

WATER COUNCIL MEETING

NH Dept. of Environmental Services
11 Hazen Dr., Concord, N.H.

April 14, 2010
9:00 a.m.

Members present: Vice Chairman Christie, Councilors Butler, Czysz, Densberger, Dupee, Harrington, Henderson, Hinds, Rastallis, Rawnsley, and Varotsis

Members absent: Chairman Bridges, Councilors Barrett, Cowan, Lyons, and Phillips

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

1. Approval of Minutes of February 10, 2010 Meeting

- *A motion was made by Councilor Butler to accept the minutes with corrections of February 10, 2010, second by Councilor Henderson. The Council unanimously voted to approve this motion.*

3. Env-Dw 720 Inspection Rules

[Cindy Klevens & Holly Green, Drinking Water & Ground Water Bureau]

Cindy Klevens and Holly Green reviewed and answered questions pertaining to the rules with the Council. Changes are intended to clarify and make more specific previous inspection rules. Also make it consistent with the new Ground Water rule adopted in Env-Dw 717.

- *Chairman Christie called for a vote on these amendments to the rules. The majority ruled in favor with nine yes and two nay votes.*

4. Env-Dw 714 (currently Env-Ws 381) Readoption with Amendments – Corrosion Control Treatment, Lead and Copper Action Levels

[Richard Thayer & Holly Green, Drinking Water & Ground Water Bureau]

Richard Thayer gave an overview of the rules and proposed amendments. The rules will be distributed at the next meeting.

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 appeals.

No new appeals at this time.

II. Previously pending cases.

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

RE: AO WD 04-001

Presiding Officer: Joel Harrington

Status: Request for status sent and no status received. Will move forward and set a Pre-Hearing Conference (PHC).

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: Joel Harrington

Status: Status remains the same, waiting for a court date.

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: Joel Harrington

Status: Status remains the same, waiting for a court date.

Docket No. 08-27 WC - Moody Point Company

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

Presiding Officer: Christopher Rawnsley

Status: A PHC was held on 12/7/09. A Hearing is scheduled for 5/12/10 at 9 a.m. The regular meeting will begin at 8 a.m.

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: Motion to Dismiss was granted and a Decision and Order needs to be finalized.

Docket No. 08-54 WC - Loretta Simonds

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

Presiding Officer: Christopher Rawnsley

Status: A hearing is scheduled for 7/14/10 at 10:00 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 will be held 4/26/10 at 11 a.m. A hearing is scheduled for 6/9/10 at 10:00 a.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 decision and order is drafted and will be ready for the Council to review by the next meeting.

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

Members Recused: Nancy Christie

Status: Presiding Officer Rawnsley granted the Appellant's Motion to Continue the Hearing and Stay Proceedings, which was filed on 12/22/09, without objection from the Applicant. The parties were notified that the Water Council is not re-scheduling a hearing at this time, continuance and stay are indefinite until NHDES renders a decision on either Appellant's 12/21/09 request to rescind the current AOT and require new application, or in the alternative, Applicant's 6/10/09 request to amend AOT application, as pleaded in Appellant's Motion. A letter requesting status will be sent.

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

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

Presiding Officer: Christopher Rawnsley

Status: PHC scheduled for 5/3/10 at 11 a.m.

Docket No. 09-24 WC – Lake Sunapee Protective Association

RE: 4/16/09 Alteration of Terrain Permit WPS-8382

Presiding Officer: Stephen Densberger

Recused Members: Carol Henderson; Johanna Lyons; and Nancy Christie

Status: PHC was held on 2/8/10 at 2:00 p.m. A hearing is scheduled for 10/13/10 at 10:00 a.m.

Docket No. 09-27 WC – Homes for a Life Time, LLC

RE: 5/28/09 Denial of Alteration of Terrain Permit Application No. 081231025

Presiding Officer: Christopher Rawnsley

Status: A hearing is scheduled for today at 10:00 a.m.

Docket No. 09-34 WC – Ashuelot Pond Association

RE: 8/28/09 Notice of Decision on Determination of Lake Level for Ashuelot Pond Dam Village District

Presiding Officer: Christopher Rawnsley

Status PHC scheduled for 4/26/10 at 11 a.m.

Docket No. 09-38 WC – Town of Jaffrey

RE: Final Certification for the Jaffrey Wastewater Treatment Plant, NPDES Permit No. NH0100595

Presiding Officer: Christopher Rawnsley

Status: PHC is scheduled for 5/3/10 at 9 a.m.

Councilor Rawnsley pointed out that the rules do state that good cause for recusal does not include that the council member was appointed to the council to represent a particular interest group or state agency.

Councilor Harrington reminded the council of being careful of ex parte communications on the issues that come before the council. As there is often a lot of interaction with some of the parties/departments, it could present a conflict.

5. **Legislative Update**

[Harry Stewart, Director]

Harry distributed the updated listing of DES Bills of Interest, 2010 Session.

SB 480 – relative to appeals of decisions by DES. It has passed the Senate with amendment and has had a hearing in the House Judiciary Committee. It would change the hearing process for the Water, Air Resources, Waste Management, and Wetlands Councils. The Attorney General would appoint an attorney as the hearings officer. The Council becomes the jury with the AG representative as judge and writing the decisions. The amendment allows the appeal to go to Superior Court or Supreme Court. This will go into effect upon passage.

SB 411 – Permitting of Large Groundwater Withdrawals. This makes clear that the Department is the authority that issues permits for large groundwater withdrawals.

SB 370 – relative to sewage disposal systems. Has been amended and passed the Senate. It is regarding licensing of designers/installers, repairs & replacements.

Harry updated the Council regarding the Governor's budget proposals.

6. **Other Business** - None

7. **Next Meeting**

Next meeting will be May 12, 2010 at 8 a.m. with a hearing to follow at 9 a.m.

8. **Adjournment**

- ***Councilor Varotsis made a motion to adjourn, second by Councilor Rawnsley. Motion passed unanimously.***

Meeting was adjourned at 9:53 a.m.