adela J. Griset

Subject of Appeal: Notice and Decision on the Determination of Lake Level issued by DES on September 29, 2008.

Status: October 29, 2008, Notice of Appeal Received (Insufficient). The appellant had until the next Council meeting to submit a sufficient appeal.

December 1, 2008, Appellant submitted a sufficient appeal.

Presiding Officer will be Councilor Rawnsley

Docket Number: 08-61 WC

Appellant: Norman and Patricia Bureau

Subject of Appeal: November 4, 2008 Administrative Order No. 08-044 WD
Alteration of Terrain at 5 Christopher Road & 6 Steep Street in
Merrimack

Status: December 3, 2008, Notice of Appeal Received (Insufficient). The appellant had until the next Council meeting to submit a sufficient appeal.

January 12, 2009, Appellant submitted a sufficient appeal.

Motion made by Councilor Rawnsley to table this appeal until next month, second by Councilor Butler. The Council unanimously voted to approve this motion.

II. Previously pending cases.

Docket Number: 04-05 WC

Appellant: Freudenburg-NOK General Partnership

Subject of Appeal: AO WD 04-001

Presiding Officer: Ray Cowan

Status: This appeal will be on the Council's agenda in February 2009.

Docket Number: 04-18 WC

Appellant: Thaddeus Dymon

Subject of Appeal: Denial of a Request for Waiver of Env-Ws 386.56(h)(12), (14), (18)

Presiding Officer: Ray Cowan

Status: See status below for background information. A PHC is scheduled for April 30, 2009 at 10:00 a.m.

Docket Number: 04-19 WC

Appellant: Town of Newport

Subject of Appeal: Denial of a Request for Waiver of Env-Ws 386.56(h)(12), (14), (18)

Presiding Officer: Ray Cowan

Status: A PHC was scheduled for November 21, 2008 at 10:00 a.m. However, Mr. Dymon was unable to attend. Atty. Fulton (representing Town of Newport) explained they're still waiting to hear from Superior Court with regards to paying Mr. Dymon damages for the property that was taken the Town. Superior Court has not scheduled the hearing as of yet and Atty. Fulton is hoping it is scheduled soon. A PHC is scheduled for April 30, 2009 at 10:00 a.m.

Docket Number: 07-11 WC

Appellant: William and Melissa Brouck

Subject of Appeal: AO WD 07-005

Presiding Officer: James Vartosis

Status: On October 8, 2008, the Council unanimously agreed to schedule a pre-hearing conference. A PHC was held on January 12, 2009. The appellant's attorney did not show. DES attorney mentioned at the PHC that he will submit a *Motion to Summarily Dismiss*. To date, a motion has not been received.

Docket Number: 08-27 WC

Appellant: Moody Point Company

Subject of Appeal: May 19, 2008 Administrative Order No. 08-027 WD

Presiding Officer: Nancy Christie

Status:

June 18, 2008, Notice of Appeal Received.

September 24, 2008, A Joint Motion to Continue and Stay the Administrative Order was received.

October 17, 2008, Moody Point Community Association filed a Petition to Intervene.

October 22, 2008, Moody Point Company filed an Objection to Petition to Intervene of Moody Point Community Association.

October 30, 2008, A Reply to Objection of Moody Point Company to Petition to Intervene was received by Moody Point Community Association.

December 10, 2008, Council voted to accept the *Joint Motion to Continue and Stay the Administrative Order* until its February meeting.

Docket Number: 08-29 WC

Appellant: Silver Lake

Subject of Appeal: Notice of Determination of Natural Mean High Water Mark Evaluation dated 5/29/08

Presiding Officer: Stephen Densberger

Status: PHC needs to be rescheduled with the presiding officer.

Docket Number: 08-30 WC

Appellant: David Hoyt d/b/a Al Hoyt & Sons, Inc.

Subject of Appeal: June 2, 2008 Alteration of Terrain Permit Application No. 040809-02

Presiding Officer: James Varotsis

Status: On December 10, 2008, Council accepted the appeal. On January 12, 2009 a PHC was held. A hearing is scheduled for April 8, 2009.

Docket Number: 08-54 WC

Appellant: Loretta Simonds

Subject of Appeal: August 8, 2008 Decision on Request for Reconsideration

Presiding Officer: Christopher Rawnsley

Status: On December 10, 2008, Council accepted the appeal. A PHC is scheduled for February 9, 2009 at 2:30 p.m.

4. Presentation

Gregg Comstock, Supervisor of the Watershed Management Bureau, Quality Planning Section, gave a presentation on the "Long Island Sound Nitrogen TMDL: Status and Impact on NH".

5. **Legislative Update** – Harry Stewart

Director Stewart gave an over view of the bills that have been presented up to this date.

6. **Other Business**

None

7. **Next Meeting**

The next meeting is scheduled for February 11, 2009.

8. **Adjournment**

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

Meeting was adjourned at 10:10 AM.