

WATER COUNCIL MEETING

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

June 9, 2010
9:00 a.m.

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

Members absent: Chairman Bridges, Councilors Barrett, Densberger, Harrington, Hinds, and Phillips

Vice Chairman Christie called the meeting to order at 9:02 a.m.

1. Approval of Minutes of May 12, 2010 Meeting

- *A motion was made by Councilor Butler to accept the minutes of May 12, 2010, second by Councilor Varotsis. The Council unanimously voted to approve this motion.*

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

Richard Thayer and Holly Green, Drinking Water Ground Water Bureau, gave a status report on the rules as work is being done to clarify the language. Mr. Thayer gave an overview of federal amendments to that sets the substantive changes. Will ask for approval of the rules at the August meeting.

4. Env-Dq 404 Readoption with Amendments – Underground Injection Control Requirements

James Tilley and Stephen Roy, Drinking Water Ground Water Bureau
These adopt, by reference, the code of federal regulations. Discussion was held.

- *Councilor Cowan made a motion to accept the rules, second by Councilor Varotsis. Motion passed unanimously.*

4. Legislative Update

Sarah Pillsbury, Drinking Water Ground Water Administrator, reviewed the legislative update on all the water related bills and the minutes from the joint meeting held with all the various legislative water commissions.

It was requested to have James Gallagher, Dam Bureau Administrator, to speak to the lake level issues. It was also suggested that a Flood Insurance Program partner with this presentation

5. Other Business - None

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.

Docket No. 10-09 WC – Lake Waukegan

RE: Notice of Decision, Interim Operating Level issued by DES on 4/12/10

Presiding Officer: Chris Rawnsley

Status: Accept or Deny Notice of Appeal

- ***Councilor Butler made a motion to accept the appeal, second by Councilor Varotsis. Discussion was held. The appeal was voted on with the amendment attached below. Motion passed unanimously.***
- ***Councilor Rawnsley made a motion to amended the above motion to stipulate that the presentation of the case be done on a coordinated basis by all the appellants as a group, second by Councilor Varotsis. Motion passed unanimously.***

There will be only one representative at the Pre-Hearing Conference and any Hearing.

II. Previously pending cases.

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

RE: AO WD 04-001

Presiding Officer: Joel Harrington

Status: A Pre-Hearing Conference (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: 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. 08-29 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 scheduled for 7/12/10 at 9:00 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 being finalized and will be ready for the Council to approve at the 7/14/10 Council 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 for the parties to respond by the 7/14/10 Council meeting.

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

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

Presiding Officer: Christopher Rawnsley

Status: A PHC is scheduled for 7/12/10 at 10:30 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: 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 was held on 4/14/10. A decision and order needs to be finalized.

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 will be scheduled for 7/12/10 at 11:30 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 7/12/10 at 12:30 p.m.

The Council went in to recess to at 10 AM.

The Council reconvened at 10:16 AM. At this time the following motion was made:

- ***Councilor Cowan made a motion to go into non-meeting with counsel, second by Councilor Varotsis. Motion passed unanimously.***

The Council reconvened at 10:50 after non-meeting with counsel.

Docket No. 08-27 WC - Moody Point Company

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

Presiding Officer: Christopher Rawnsley

Status: A Hearing is scheduled for today at 9 a.m.

First reviewed:

Appellant's Objection and Motion to Strike Intervener's Supplemental and Final Request for Findings of Fact and Conclusions of Law.

- ***Councilor Butler made a motion that the Council accept the Appellant's Objection and Motion to Strike Intervener's Supplemental and Final Request for Findings of Fact and Conclusions of Law, second by Councilor Lyons. Councilor Rawnsley stated that the basis for the motion would be that in substantial part the Intervener's Supplemental and Final Request for Finding of Fact does introduce new evidence and is beyond the scope usually considered for Findings of Fact and Conclusions of Law as argued in the Appellant's Objection and Motion to Strike. Motion passed unanimously with abstentions by Councilor Henderson and Councilor Varotsis. Motion carried.***

6. Next Meeting

Next meeting will be July 14, 2010 at 9 a.m. with a hearing at 10 a.m.

7. Adjournment

- ***Councilor Lyons made a motion to adjourn, second by Councilor Henderson. Motion passed unanimously.***

Meeting was adjourned at 10:55 a.m.