

WATER COUNCIL MEETING

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

May 13, 2009
9:00 a.m.

Members present: Chairman Bridges, Vice Chairman Christie, Councilors Barnard, Butler, Cowan, Czysz, Densberger, Harrington, Henderson, Lyons, Phillips, Rastallis, Rawnsley, and Varotsis

Members absent: Councilors Barrett and Dupee

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

1. Approval of Minutes of March 11, 2009 Meeting

A motion was made by Councilor Phillips to accept the minutes of March 11, 2009, second by Councilor Barnard. The Council unanimously voted to approve this motion.

2. 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. New appeal.

Docket No. 09-14 WC - Andrew and Karen Goldstein

RE: 3/17/09 Administrative Order No. 09-006 WD

Presiding Officer: Mike Butler

Status: Appeal received on 4/9/09. On 5/4/09, a Motion to Dismiss Administrative Order was filed by the appellant. On 5/7/09, an Objection to the Appellant's Motion to Dismiss the Administrative Order was filed by DES' representative, Atty. Mulholland.

Action:

- *Motion made by Councilor Cowan to accept the appeal, second by Councilor Butler. Motion passed with 10 ayes and 2 nays.*

II. Cases awaiting Council action.

Docket No. 04-05 WC - Freudenburg-NOK General Partnership

RE: AO WD 04-001

Presiding Officer: Ray Cowan

Status: Attorney Lazo requested an indefinite stay. At the 10/8/08 Council meeting, the Council requested to allow the Stay until 2/09. Tabled on March 11, 2009.

Action:

- *Motion made by Councilor Christie to schedule a Pre-Hearing Conference, second by Councilor Rawnsley. Motion passed unanimously.*

Docket No. 07-11 WC - William and Melissa Brouck

RE: AO WD 07-005

Presiding Officer: James Vartosis

Status: On 4/7/09, an Assented-To Motion to Dismiss was filed by DES.

- ***Motion made by Councilor Densberger to dismiss the appeal, second by Councilor Harrington. Motion passed unanimously.***

Docket No. 08-27 WC - Moody Point Company

RE: 5/19/08 Administrative Order No. 08-027 WD

Presiding Officer: Nancy Christie

Status: The Council will need to rescind granting the Motion to Intervene as it was ruled on prior to the time running for the objection.

Action:

- ***Motion made by Councilor Christie to rescind the original motion to accept both Interveners made on March 11, 2009, second by Councilor Varotsis. Motion passed unanimously.***
- ***Motion made by Councilor Christie to accept the Moody Point Community Association as an Intervener, second by Councilor Varotsis. Motion passed unanimously.***
- ***Motion made by Councilor Christie to accept Gardner as Intervener, second by Councilor Varotsis. Motion passed unanimously.***

Consistent with RSA 541-A:32, the Council instructs interveners to combine their presentations of evidence, argument, and cross-examination at hearing, so as to promote an orderly and prompt conduct of the proceedings.

A Pre-Hearing Conference needs to be scheduled.

Docket No. 08-54 WC - Loretta Simonds

RE: 8/8/08 Decision on Request for Reconsideration

Presiding Officer: Christopher Rawnsley

Status: A new PHC will need to be scheduled. The Town of Moultonborough would like to be involved in this appeal.

Docket Nos. 08-57 & 08-59 WC - Eric W. Waleryszak, Brian T. and Adela J. Griset Appeal

RE: Notice and Decision on the Determination of Lake Level issued by DES on 9/29/08

Presiding Officer: Christopher Rawnsley

Status: A PHC needs to be scheduled.

Docket No. 08-61 WC - Norman and Patricia Bureau

RE: 11/4/08 Administrative Order No. 08-044 WD - Alteration of Terrain at 5 Christopher Road & 6 Steep St., in Merrimack

Presiding Officer: Joel Harrington

Status: Council accepted the appeal on 3/11/09.

Action: A PHC needs to be scheduled.

Docket No. 09-05 WC - North Country Alliance for Balanced Change (Dalton Valley Drag)

RE: 12/12/08 Alteration of Terrain Permit WPS 8289 for Dalton Valley Drag

Presiding Officer: Christopher Rawnsley

Status: Council accepted the appeal on 3/11/09. On 3/11/09, Atty. Bisbee filed a Motion to Intervene on behalf of Douglas Ingerson. On 4/24/09, Appellant filed a Motion to Amend Notice of Appeal.

Councilor Christie recused herself from this Appeal.

Action:

- ***Councilor Harrington made a motion to accept the Motion to Intervene, second by Councilor Butler. Discussion was held. Motion passed unanimously.***
- ***Councilor Harrington made a motion to accept the Motion to Amend Notice of Appeal, second by Councilor Cowan. Motion passed unanimously.***

III. Previously pending cases.

Docket No. 04-18 WC - Thaddeus Dymon

RE: 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 was scheduled for 4/30/09 at 10:00 a.m.

Docket No. 04-19 WC - Town of Newport

RE: 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 11/21/08 at 10 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 by the Town. A PHC was scheduled for 4/30/09 at 10 a.m. However, Atty. Fulton filed an Assented-To Motion to Postpone PHC and Continue Stay.

Action: The Motion was granted in part to postpone the PHC.

- ***Councilor Butler made a motion to Deny the Stay, second by Councilor Lyons. Discussion was held. Motion passed unanimously.***

Docket No. 08-29 WC - Silver Lake

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

Presiding Officer: Stephen Densberger

Status: PHC was held on 4/23/09 at 1 p.m. A hearing is scheduled for 9/9/09. Time TBA.

IV. Hearing scheduled.

Docket No. 08-30 WC - David Hoyt d/b/a AI Hoyt & Sons, Inc.

RE: 6/2/08 Alteration of Terrain Permit Application No. 040809-02

Presiding Officer: James Varotsis

Status: On 3/20/09 a Motion to Dismiss Appeal as to File #20070501-03 was filed by Atty. Barnsley representing DES. A hearing is scheduled for today at 10 a.m.

3. **Legislative Update** – Harry Stewart

Director Stewart reviewed the budget highlights that affect the Water Division and the Water Council.

4. **Other Business**

None

7. **Next Meeting**

8. **Adjournment**

Meeting was adjourned at 9:50 A.M.