

WATER COUNCIL MEETING

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

June 10, 2009
9:00 a.m.

Members present: Chairman Bridges, Vice Chairman Christie, Councilors Barrett, Butler, Cowan, Czysz, Densberger, Dupee, Henderson, Rastallis, Rawnsley, and Varotsis

Members absent: Councilors Barnard, Harrington, Lyons, and Phillips

Chairman Bridges called the meeting to order at 9:03 a.m.

1. Approval of Minutes of May 13, 2009 Meeting

- ***A motion was made by Councilor Cowan to accept the minutes of May 13, 2009 with corrections noted, second by Councilor Butler. The Council unanimously voted to approve this motion.***

- ***Councilor Varotsis made a motion to have the Water Council move into Executive Session, second by Councilor Rawnsley. Motion passed unanimously.***

Council went into Executive Session with Attorney Blenkinsop at 9:07 a.m.

- ***At 9:45 Councilor Varotsis moved to go into public session, second by Councilor Rawnsley. Motion passed unanimously.***

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. 09-24 WC – Lake Sunapee Protective Association

RE: 4/16/09 Alteration of Terrain Permit WPS-8382
Presiding Officer: Jim Varotsis
Status: Appeal received on 5/18/09.
Action: Accept or deny appeal. Appeal was timely received. Councilor Henderson recused herself from this appeal. If it is determined that New England Environmental Strategies is representing the appellant Councilor Christie will recuse herself.

- ***Motion made by Councilor Cowan to accept this appeal, second by Councilor Butler. Motion passed on a majority vote with one nay by Councilor Barrett.***

Pre-Hearing Conference(PHC) to be scheduled.

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.
 Action: A PHC needs to be scheduled.

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: The Council denied Assented-To Motion to Postpone PHC and Continue Stay on 5/13/09.
 Action: A PHC needs to be scheduled.

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: The Council denied Assented-To Motion to Postpone PHC and Continue Stay on 5/13/09.
 Action: A PHC needs to be scheduled.

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 accepted the Motion to Intervene filed by Moody Point Association and Ms. Gardner. A Motion for Judgment in favor of the Appellant on the Pleadings, and 2 objections filed, one from DES and one from Attorney Gardner.
 Action: A PHC needs to be scheduled.

- ***Councilor Rawnsley moved to deny the Motion for Judgment in favor of the Appellant on the Pleadings on the basis of the fact that there are material facts still in question, second by Councilor Henderson. Motion passed unanimously.***

A PHC will need to be scheduled.

III. Previously pending cases.

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.

Docket No. 08-54 WC - Loretta Simonds

RE: 8/8/08 Decision on Request for Reconsideration
 Presiding Officer: Christopher Rawnsley
 Status: A PHC is scheduled for 6/29/09 at 11:00 a.m.

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 is scheduled for 6/29/09 at 1:00 p.m.

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: A PHC is scheduled for 6/29/09 at 9:00 a.m.

- ***Councilor Christie made a motion to accept the Motion to Intervene by Hammond and Stone, second by Councilor Varotsis. Discussion was held. Motion passed unanimously.***

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: A PHC is scheduled for 6/29/09 at 3:00 p.m.

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

RE: 3/17/09 Administrative Order No. 09-006 WD
Presiding Officer: Mike Butler
Status: A PHC is scheduled for 7/2/09 at 2 p.m.

3. Env- Dw 717 - Ground Water Rule

Bob Mann and Holly Green Drinking Water Ground Water Bureau
Initial proposed rules and a summary page for Ground Water Rules that will cover public water systems were presented to the council. Approval will be voted on at the July meeting.

4. Env- Dw 300 - Emergency Bulk Water Rule

James Tilley and Johnna McKenna, Drinking Water Ground Water Bureau
Peter Demas, Legal Unit
Rules had been distributed to the council prior to the meeting. An overview of the rules was given and questions were addressed.

- ***Councilor Varotsis made a motion to accept these rules, second by Councilor Barrett. Discussion held. Motion passed unanimously.***

5. Env – Dq 1800 - Tidal River Amendments

Laura Weit, Watershed Management Bureau and Peter Demas, Legal Unit
Rules had been distributed to the council prior to the meeting. These changes amend the current rules to allow for the designation of tidal rivers into the Rivers Management and Protection Program.

- ***Councilor Densberger made a motion to accept the amendments to the rules, second by Councilor Dupee. Motion passed unanimously.***

Peter Demas also introduced the following Rule:

Env – Dq 403 Large Ground Water Withdrawals

Stephen Roy, Drinking Water Ground Water Bureau

This was an initial presentation of the rule and as there are still changes, the rule summary was distributed with the actual draft of the rule to be distributed at the end of the week.

Approval will be voted on at the July meeting.

6. Legislative Update – Harry Stewart

Director Stewart gave a summary of legislation that affects the Water Division and the Water Council. HB 1 and HB 2 are in Committee of Conference being worked out. He then answered questions from councilors concerning some of the bills.

4. Other Business

Director Stewart reported that there are two retirements in the Subsurface Bureau, Bill Evans and Jim Falicon. In the Drinking Water Ground Water Bureau, Bernie Lucey will be retiring in June. In the Wastewater Engineering Bureau George Neill will be retiring.

7. Next Meeting

July 8, 2009

8. Adjournment

- ***Councilor Densberger made a motion to adjourn, second by Councilor Butler. Motion passed unanimously.***

Meeting was adjourned at 10:40 a.m..