

WETLANDS COUNCIL

MINUTES

August 12, 2008

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

Attendees: Chairman Lawrence E. Morse, Vice Chair John S. Cobb, Chip Kimball, Dennis Lydon, Thomas Sloan, Dari Sassan, Russ St. Pierre and David Thompson

Absentees: Sharon Champagne, Thomas Chrisenton, Paul Dionne, Steve Perry, and Seth Prescott,

Also present were: Amy Samson, Council Appeals Clerk, Carolyn Guerdet, Council Clerk, and guest Paul Adams.

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

1. Approval of Minutes of July 22, 2008 Council Meeting

A motion was made by Councilor Kimball, second by Councilor Thompson to approve the July 22, 2008 minutes. Motion was voted unanimously.

2. Wetlands Bureau Update

- A) CSPA Presentation – Arlene Allen, Shoreline Outreach Coordinator
See Attachment A.

Councilor Sloan joined the meeting shortly after the start of this presentation.
Council Appeals Clerk has now joined the meeting.

- B) Presentation of draft initial proposal of proposed amendments to Env-Wq 1400 - Karla McManus, Rules and Easement Specialist and Darlene Forst, Shoreland Supervisor
- 1) This is an expansion of the exemptions and a clarification of the exemptions in the rules.
 - 2) Also a creation of a public benefit infrastructure maintenance permit. This will be a 10 year permit to repair and maintain structures for communities.
Councilor Kimball suggested adding “poles and guy-wires” to the list of items exempted by rule.
Other suggested additions or changes by the council:
1403.03(d)(1) begin with the word ‘permanently’ and add a condition that all temporary impacts would be restored.
1406.04 need for a definition of the term ‘legal’.

The changes will be reviewed at the next Council meeting at which time action will be taken.

10:50 AM – Council goes into recess.

10:57 AM – Council returns.

3. **Status of Appeals**

The following new appeals to accept or deny:

- Docket No. 08-28 WtC – James and Kim Gever Appeal WB #2008-00035
The appeal was timely filed on June 30, 2008.

Councilor Kimball made a motion to accept the appeal, second by Councilor Thompson. Motion passed unanimously.

Councilor Thompson will be the Hearing Officer.

- Docket No. 08-31 WtC – Michele Walker Appeal WB #2007-02435
The appeal was timely filed on July 3, 2008. Chairman Morse recused himself from the vote.

Councilor Kimball made a motion to accept the appeal, second by Councilor Sloan. Motion passed unanimously.

Councilor Thompson will be the Hearing Officer.

- Docket No. 08-32 WtC – William J. Wilson Appeal WB #2007-02744
The appeal was timely filed on July 8, 2008. Chairman Morse recused himself from the vote.

Councilor Sloan made a motion to accept the appeal, second by Councilor Cobb. Motion passed unanimously.

Councilor Thompson will be the Hearing Officer.

- Docket No. 08-38 WtC – Pickman & Sons Development Co. Appeal WB #2007-01160
The appeal was received on July 7, 2008, not timely filed.

Councilor Sloan made a motion to deny the appeal, second by Councilor Cobb. Motion passed unanimously.

Appeals transferred from the Water Council to the Wetlands Council:

- Docket No. 08-33 WtC (Formerly Docket No. 08-06 WC) Marlene & Jerry Schultz Appeal
Water Council held a Pre-Hearing Conference with the parties on May 19, 2008. At the PHC, a 30 day stay was granted. A status request letter has been sent to the parties to reply by the September 9, 2008 Council meeting.

- Docket No. 08-34 WtC (Formerly Docket No. 08-15 WC) Ronald E. Gocht Appeal
Water Council held a Pre-Hearing Conference with the parties on June 9, 2008. At the PHC a 90 day stay was granted. A status request letter has been sent to the parties to reply by the September 9, 2008 Council meeting.
- Docket No. 08-35 WtC (Formerly Docket No. 08-19 WC) Frank Faticanti Appeal
Appeal was received on March 28, 2008. A Pre-Hearing Conference needs to be scheduled. Presiding Officer is Chip Kimball.
- Docket No. 08-36 WtC (Formerly Docket No. 08-21 WC) Susan A. Youseff Appeal
Appeal was timely filed on April 21, 2008. The Water Council tabled the appeal on May 14, 2008. On July 22, 2008 the Wetlands Council tabled this appeal to allow time to review.

Councilor Kimball made a motion to accept the appeal, second by Councilor Lydon. Motion was accepted unanimously.

- Docket No. 08-37 WtC (Formerly Docket No. 08-25 WC) Kenneth R. Ivester Appeal
Appeal was timely filed on May 27, 2008. On July 22, 2008 the Wetlands Council tabled this appeal to allow time to review.

Councilor Lydon made a motion to accept the appeal, second by Councilor Cobb. Motion was accepted unanimously.

Decisions that need to be written/finalized and issued:

- Docket No. 04-21 WtC – Lake Shore Realty & Trust c/o Robert E. Gayner WB #2001-01294
Chairman Morse is writing the Decision.
- Docket No. 06-12 WtC – Bodanza et al Appeal WB #2002-02483
Council has denied the appeal. Chairman Morse is writing the Decision.
- Docket No. 07-02 WtC – Town of Barrington: WB#2004-02817
Councilor Sloan has finished the Decision and it will be mailed out today.

Councilor Sloan made a motion to waive our rules of review as the appeal has gone through extensive legal review, second by Councilor Kimball. Motion was accepted unanimously.

- Docket No. 07-09 WtC – Derry Conservation Commission WB #2006-00773
Councilor Chrisenton is to be writing the Decision.
- Docket No. 07-10 WtC – Renate Ranniger WB #2004-01185
Council has denied the appeal. Councilor Cobb has written the Decision and it will go out today.
- Docket No. 07-15 WtC – Charles Kalil WB #2006-02611
Council has granted the Motion to Summarily Dismiss. Chairman Morse will get the Decision out this week.

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- Docket No. 07-23 WtC – Steve Bragg: WB #2006-01494
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. The motion is now moot and a Pre-Hearing Conference needs to be scheduled.
- Docket No. 07-24 WtC – Town of Holderness Conservation Commission WB #2006-02635
Council has dismissed the Appeal. Councilor Lydon has written the Decision and Order and it has been sent to Attorney Blenkinsop.
- 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). It was decided to hold a Pre-Hearing Conference.
- Docket No. 08-02 WtC – William D. Hughes Appeal: WB #2007-01174
Council has denied the Appeal. Councilor Kimball has drafted the Decision.
- Docket No. 08-05 WtC – Rick Belanger Appeal: WB #2007-01624
Council has denied the Appeal. Councilor Kimball has drafted the Decision.
- Docket No. 08-12 WtC – Bill K. Lau Appeal: WB #2007-00398
Council has dismissed the appeal. Decision has been drafted and will be forwarded to Chairman Morse for review.

Pre-Hearing Conferences to be scheduled for the following:

- Docket No. 06-11 WtC – Dennis Proulx : WB #2006-00769
Presiding Officer is Chairman Morse.
- Docket No. 07-01 WtC – Robert & Betty Howland: WB #2006-01654
Presiding Officer is Chairman Morse.
- Docket No. 07-06 WtC – Patricia Woolson: WB #2006-02796
Presiding Officer is Chairman Morse.
- Docket No. 07-07 WtC – Wendy McCarthy: WB #2006-02581
Presiding Officer is Chairman Morse. A Pre-Hearing Conference has been scheduled for August 28, 2008 at 10 AM.
- Docket No. 07-27 WtC – Robert Bourgeois: WB # 2007-00473
Presiding Officer is Chairman Morse.
- Docket No. 07-30 WtC – Thomas & Kellie Greer Appeal: WB #2006-00460
Presiding Officer is Councilor Lydon.
- Docket No. 08-03 WtC – David Johnson-Johnngis Realty LLC Appeal: WB #2006-00700
Presiding Officer is Councilor Lydon.
- Docket No. 08-04 WtC – Porter Trust Appeal: WB #2006-02705
Council decided in July to leave this on the table and set a new Pre-Hearing Conference.

Presiding Officer is Councilor Kimball

- Docket No. 08-07 WtC – Joseph and Rose Marino Appeal: WB #2007-00926
Presiding Officer is Chairman Morse.
- Docket No. 08-09 WtC – John Goode, et al Appeal: WB #2007-00933
Presiding Officer is Councilor Lydon.
- Docket No. 08-13 WtC – Jeffrey Costura Appeal: WB #2007-01416
Presiding Officer is Councilor Lydon.
- Docket No. 08-24 WtC – 127 Water Street Realty Inc. WB #2007-01794
The appeal was accepted on July 22, 2008. Presiding Officer is Councilor Kimball

No Action Required; previously pending cases.

- Docket No. 06-16 WtC – Shane Forest: WB #1999-01294
Settlement discussions continue. Status inquiry letter was sent on June 25, 2008 and there has been no response. Chairman Morse is Presiding Officer and a Pre-Hearing Conference will be set up.
- Docket No. 07-14 WtC – Courtney Galuzzo: WB #2007-00291
DES issued the permit - Appellant should be withdrawing their appeal. A status request letter has been sent to all parties to respond but there has been nothing received. Presiding Officer is Chairman Morse. Amy Samson will make a phone call.
- 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. A status request letter was sent to all parties to respond and nothing was received. A Pre-Hearing Conference will be set.
- Docket No. 08-16 WtC Jumanna Stark Appeal WB #2007-00473
At the June 2, 2008 Pre-Hearing Conference the parties requested a hearing. A Pre-Hearing Conference will be scheduled in September.
- Docket No. 08-26 WtC – Steve and Rebecca Whitney
The appeal was received insufficient. A letter was sent to the appellant and there was no response.

Councilor Lydon made a motion to deny this appeal if the 30 days has expired, second by Councilor Thompson. Motion was accepted unanimously

4. **Other Business** - A letter has been drafted to request to have additional assistance from the Commissioner as to the back-log and increasing volume and for DES resources. It will also be sent to the commissioners/directors of the agencies represented. There is concern for those appointed taking more time from their jobs and the volunteers.....

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The Council will request Commissioner Burack's attendance at one of the upcoming Wetlands Council meetings.

The Pre-Hearing Conference schedule was then set up for the months of September and October. See Attachment B.

Chairman Morse adjourned the meeting for lunch.

The meeting was then called back into order and at which time they reviewed the Council rules. Changes will be sent to Anthony for review.

It was then decided to meet once a month until the actual Appeals are scheduled.

5. **Next Meeting** - September 9, 2008.

6. **Adjournment** -

Councilor Lydon made a motion to adjourn, second by Councilor Cobb. Motion was passed unanimously.