

# WETLANDS COUNCIL

## MINUTES

October 28, 2008

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The Wetlands Council met on Tuesday, October 28, 2008 in room 112 at the Department of Environmental Services, 29 Hazen Drive, Concord, NH

**Attendees:** Vice Chair John S. Cobb, Carol Henderson, Dennis Lydon, Thomas Sloan, Dari Sassan, Russ St. Pierre and David Thompson

**Absentees:** Chairman Lawrence E. Morse, Sharon Champagne, Paul Dionne, Chip Kimball, and Seth Prescott

Also present was: Amy Samson, Council Appeals Clerk.

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

### 1. Approval of Minutes of October 14, 2008 Council Meeting

*A motion was made by Councilor Sloan to table the October 14, 2008 minutes, second by Councilor Thompson. Motion was passed unanimously.*

### 2. Status Report -

Amy Samson, Council Clerk, reviewed the following:

- Docket No. 07-02 WtC – Town of Barrington: WB#2004-02817  
A Motion for Rehearing was filed by Garrison Place Real Estate Investment Trust and DES. The Town of Barrington filed an objection to both Motions.

Councilor Sloan gave a brief synopsis regarding the appeal.

- *Councilor St. Pierre made a motion that an opinion be requested from our counsel as to whether we can move on the motion before us. Second by Councilor Sassan. Discussion. Motion failed with 2 ayes and 5 nays.*
- *Councilor Henderson made a motion to accept motions for re-hearing filed by Garrison Place and DES. Second by Councilor Lydon. Discussion. Motion failed with 2 ayes and 4 nays.*
- *Councilor Lydon made a motion to deny the request for rehearing by Garrison Place and DES. Second by Councilor St. Pierre. Motion passed on a vote of 5 ayes and 1 nay by Councilor Henderson and Councilor Sloan abstained.*

**3. Public Hearing -**

Vice Chairman Cobb read the following:

This Hearing will be held to receive public comment on comments proposed by the NH Wetlands Council to its organizational and procedural rules. The rule making notices for these rules were published in the NH Rulemaking Register on September 26, 2008 as Notice No. 2008-179 and Notice No. 2008-180. These hearings will be held on the date and the time and location indicated in the Notices. Anyone wishing to make all comments or to subject written comments on the rules on the Council consideration may do so during this hearing. Written comments must be submitted to the Council by the close of the Hearing today in order to be considered. After the close of the Hearing the Council will consider all comments received and will decide whether to revise the rules in response to such comments. The Council will file its final proposed rules for consideration by the Joint Legislative Committee on Administrative Rules. We anticipate that the rules will be reviewed by JLCAR on November 20, 2008. Briefly the rules on WtC contain the definition of the rules of the NH Wetlands Council, explain the Council's organization and responsibilities. And explain how information contained on the Council's records can be obtained. The Council amended its definition on the interim basis earlier this year to reflect statutory changes in jurisdiction and the type of hearings held. The proposed rules are intended to readopt the interim rules of regular rule. In both WtC 200 set forth that procedures under which the NH Wetlands Council carries out its duties, including hearing appeals and administrative orders and permitting discussions related to RSA 482A relative to wetlands and RSA 483B relative to shoreline protection. The Council amended the rules on interim basis earlier this year to reflect statutory changes in jurisdiction and the type of hearings held. These rules are intended to readopt the interim rules as regular rules and to make additional changes there for clarity. If anyone has any comments, please state your name and affiliation and then proceed with your comments.

Gretchen Hamel, Administrator of the Legal Unit for DES, the identified contact for this rule making on behalf of the council, wanted to report that no comments were received from anyone during the interim between the publication of the Notice and today. Comments received on the interim rules were reviewed and 2 suggested changes are:

- 1) Env – WtC 100 – no comments received on these
- 2) Env – WtC 200 – 2008-180: Env – WtC 206.08 (a) 3; change provides clarity  
Env – WtC 207.02 (c), change provides clarity

- ***Councilor Lydon made a motion that the changes suggested be considered on page 11, 206.08(a)3 and also the changes on page 14, WtC 207.02(c) and accept those as part of the new rules. Second by Councilor Thompson. Motion passed unanimously.***

Vice Chairman Cobb will initial the cover memo on behalf of Chairman Morse so it can be filed.

**4. Other Business**

Amy Samson:

- Docket No. 08-033 WtC (Formerly Docket No. 08-06 WC) Marlene & Jerry Schultz Appeal Appeal has been withdrawn via email correspondence from Marlene and Jerry Schultz on October 21, 2008. Copy of email was distributed.

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- Docket No. 07-06 WtC – Patricia Woolson: WB #2006-02796  
A Pre-Hearing Conference has been scheduled for November 13, 2008. Presiding Officer is Chairman Morse. If it does proceed to hearing the hearing date will be December 9, 2008.

5. **Next Meeting** - November 25, 2008 due to Veterans Day falling on Tuesday, November 11th.

6. **Adjournment** -

***Councilor Sloan made a motion to adjourn, second by Councilor Henderson.  
Motion was passed unanimously.***

Meeting was adjourned at 10 a.m.