

## WATER COUNCIL MEETING

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

September 8, 2010  
9:00 a.m.

**Members present:** Councilors Butler, Cowan, Czysz, Harrington, Hinds, Henderson, Rastallis, and Varotsis

**Members absent:** Vice Chairman Christie, Councilors Barrett, Densberger, Dupee, Lyons, Phillips, and Rawnsley

Councilor Harrington called the meeting to order at 9:03 a.m. Director Stewart announced that Chairman John Bridges resigned from the Water Council in August for health reasons. The position will be filled by Governor's appointment. Vice Chairman Christie will fill in as 'Acting Chair'. A proclamation to honor Chairman Bridges is being worked on to be signed by the Governor.

### 1. Approval of Minutes of June 9, 2010 Meeting

- *A motion was made by Councilor Varotsis to accept the minutes of June 9, 2010, as corrected, second by Councilor Cowan. 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

Cindy Kleven and Holly Green, Drinking Water Ground Water Bureau, presented the rules and were available for questions that the council might have.

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

### 4. Env-Dg 502 Amendments to Certification of Water Works Operators

Chip Mackey and Deborah Sonderegger, Drinking Water Ground Water Bureau Requirements for training were codified and added to the rules.

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

### 5. Env-Wg 1500 Alteration of Terrain Rules

Amy Clark, Alteration of Terrain Bureau

Changes have been made since they were presented in February. Most are minor but she reviewed the significant changes.

- *Councilor Varotsis made a motion to accept the rules, second by Councilor Butler. Discussion was held and more time was requested to review the changes made to the rules. Councilors Varotsis and Butler withdrew the motion.*

**6. Legislative Update**

Director Stewart

The legislature is not yet in session. The Department is in the process of developing the budget for the 2012-13 biennium. The Stormwater Commission, the Land Development Commission, and the Water Infrastructure Commission are in the process of meeting and preparing reports for November 1.

**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.

**II. Previously pending cases.**

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

RE: AO WD 04-001

Presiding Officer: Joel Harrington

Status: 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: Joel Harrington

Status: Motion to Dismiss was filed; grant or deny.

- ***Councilor Cowan made a motion to accept the Joint Motion to Dismiss this appeal, second by Councilor Varotsis. Motion passed unanimously.***

It was noted that the Joint Motion to Dismiss was filed by the Town of Newport but only referenced Docket No. 04-18 WC. The town of Newport will be contacted.

**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: A status request has been sent for the parties to respond by the 10/13/10 Council meeting.

**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 11/10/10 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 pre-hearing conference needs to be scheduled.

Director Stewart noted that he will see if Assistant Commissioner Mike Walls is available to come to the next meeting to give an update on the new hearings officer process.

**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: 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. Status request has been sent for the October 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: On 7/16/10 a Motion to Rehearing Administrator Order was filed by Atty. MacDonald. An Objection of the DES to the Appellant's Motion for Rehearing was filed by Atty. Mulholland on 7/22/10. Grant or Deny Motion for Rehearing. It was decided to act on this at the end of the Status report.

**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. 09-34 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: A pre-hearing conference needs to be scheduled.

**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: Appeal withdrawn.

**Docket No. 10-09 WC – Lake Waukewan**

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

Presiding Officer: Christopher Rawnsley

Status: A pre-hearing conference needs to be scheduled.

**II. Decision that need to be written, finalized and issued.**

**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 was held on 5/12/10. Council deliberated on 6/9/10. A Decision and Order needs to be finalized.

**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.

It was asked of Amy to speak with Attorney Blenkinsop as to if a Decision and Order needs to be written when a Motion to Dismiss is granted.

**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.

**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 at 10:00 a.m. A decision and order needs to be finalized.

9:45 Council takes a break to read the Motions and Objection received in regards AD 09-006 Andrew and Karen Goldstein.

9:55 Council resumes 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: On 7/16/10 a Motion to Rehearing Administrator Order was filed by Atty. MacDonald. An Objection of the DES to the Appellant's Motion for Rehearing was filed by Atty. Mulholland on 7/22/10. Grant or Deny Motion for Rehearing. Discussion was held.

- ***Councilor Czyz made a motion to Table until the next meeting, second by Councilor Henderson. Motion passed unanimously.***

**5. Other Business - None**

**6. Next Meeting**

Next meeting will be October 13, 2010 at 9 a.m. with Lake Sunapee hearing at 10 a.m.

**7. Adjournment**

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

Meeting was adjourned at 10:10 a.m.