

WETLANDS COUNCIL

MINUTES

December 12, 2006

The Wetlands Council met on Tuesday, December 12, 2006 at the Department of Environmental Services, 29 Hazen Drive, Concord, NH

Attendees: Brian K. Fowler, Chairman, Camilla Lockwood, Paul W. Goodwin, Thomas G. Chrisenton, Lawrence E. Morse, John S. Cobb, William M. Dannehy, Sharon Champagne, Thomas Sloan, Seth Prescott, and Dennis Danna

Absentees: Jack Ruderman and Dan Lynch

The meeting was called to order by Chairman Brian K. Fowler at 9:05 a.m.

Chairman Fowler introduced the new Commissioner, Thomas Burack, who welcomed everyone and shared a few words.

1. **Approval of Minutes of September 12, 2006 and October 10, 2006 Council Meetings**

Councilor Morse noted 2 corrections to the September minutes. A motion was made by Councilor Morse and seconded by Councilor Lockwood to accept the minutes of September 12, 2006 with corrections noted. It was unanimously voted.

A motion was made by Councilor Morse and seconded by Councilor Cobb to accept the minutes of October 10, 2006 as presented. It was unanimously voted.

2. **Status of Appeals**

Michael Sclafani, Appeals Clerk, distributed an Appeals Status Report and reviewed the report with the Council members.

- Docket No. 04-21 WtC – Lake Shore Realty Trust: WB #2001-01294
Pre-hearing conference rescheduled for December 18, 2006 at 9:00 a.m.
No action was needed or taken by the Council
- Docket No. 05-04 WtC – Philip and Georgette Smith: WB #2000-00914
On September 12, 2006, an Appeal Re-Hearing was held. The council voted 6-4 to grant the Appeal. The draft Decision & Order was reviewed. It was noted that the experience of the councilors, when pertinent to the deliberations, can be used in the discussions.

A motion was made by Councilor Lockwood and seconded by Councilor Sloan to approve the text as drafted for the Decision and Order. There were 5 ayes, 4 nays, and 1 abstention. To be issued as is.

- Docket No. 05-24 WtC – Evelyn, Geno and Fransesca Marconi: WB #2004-02046
Council grants Assented-to Motion to Continue the Appeal Hearing until further notice on October 9, 2006. No action was needed or taken by the Council.
- Docket No. 06-03 WtC – Donald and Mary Larson: WB #2005-02387
On December 11, 2006 the Pre-Hearing Conference convened and parties continue settlement negotiations. An agreement was reached in principal and the Appellant will file a written withdrawal once the settlement is finalized. No action was needed or taken by the Council.
- Docket No. 06-05 WtC – Joseph Winn/Winn Family Trust: WB #2005-02562
On November 20, 2006 the Appellant Withdraws the Appeal. Closed. No action was needed or taken by the Council.
- Docket No. 06-06 WtC – West Alton Marina: WB #2005-00049
On December 11, 2006 the Pre-Hearing Conference convened and parties continue settlement negotiations. An agreement was reached in principal and the Appellant will file a written withdrawal once the settlement is finalized. No action was needed or taken by the Council.
- Docket No. 06-09 WtC – Christopher and Christine Collins: WB #2005-02587
Attorney Jennifer J. Patterson files an Appearance on behalf of DES on October 28, 2006. Pre-Hearing Conference is rescheduled to January 8, 2007 at 9 a.m. No action was needed or taken by the Council.
- Docket No. 06-10 WtC – Ralph and Virginia Sanborn: WB #2006-00325
On November 15, 2006, Pre-Hearing Conference was rescheduled for December 18, 2006 at 10:30 a.m. No action was needed or taken by the Council.
- Docket No. 06-11 WtC – Dennis Proulx: WB # 2006-00769
On October 28, 2006 Attorney Lauren Noether files an appearance on behalf of DES. The pre-hearing conference is rescheduled for January 8, 2007 at 10:30 a.m. No action was needed or taken by the Council.
- Docket No. 06-12 WtC – Bodanza et al.: WB #2002-02483
On November 15, 2006 Pre-Hearing Conference is rescheduled for January 8, 2007 at 1:30 p.m. No action was needed or taken by the Council.
- Docket No. 06-14 WtC – Scott DeSantis: WB #2004-02635
On September 20th a Notice of Appeal was timely filed. The Appellant requested that the Council stay this Appeal on October 6, 2006. Council voted to Table action on this Appeal on October 10, 2006. Appeal Table

letter distributed on October 25, 2006. Either party can request that the Appeal be lifted off the Table and move forward. No action was needed or taken by the Council.

- Docket No. 06-16 WtC – Shane Forest: WB#1999-01294
This is an appeal of an Administrative Order (AO WD 06-035). Notice of Appeal timely filed by Hand Delivery (30th Day) on November 2, 2006. On November 3rd the Receipt of Appeal letter was distributed.

Councilor Morse made a motion to accept this Appeal and upon acceptance, place a stay on this Appeal. Councilor Lockwood seconded the motion and it was voted unanimously.

- Docket No. 06-17 WtC – Mary George: WB#2005-01205
Notice of Appeal not timely filed by hand Delivery (32nd Day) on November 6, 2006. On November 7, 2006 a Receipt of Appeal letter was distributed and the Appellant files Notice of Appeal Certificate of Service that was not in original Notice. Matthew Moore files an Appearance on behalf of Appellant.

Councilor Lockwood made a motion to summarily dismiss this Appeal due to untimely filing. Councilor Champagne seconded the motion and it was voted unanimously.

- Docket No. 06-18 WtC – Richard Totaro: WB#2006-01921
Notice of Appeal timely filed by Hand Delivery (30th Day) on December 6, 2006. Receipt of Appeal letter distributed on December 8, 2006. No action was needed or taken by the Council.

3. Wetlands Bureau Update

Collis Adams, Wetlands Bureau, reported on the two work groups that have met. These are in preparation for discussions with the Corp. of Engineers and EPA coming in July 2007.

1. Vernal Pools work group is crafting a definition. They are also working on the surrounding upland buffers. Councilors Chrisenton and Morse shared the information they had received in regard to the rules, permitting, and deadlines. It was agreed that steps are needed to protect the general public with a set of rules. Most significant vernal pools are found within a greater wetland complex, already under protection.
2. Stream Crossing limits work group. Councilor Dannehy shared his experiences working with the training and management amongst those making their living in the forest industry. VMPs are practical and understandable. Collis related that the issue is more with the permit crossings as they are related to development.

Mary Ann Tilton shared that the EPA & Corp feel as long as the state is comfortable with that process that they aren't going to impact minimum impact projects. Ag and forestry are not involved in this process.

Chairman Fowler shared that the Timberland Assn. is going to put a bill in the legislature to have a public member on the Wetlands Council. Collis shared there is no effort to expand jurisdiction, only clearly identify the limits of it.

Collis also shared that a web-based tool from the National Heritage Bureau will now be able to send documentation that you have no species of concern on the property to be developed, which is free, and will have a \$25 fee for a report if there are. This can now be attached to the application that will come through our permit process. It is required by rule. This is a great research tool under DRED. Seth questioned modifications and it was determined they can be made.

Fact sheets are being drafted by the bureau to clarify definitions for:

- 1) need for project impacts?
- 2) what does avoidance of minimization mean?
- 3) what is the mitigation part of our business?

The bureau is looking at issues and what rules can help the process, i.e. deadlines, issuances, filings, etc.

Capital expenditures that the bureau has needs for include 1) conversion of the database from Foxpro to Oracle and 2) converting paper documents to digital format. Councilor Morse concurred with the requests and suggested scheduling an Operating Committee meeting in the morning before the Council meeting. Discussion points can then be developed. It was suggested starting the Council meetings at 9:30.

Tuesday, the 5th of December, 2006 the Wetlands Bureau surpassed last year's total of applications received. There were 2600 – 2700 applications this year.

4. Old Business

Mike Dannehy noted his term is up January 1st and he will not be serving another term.

A motion was made by Councilor Cobb, seconded by Councilor Prescott to thank Mike Dannehy for his 12+years of service on the Wetlands Board/ Council and it was unanimously voted.

5. Next Meeting

The next meeting will be January 9, 2007. There is no hearing scheduled.

6. Adjournment

A motion was made by Councilor Dannehy, seconded by Councilor Goodwin and unanimously voted to adjourn.

The meeting adjourned at approximately 10:42 a.m.