

WATER COUNCIL MEETING

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

June 8, 2016
9:00 a.m.

Members present: Chairman Gilbert, Councilors: Beurivage, Boisvert, Butler, Clark, Gegas, Hardy, Henderson, Joubert, O'Brien, and Tremblay

Members absent: Councilors: Hinds and Rawnsley

Also present were Paula Scott, Appeals Clerk and Carolyn Guerdet, Council Clerk

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

1. Approval of Minutes of the May 11, 2016 Meeting

- ***Councilor Butler made a motion to accept the minutes of the May 11, 2016, second by Councilor Beurivage. Attendance correction was noted. Motion passed unanimously. Councilor Joubert abstained.***

2. Status of Appeals

Appeals Clerk, Paula Scott, presented an update on the following appeals:

I. New Appeals

II. Decision and Orders that need to be written finalized and issued.

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. (See Sept. 2015 minutes for full list of filings.) December 24, 2014 received Assented-to Motion to Stay Pre-hearing Conference and hearing. 12/30/14 issued letter granting Motion and scheduling PHC for 4/16/15 at 8:30 a.m. February 13, 2015 received Appellants' Motion for Summary Judgment and Memorandum in Support of Motion for Summary Judgment. 2/27/15 received DES' Partial Objection to Appellants' Motion for Summary Judgment. March 11, 2015 issued Order Granting Summary Judgment in part. April 10, 2015 received Appearance from Robert Best and Motion for Rehearing. 4/15/15 received Objection to Applicant's Motion for Rehearing. 4/16/15 issued Decision and Order on Motion for Rehearing and issued Notice of Prehearing Conference scheduled for 5/13/15 at 10 a.m. Prehearing Order issued 5/13/15 with hearing scheduled for October 14, 2015 at 10 a.m. 5/15/15 received Request for Waiver of Rules. 5/18/15 issued letter regarding Request for Waiver of Rules. June 3, 2015 received permittee's status update. 6/10/15 issued Notice of Hearing time change per request from the Council. Hearing is now scheduled for October 14, 2015 at 9 a.m. July 2, 2015 received Amended Appearance – Atty. Robert Best and Assented-to motion to Stay All Deadlines. 7/14/15 issued letter granting Assented-to Motion and directing the parties to submit a status report by July 30, 2015. 7/30/15 received Motion

for Extension of Stay. 7/31/15 received permittee's status update. August 5, 2015 issued letter with new filing deadlines. September 9, 2015 received Motion to Compel. 9/16/15 received Objection to Motion to Compel. 9/16/15 received Appellants' and State's Witness and Exhibit Lists. 9/17/15 issued order on Motion to Compel. 9/17/15 received Appellant's Assented-To Motion to Compel Responses to Discovery Requests. 9/21/15 received Intervenor's Witness and Exhibit List. 9/24/15 received Request that Assented-To Motion to Compel Responses be taken up at PHC. October 14, 2015 issued Pre-Hearing Order with hearing scheduled for Feb. 10, 2016 at 9 a.m. 10/22/15 received Site Visit Report and Second Amended Notice of Appeal. December 23, 2015 received Appellants' Amended Witness and Exhibit Lists. January 4, 2016 received State's Amended Witness and Exhibit List. February 10th and 11th, 2016 the Hearing and Deliberations were held. Decision to be issued within 90 days (5/11/16).

Docket No. 16-07 WC – Patricia Twarog Appeal

Re: 2/24/16 Waiver approval for Individual Sewage Disposal System issued to Lynn Perkins
Hearing Officer: Not assigned

Status: 4/28/16 received Notice of Appeal. 5/2/16 issued receipt of Appeal letter. Appeal appears to be untimely filed and is insufficient. Council moved dismiss Appeal at their May 11, 2016 meeting. 5/11/16 received Appearance of Attorney Thomas Quinn, Motion to Intervene and Motion to Dismiss. 5/12/16 received Withdrawal of Motion to Intervene and Motion to Dismiss. 5/19/16 issued Decision and Order declining to accept Notice of Appeal. June 1, 2016 received Request for Reconsideration.

- ***Councilor Henderson made a motion to approve the Reconsideration, second by Councilor Butler. Discussion was held. Councilors Henderson and Butler withdrew the approval.***
- ***Councilor O'Brien made a motion to deny the Request for Reconsideration, second by Councilor Butler. Motion passed unanimously.***

III. Hearings or PHCs Pending

IV. Inactive/Status Letter or Pending Settlement/Withdrawal

3. New Business

a. Env-Wq 1700 Surface Water Quality Regulations

Director Forbes shared Ted Diers and Gregg Comstock will be in attendance next month for a discussion on the impaired waters. The rules had been sent out via email last week. A summary sheet was distributed as to the Rulemaking Notice. The dates for the submissions were indicated. Questions and comments were received regarding the process. Committee members of technical advisory committee members were asked for the next meeting. Paul Susca read how the rules are administered while going through JLCAR. He also read an email from Atty. Hamel. Statutes are over all. The less stringent rules can be enforced before the rules are adopted. It was asked that Atty. Hamel be here at the next meeting.

b. Chairman Gilbert introduced Attorney Buonamano from the NH Attorney General's office who is this council's attorney. This was not for formal legal advice, nor a privileged or confidential conversation. This was review of the Water Council's role, the administrative requirements of the Council, and the line between Wetlands and Water Council decisions. Council rules were reviewed and a time of questions and answers.

5. Old Business

a. Report on Hearing Comments on proposed rules Env-C 300

Debra Sonderegger reported that anyone can attend stakeholder meetings for public input which shortens the public hearing responses. For rulemaking all comments are recorded online. If DES doesn't revise the rule, the individual or entity can go before JLCAR. No one attend the public hearing on May 31st for the lab rules. Only one written comment was received after the hearing regarding sediment toxicity testing. Councilor Clark commented on how he has experienced how open DES was to hearing and responding to comments.

5. Next Meeting

July 13, 2016 at 9 a.m. Note – there will not be an August meeting of the Water Council.

6. Adjournment

- ***Councilor O'Brien made a motion for adjournment, second by Councilor Butler. Motion passed unanimously.***

Meeting adjourned at 10:33 a.m.