

WETLANDS COUNCIL

MINUTES

February 12, 2008

The Wetlands Council met on Tuesday, February 12, 2008 in room 112 at the Department of Environmental Services, 29 Hazen Drive, Concord, NH

Attendees: Chairman Lawrence E. Morse, John S. Cobb, Thomas Chrisenton, Paul Dionne, Chip Kimball, Dennis Lydon, Steve Perry, Seth Prescott, Jack Ruderman, Thomas Sloan, Russ St. Pierre and David Thompson

Absentees: Sharon Champagne

Also present were: Amy Samson, Council Appeals Clerk and Carolyn Guerdet, Council Clerk, and Attorney Bob Chenney for Pease Development Authority

The meeting was called to order by Chairman Larry Morse at 9:00 a.m. with a quorum present.

Correction to agenda was noted that the Hearing scheduled for today is Docket 7-23 WtC Steven Bragg Appeal not Docket 7-10 WtC as noted.

1. Approval of Minutes of January 8, 2008 Council Meeting

Clarification was made on Docket No. 07-23 Steven Bragg Appeal to expand the appeal. If the motion to supplement the record is passed a new hearing date will be scheduled. If it does not pass it will be the decision of the appellant whether to continue or not.

It was decided to move the Approval of Minutes to later in the meeting

2. Status of Appeals

- Docket No. 07-24 WtC – Town of Holderness Conservation Commission: WB #2006-02635
The Petition for Appeal is insufficient for the Council to accept it as an appeal at this time. The actual Reconsideration and Denial by DES is missing from the Appeal.

A motion was made by Councilor Sloan and seconded by Councilor Lydon to dismiss this appeal based on insufficiency of the filing. Motion was voted unanimously.

- Docket No. 07-27 WtC – Robert Bourgeois: WB # 2007-00473
Additional information was submitted on January 28, 2008.

A motion was made by Councilor Kimball and seconded by Councilor Thompson to remove this appeal from the Table. Motion was voted unanimously.

A motion was made by Council Sloan and seconded by Councilor Prescott to accept the appeal. Motion was voted unanimously.

Chairman Morse will be the Hearings Officer.

- Docket No. 08-01 WtC – Town of Newington Conservation Commission: WB #2007-0829-01
December 3, 2007 declining to terminate the processing of Alteration of Terrain permit application for property within the boundaries of the Pease Development Authority.

A motion was made by Council Kimball and seconded by Councilor Sloan to accept the appeal. Motion was voted unanimously.

- Docket No. 08-02 WtC – William D. Hughes Appeal: WB #2007-01174
Appeal was filed timely.

A motion was made by Councilor Chrisenton and seconded by Councilor Sloan to accept the appeal. Motion was voted unanimously.

- Docket No. 08-03 WtC – David Johnson-Johnqis Realty LLC Appeal: WB #2006-00700
The appeal was timely filed but file was incomplete.

A motion was made by Councilor Thompson and seconded by Councilor Kimball to table this until the next meeting. Motion was voted unanimously.

- Docket No. 08-04 WtC – Porter Trust Appeal: WB #2006-02705
The appeal was timely filed.

A motion was made by Councilor Kimball and seconded by Councilor Lydon to accept the appeal. Motion was voted unanimously.

- Docket No. 08-05 WtC – Rick Belanger Appeal: WB #2007-01624
The appeal was timely filed.

A motion was made by Councilor Sloan and seconded by Councilor Dionne to accept the appeal. Motion was voted unanimously.

- Docket No. 08-07 WtC – Joseph and Rose Marino Appeal: WB #2007-00926
The petition for appeal was received on February 8, 2008. Accept or dismiss the appeal at the next council meeting to comply with the 30 day waiting period.

- Docket No. 07-25 WtC – Ross Realty Trust & Tippicanoe Campground Appeal:
Pre-hearing Conference scheduled for March 3, 2008 at 9 AM. WB #2007-00321

- Docket No. 07-30 WtC – Thomas & Kellie Greer Appeal: WB #2006-00460
Pre-hearing Conference scheduled for March 3, 2008 at 11 AM.

- Docket No. 07-28 WtC – Concord Country Club: WB #2005-00474
Pre-hearing Conference scheduled for March 3, 2008 at 1 PM.

- Docket No. 07-18 WtC – Tom McKay-Hi Spot Condominium: WB #2007-00321
At Pre-hearing Conference on January 30, 2008 the parties requested the proceedings to be stayed for 30 days pending settlement discussions. If discussions are not fruitful the parties

will request a new Pre-hearing Conference to be scheduled. Collis Adams reported plans have been redesigned and re-submitted.

- Docket No. 07-22 WtC – Claire Salois: WB #2006-03223
At Pre-hearing Conference on January 30, 2008 the parties agreed to a settlement. Ms. Salois will withdraw the appeal.
- Docket No. 07-06 WtC – Patricia Woolson: WB #2006-02796
Pre-hearing Conference needs to be scheduled.
Presiding Officer is Chairman Morse.
- Docket No. 07-23 WtC – Steve Bragg: WB #2006-01494
An appeal hearing is scheduled for today at 10 A.M. The motion to expand the record will be prior to the hearing.
- Docket No. 07-16 WtC – Springfield Point Nirvana: WB #2006-02637
On January 3, 2008, Springfield Point Nirvana, LLC requested that the application be withdrawn.
- Docket No. 07-01 WtC – Robert & Betty Howland: WB #2006-01654
Proceedings are stayed, negotiations continue.
- Docket No. 07-07 WtC – Wendy McCarthy: WB #2006-02581
Proceedings are stayed. Letter to go to parties as to status.
- Docket No. 07-14 WtC – Courtney Galuzzo: WB #2007-00291
Proceedings are stayed. Letter to go to parties as to status. Collis Adams reported a new plan has been received by DES.
- Docket No. 06-11 WtC – Dennis Proulx : WB #2006-00769
Proceedings are stayed. Letter to go to parties as to status.
- Docket No. 06-16 WtC – Shane Forest: WB #1999-01294
Settlement discussions continue.

Chairman Morse welcomed Russ St. Pierre to the Council representing the Department of Transportation replacing Dennis Danna, who has retired. Paul Dionne was also recognized as the new member representing State Conservation Commission. Jack Ruderman has also joined the meeting.

3. Wetlands Bureau Update

Collis Adams, Administrator, reviewed issues related to statutes, administrative rules and general bureau issues.

Legislation being tracked by the bureau:

HB 1471 is in regards to time frames for the Wetlands Bureau. It is out of committee and out-to-pass.

HB 1579 in regards to the 75' wetlands setback, will probably go to a study commission.

HB 1535 requires the Department to establish a database/inventory of all wetland resources in the state of New Hampshire. It is considered inexpedient to legislate.

SB 352 moves the jurisdiction of the Shoreland Protection Act from the Water Council to the Wetlands Council. It is recommended out-to-pass.

SB 435 defines direct and indirect impacts, may be combined with HB 1579 and sent also to the study commission.

Discussion was held concerning the make-up of the study commission for HB 1579.

- ***A motion was made by Councilor Chrisenton and seconded by Councilor Dionne for Chairman Morse to speak with Representative Spang sharing that the Council would like to see representation on the proposed study commission from each of the stake holders that are represented on the Council. Motion was voted unanimously.***

Collis reviewed the rulemaking that is continuing.

A) Vernal Pools rules will go to public hearing on February 21, 2008. The two things the rules do are 1) define what a vernal pool is and 2) require applicants to identify vernal pools on submitted development plans. A waiver of the rule can be granted and discussion was held on the rules.

B) Work groups have been working on stream rules close to a year and are now working on the rule set itself. The next meeting is to be held on March 4, 2008.

The overall re-write of the entire rule set is still being worked on by Gretchen Hamel. A basic outline is currently being worked on.

There is a state-wide freeze on vacant general funded positions. Wetlands Bureau doesn't have any vacant general funded positions. Within the bureau Linda Magoon has been hired to fill the vacant Compliance Section Supervisor position. Other positions have been approved to be upgraded and the position to fill the PT secretary at Pease has been approved. Of the 6 shoreland positions created 3 have been filled.

There has been a 6% drop in Wetlands applications in 2007 compared to 2006. Alteration of Terrain has seen a 40% drop in their application numbers and Subsurface saw a 50% drop in applications.

The fee account is stable with a \$90,000 balance.

At 10:10 AM the following motion was made:

- ***Councilor Lydon made a motion to adjourn the business meeting to go into the hearing, second by Councilor Thompson. Motion was voted unanimously.***

At 11:30 AM

Chairman Morse reconvened the February 12, 2008 meeting of the Wetlands Council.

Chairman Morse distributed copies of SB 352, amendment, and Letter of Testimony that were presented for the Council at the January 15, 2007 hearing.

- ***Councilor Lydon moved to accept the January 8, 2008 minutes with corrections as noted and seconded by Councilor Kimball. Motion was unanimously voted with one abstention by Councilor Sloan.***

4. **Old Business** - SB 352 approved by sub-committee and will go to the full Senate on February 14, 2008.

5. **Other Business** - None

6. **Next Meeting** - March 11, 2008.

7. **Adjournment** -

A motion was made by Councilor Chrisenton and seconded by Councilor Cobb to adjourn and was unanimously voted.

The meeting was adjourned at 11:45 A.M.