

## WATER COUNCIL MEETING

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

February 13, 2013  
9:00 a.m.

**Members present:** Chairman Gilbert, Councilors Butler, Henderson, Hinds, Lyons, O'Brien, Rastallis, and Varotsis

**Members absent:** Councilors Gosse, Hoyt, and Rawnsley

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

### **1. Approval of Minutes of the November 14, 2012 Meeting**

- ***Motion made by Councilor Varotsis to approve the minutes, second by Councilor Butler. Motion passed unanimously.***

### **2. Status of Appeals**

Appeals Clerk, Paula Scott, presented an update on the following appeals: Preliminary Notice of Appeals (PNAs) have been received on 12/5/12 from: for 1) Town of Exeter and Town of Newmarket also from the 2) Cities of Rochester, Dover, and Portsmouth for the WWTP's in Exeter and Newmarket.

#### I. New Appeals

#### **Docket No. 12-19 WC – Cities of Rochester, Dover and Portsmouth, NH**

RE: 11/5/12 Certification of NPDES Permit No. NH0100196 issued to the Town of Newmarket (PNA filed 12/5/12)

Hearing Officer: Not assigned

Status: January 18, 2013 received Notice of Appeal. 1/25/13 issued receipt of appeal letter. February 4, 2013 received Appearance for Atty. Evan Mulholland. 2/8/13 received Joint Motion to Continue. Council to accept or decline appeal.

- ***Councilor Butler made a motion to accept the appeal of 12-19 WC, second by Councilor Hinds. Discussion was held. Motion passed unanimously.***

Councilor Lyons wanted to disclose she is a resident of the city of Portsmouth.

Councilor O'Brien noted one of his board members is counsel for one of the appellants.

#### **Docket No. 12-20 WC – Cities of Rochester, Dover and Portsmouth, NH**

RE: 11/5/12 Certification of NPDES Permit No. NH0100871 issued to the Town of Exeter (PNA filed 12/5/12)

Hearing Officer: Not assigned

Status: January 18, 2013 received Notice of Appeal. 1/25/13 issued receipt of appeal letter. February 4, 2013 received Appearance for Atty. Evan Mulholland. 2/7/13 received Joint Motion to Continue. Council to accept or decline appeal.

- ***Councilor Hinds made a motion to accept Docket No 12-20 WC – Cities of Rochester, Dover, and Portsmouth, second by Councilor Butler. Motion passed unanimously.***

- ***Councilor O'Brien made a motion to accept request for continuance for both dockets, second by Councilor Varotsis. Motion passed unanimously.***

**Docket No. 13 –01 WC – Edward and Robin Monty**

RE: 12/05/12 Subsurface construction Approval No. 2012111282 issued to Hanna E. Perutz, Trustess

Hearing Officer: Not assigned

Status: January 3, 2013 received Notice of Appeal. 1/4/13 issued receipt of appeal letter. 1/28/13 received Motion to Dismiss from Permittee. February 7, 2013 received Objection to Motion to Dismiss.

Councilor Hinds recused herself.

- ***Councilor Butler made a motion to accept the appeal of Edward and Robin Marty, Docket No. 13-01 WC, second by Councilor Henderson. Discussion was held. Motion passed unanimously.***

Hearings Officer to address motions and objection.

II. Decision and Orders that need to be written finalized and issued.
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III. Hearings or PHCs Pending
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**Dockets No. 12-01 WC – David Sundman, et al.**

Re: 12/19/11 Alteration of Terrain Permit No. AoT-0353 for Dalton Valley Drag

Hearing Officer: David Conley assigned on 2/9/12

Status: Received appeal that appears to be timely on January 18, 2012. Issued receipt of appeal letter on January 20, 2012. Council accepted the appeal Feb. 8, 2012, notice was issued Feb.9, 2012. Pre-Hearing Conference (PHC) is scheduled for Apr. 16, 2012 at 1 p.m., notice sent 3/13/12. Mar. 20, 2012 received Motion to Continue PHC. Mar. 26, 2012, Motion was granted. Rescheduled PHC for May 2, 2012 at 9 a.m. At the Council's 4/11/12 meeting, the Council voted to consolidate appeal Docket Nos. 09-05 WC – North Country Alliance for Balanced Changed and 12-01 WC David Sundman, et al. Notice of the consolidated appeals and PHC were issued April 12, 2012. PHC was held on 5/2/12, a second PHC is scheduled for Aug. 27, 2012 @ 9 a.m., and a hearing is scheduled for Sept. 12, 2012 @ 10 a.m. Notice given 5/2/12 via PHO. August 8, 2012 the Water Council requested that the hearing scheduled for September 12, 2012 to begin at 8:30 a.m. instead. 8/23/12 received Appellant's Partially Assented-To Motion to Continue Hearing and PHC; Appellant North Country ABC's Motion for Partial Summary Judgment; and Appellant North Country's ABC's Memorandum in Support of Motion for Partial Summary Judgment. 8/27/12 received Stipulation to Dismissal of Appeal of Permit WPS-8289A. 8/30/12 Order regarding Dismissal of Appeal by agreement was issued. In accordance with the dismissal, Docket No. 09-05 WC Dalton Valley Drag, LLC is withdrawn from the Council's docket. September 4, 2012 received Status Update from the Department regarding Docket No.12-01 WC. The license action is under Reconsideration right now.

IV. Inactive/Status Letter or Pending Settlement/Withdrawal
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**Docket No. 11-05 WC – Town of Hooksett and Hooksett Sewer Commission**

RE: 3/21/11 Administrative Order, Administrative Order No. 11-010 WD

Presiding Officer: Not Assigned

Recused: Christopher Rawnsley

Status: On May 11, 2011 the Council voted unanimously to accept appeal. The Town and DES continue to be engaged in discussion to resolve this matter. Both the Town and DES request that the Council continue to delay taking action on the Notice of Appeal. Sent request for status on June 14, 2012 asking for a response by July 11, 2012. June 22, 2012 received status report from appellant. Currently efforts are under way to implement a solution to the problems experienced that led to the issuance of the Administrative Order. October 17, 2012 sent request for status asking for a response by November 14, 2012. November 14, 2012 received status report. They are continuing to implement a solution to the problems experienced that led to the issuance of the Administrative Order. Another letter will be sent to ask for an update.

### **3. New Business**

#### c. Review of Env – Wq 1600 Septage Management Rules

Gretchen Hamel, Legal Unit and Mike Rainey, Wastewater Bureau

Readopt the present regulations with no substantive changes as there have been no requests from the regulated community, municipalities, or public. Propose to readopt with minor house keeping changes. They will be moving definitions into an appendix for efficiency, if changes are needed.

- ***Councilor Varotsis moved to accept, second by Councilor Butler. Motion passed unanimously.***

Councilor O'Brien requested a training in the rule making process. Ms. Hamel will attend a future meeting to review the process.

#### b. Review of Env –Wq 304 Wastewater Treatment Plant Operators

Gretchen Hamel and Mary Jane Meier, Wastewater Bureau

Gretchen reviewed the changes such as definitions to appendix, adjusting the definition of operating experience, and continuing education credits. Public hearings are to be held and written comments will also be taken. Mary Jane explained the operator's certification training program. Discussion was held. Director Stewart noted there has been talk of expansion of certification to the industrial sector.

#### a. Review of Env-Wq 305 Industrial Pretreatment Program

Gretchen Hamel, Legal Unit and George Carlson, Wastewater Bureau

The summary distributed reviewed the changes. Discussion was held.

\*\*It was suggested that emails with information for meetings sent after the packet is sent out indicate that

### **Legislative update** – Director Stewart

Director Stewart reviewed the DES 2013 Session Bill Tracking Matrix. Discussion on numerous bills was held.

### **4. Other Business**

Water Sustainability Commission Update – Chairman Gilbert reported the Commission gave the final report to the Governor in December. The Commission is still trying to get the message out and moving it forward.

**5. Next Meeting**

March 13, 2013 at 9:00 a.m. Chairman Gilbert will notify the Council if the meeting is deferred to April.

**6. Adjournment**

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

Meeting was adjourned at 11:00 a.m.