

WETLANDS COUNCIL

MINUTES

June 10, 2008

The Wetlands Council met on Tuesday, June 10, 2008 in room 112 at the Department of Environmental Services, 29 Hazen Drive, Concord, NH

Attendees: Vice Chair John S. Cobb, Thomas Chrisenton, Chip Kimball, Dennis Lydon, Steve Perry, Seth Prescott, Thomas Sloan, Russ St. Pierre and David Thompson

Absentees: Chairman Lawrence E. Morse, Sharon Champagne, Paul Dionne and Jack Ruderman,

Also present were: Amy Samson, Council Appeals Clerk and Carolyn Guerdet, Council Clerk

The meeting was called to order by Vice Chairman Cobb at 9:00 with a quorum present.

At 9:01 AM a motion was made by Councilor Lydon, second by Councilor Kimball to go into attorney/client closed session. Motion was voted unanimously.

At 9:40 AM a motion was made by Councilor Lydon, second by Councilor Sloan to return to general session. Motion was voted unanimously.

1. Approval of Minutes of May 13, 2008 Council Meeting

A motion was made by Councilor Thompson, second by Councilor Lydon to approve the May 13, 2008 minutes. Motion was voted unanimously.

2. Status of Appeals

- Docket No. 08-04 WtC – Porter Trust Appeal: WB #2006-02705
On May 22, 2008 the Petitioner filed a Motion to Supplement the Official Record. On June 2, 2008 DES filed an Objection to the Petitioner's Motion to Supplement the Record.

Councilor Kimball made a motion to accept the Motion to Supplement the Official Record, second by Councilor Sloan. Motion was retracted by Councilor Kimball.

Dennis Lydon moved to Table the motion, second by Councilor Chrisenton. Motion was voted unanimous.

Docket No. 08-24 WtC – 127 Water Street Realty Inc.

The appeal was received May 20, 2008. Accept or dismiss the appeal at the July 22, 2008 meeting.

Docket No. 08-26 WtC – Steve and Rebecca Whitney

The appeal was received insufficient. A letter will be sent to the appellant.

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- Docket No. 06-11 WtC – Dennis Proulx : WB #2006-00769
A Pre-Hearing Conference is scheduled for July 29, 2008. Presiding Officer is Chairman Morse.
- Docket No. 07-01 WtC – Robert & Betty Howland: WB #2006-01654
A Pre-Hearing Conference is scheduled for July 29, 2008. Presiding Officer is Chairman Morse.
- Docket No. 07-02 WtC – Town of Barrington: WB#2004-02817
On May 13, 2008 Council reopened deliberations and voted to grant the appeal. A decision and order needs to be written.
- Docket No. 07-06 WtC – Patricia Woolson: WB #2006-02796
Pre-Hearing Conference was held on May 12, 2008 at 9 AM. And it was agreed that a hearing needed to be scheduled. A hearing is scheduled for July 22, 2008 at 10 A.M. Presiding Officer is Chairman Morse.
- Docket No. 07-07 WtC – Wendy McCarthy: WB #2006-02581
A Pre-Hearing Conference will be scheduled July 29, 2008, time to be determined. Presiding Officer is Chairman Morse.
- Docket No. 07-27 WtC – Robert Bourgeois: WB # 2007-00473
A Hearing is scheduled for July 22, 2008 with time to be determined. Presiding Officer is Chairman Morse.
- Docket No. 07-28 WtC – Concord Country Club: WB #2005-00474
At the Pre-Hearing Conference on March 3, 2008, the parties requested the proceedings to be stayed for 30 days pending settlement discussions. On April 8, 2008 Collis Adams said negotiations are in process. A status request letter will be sent to all parties.
- Docket No. 07-30 WtC – Thomas & Kellie Greer Appeal: WB #2006-00460
Pre-Hearing Conference is scheduled for August 4, 2008 at 9:30 AM. Presiding Officer is Councilor Lydon.
- Docket No. 08-01 WtC – Town of Newington Conservation Commission: WB #2007-0829-01
At the March 17, 2008 Pre-Hearing Conference the parties discussed the possibility of filing an Assented-to-Motion referencing Env-WtC 206.01 (b). The Motion has been filed and a Decision and Order is being finalized to deny the appeal.
- Docket No. 08-02 WtC – William D. Hughes Appeal: WB #2007-01174
On May 13, 2008 the Council denied the Appeal. A Decision and Order needs to be written.
- Docket No. 08-03 WtC – David Johnson-Johnqis Realty LLC Appeal: WB #2006-00700
A Pre-Hearing Conference is scheduled for July 21, 2008 at 10 AM. Presiding Officer is Councilor Lydon.
- Docket No. 08-05 WtC – Rick Belanger Appeal: WB #2007-01624
A hearing is scheduled for today at 10 AM. Presiding Officer is Councilor Kimball.

- Docket No. 08-07 WtC – Joseph and Rose Marino Appeal: WB #2007-00926
Pre-Hearing Conference will be scheduled for July 29, 2008, time to be determined. Presiding Officer is Chairman Morse.
- Docket No. 08-09 WtC – John Goode, et al Appeal: WB #2007-00933
Pre-Hearing Conference is scheduled for July 21, 2008 at 9 AM. Presiding Officer is Councilor Lydon.
- Docket No. 08-12 WtC – Bill K. Lau Appeal: WB #2007-00398
On May 13, 2008 the Council dismissed the appeal. A Decision and Order needs to be written.
- Docket No. 08-13 WtC – Jeffrey Costura Appeal: WB #2007-01416
Pre-Hearing Conference is scheduled for July 21, 2008 at 11 AM. Presiding Officer is Councilor Lydon.
- Docket No. 08-16 WtC – Jumanna Stark Appeal: WB #2007-00473
At the Pre-Hearing Conference held June 9, 2008 a Hearing was scheduled for August 12, 2008. Presiding Officer is Councilor Lydon.
- Docket No. 06-16 WtC – Shane Forest: WB #1999-01294
Settlement discussions continue. Status inquiry letter was sent on April 9, 2008. Status report has not been received by either party but a withdrawal as counsel letter was received from Mr. Forest's attorney. A progress report request will be sent directly to Mr. Forest to be submitted by the next Council meeting.
- Docket No. 07-14 WtC – Courtney Galuzzo: WB #2007-00291
DES issued the permit - Appellant should be withdrawing their appeal. Will contact the parties again as nothing has been received.
- Docket No. 07-22 WtC – Claire Salois: WB #2006-03223
Ms. Salois will withdraw the appeal. To date, a withdrawal has not been filed. A letter requesting status will be sent.
- Docket No. 07-23 WtC – Steve Bragg: WB #2006-01494
Decision and Order to deny the appeal has been drafted and needs to be sent to Anthony. A Request for Reconsideration was received May 19, 2008 by the appellant. On May 20, 2008 an Objection to the Request for Reconsideration was filed by DES.

Amy Samson then reviewed the list of decision that need to be written.

Lake Shore Realty Trust should be finalized this week.

Town of Barrington and Steve Bragg are almost done.

Vice Chair Cobb reminded everyone the next meeting is July 22, 2008 due to the holiday.

3. Wetlands Bureau Update

Collis Adams, Administrator, reported a waiver has been received for the position in the North country which is for permitting. The seacoast position was denied which will be appealed so it can be filled.

Rulemaking Efforts:

- 1) Vernal Pools are finished, adopted and in place
- 2) Stream Crossing work group continues to meet. Will probably meet 2 more times over the next few of months. Will then bring to a public hearing. We are running parallel with EPA and the Corp of Engineers.

Last week Collis attended a joint conference between the Society of Wetlands Scientists and the Association of State Wetlands Managers in Washington, D.C. It was a well-attended conference of 600 people. He was proud to say New Hampshire was highlighted in several different aspects of the conference. Other states in the country are looking to NH as a way to adopt programs in their state.

Councilor Sloan made a motion to adjourn the meeting at 10:05 AM. Second by Councilor Lydon. Motion passed unanimously.

*****Docket No.08-05 – Belanger Trust Appeal*****

Councilor Chrisenton has left the meeting.

Councilor Kimball made a motion to call the meeting back into session. Second by Councilor Sloan. Motion passed unanimously.

Councilor Kimball made a motion to request an opinion from our counsel regarding the timing on 482:A 3 18 (d) (f) with regards back to the words “rendering decision” and weekend dates, etc. Second by Councilor Prescott. Motion passed unanimously.

4. **Old Business** -

5. **Other Business** - **Shoreland Protection Act**

Presentation by Darlene Forst, Wetlands Bureau, gave an update on the rules, laws and regulatory requirements. Changes are significant. She reviewed three handouts with the Council. These changes were in SB 352 and HB 1601 and will take effect July 1, 2008. No Request for Reconsideration will come to the Department, the first level of appeal will now be through the Wetlands Council. It will also now be an evidentiary hearing.

The Council thanked Darlene for her presentation.

6. **Next Meeting** - July 22, 2008.

7. **Adjournment** -

A motion was made by Councilor Lydon to adjourn, second by Councilor Thomson. Motion was voted unanimously.