

WETLANDS COUNCIL

MINUTES

June 8, 2010

The Wetlands Council met on Tuesday, June 8, 2010 in rooms 112, 113, & 114 at the Department of Environmental Services, 29 Hazen Drive, Concord, NH

Attendees: Chairman Chip Kimball, Larry Ballin, Carol Henderson, Dennis Lydon, Lawrence Morse, Russ St. Pierre, Seth Prescott, Dari Sassan, Thomas Sloan, and David Thompson

Absentees: Sharon Champagne and Paul Dionne

Also present was: Amy Samson, Council Appeals Clerk.

The regular Wetlands Council meeting was called to order by Chairman Kimball at 9:00 with introductions and a quorum present.

1. Approval of Minutes

- ***Motion made by Councilor Morse to approve the May 11, 2010 minutes with the corrections noted, second by Councilor Thompson. Motion passed unanimously.***

5. New Business

Ossipee Lake Alliance draft letter reviewed. The letter will be sent

- ***Councilor Lydon moved to approve the letter and have it sent out, second by Councilor Morse. Discussion.***

It was decided at this time to go into executive session.

The Council returned into regular session.

It was noted that Ryan Crosby, who will be replacing Councilor Lydon, as the Construction Industry Representative is in attendance.

- ***Councilor Lydon amended the above motion to approve the letter and giving the authority to add the language that Mr. Smith is not a part of the appeal and to also copy whoever is necessary when the letter is sent out, second by Councilor Morse. Motion passed unanimously.***

Chairman Kimball noted that language will be added in the last paragraph. This will be sent out to Mr. Smith, Councilor Ray Burton, Commissioner Burack, and Representative Wiley.

As Councilor Morse needed to leave, it was necessary to address the following appeals while he was still in attendance.

Docket No. 08-16 WtC - Jumanna Stark

Subject: 10/19/07 Decision on Reconsideration, Wetlands File No. 2007-00473

Presiding Officer: Dennis Lydon

Action: Decision is complete and is attached to the Status Report.

- ***Motion made by Councilor Sloan to adopt the Decision as modified, second by Councilor Lydon. Motion passed unanimously.***

Docket No. 06-16 WtC - Shane Forest

Subject: 10/3/06 Decision on Reconsideration Denial (AO WD 06-035), Wetlands File No. 1999-01294

Presiding Officer: Larry Morse

Status: An Assented to Motion to Continue the Appeal Hearing that had been received was distributed. Councilor Morse reviewed the history of this appeal.

- ***Councilor Henderson made a motion to accept this Motion to Continue, second by Councilor Thompson. Motion passed unanimously.***

Councilor Morse leaves the meeting.

4. Status of Appeals

Amy Sampson, Appeals Clerk, reviewed the following:

I. New Appeals

Docket No. 10-10 WtC – Donald Lee

Subject: 5/23/10 Decision on Reconsideration, Wetlands File No. 2008-01253

Presiding Officer: Not Assigned.

Status: Appeal received insufficiently on 4/21/10. A letter was sent to the Appellant on 6/4/10.

Docket No. 10-08 WtC – Robert Reich

Subject: 4/19/10 Decision on Reconsideration, Wetlands File No. 2009-02050

Presiding Officer: Not Assigned

Status: Appeal received on 5/17/10. Council to vote whether or not to accept at the 7/13/10 Council meeting.

3. Wetlands Bureau Report

Collis Adams, Wetlands Bureau Administrator

Stream crossing rules have been adopted by JLCAR and are now effective. Training sessions are being scheduled. Timber Harvesting and Prime Wetlands Rules are now being worked on. A rough draft has been prepared and a stakeholder group has been brought together.

He then reviewed legislation that has passed or gone to conference committee. Still down several staff positions that are vacant.

4. ARM Fund Watershed Update

Lori Sommer, Wetlands Bureau

Lori brought to the Council the recommendations from the Site Selection Committee. The reports had been sent to the members via email. The Upper Connecticut Watershed had \$148,000 available and the committee's recommendation is to fully fund the Nature Conservancy's project with these funds.

- ***Motion made by Councilor Sloan to approve the expenditure of \$148,000 of the ARM Fund for the Upper Connecticut River Watershed fire pond project, second by Councilor Ballin. Motion passed unanimously, after discussion.***

The Connecticut River from Johns to Wait River Watershed has \$157,000 available and the committee's recommendation is to partially fund two of the projects. The Ammonoosuc River Flood Plain & Riparian Buffer Preservation and Restoration Project to be awarded \$103,000. The second project is the Tuttle Brook Habitat Restoration Project to receive \$54,000.

- ***Motion to approve the expenditures of \$103,000 for the Ammonoosuc River Flood Plain & Riparian Buffer property and \$54,000 partial payment to Trout Unlimited made by Councilor Thompson, second by Councilor Henderson. Motion passed unanimously, after discussion.***

At 10 AM the Council recessed to go into the Hearing for 09-30 WtC Phillip Exeter Academy.

II. Decisions that need to be written/finalized and issued.

Docket No.: 08-58 WtC - Mark & Kristen Begor

Subject: 10/7/08 Decision on Reconsideration Denial, Wetlands File No. 2008-00271

Presiding Officer: David Thompson

Action: Decision is complete. The decision will be forwarded to the Council's attorney for final approval. Once approved, the decision will need to be reviewed and approved at the 7/13/10 meeting.

III. Hearings or Pre-Hearing Conferences (PHC) scheduled.

Docket No.: 07-09 WtC - Derry Conservation Commission

Subject: 4/24/07 Decision on Reconsideration Denial, Wetlands File No. 2006-00773

Presiding Officer: Seth Prescott

Status: A PHC needs to be rescheduled

Docket No.: 09-01 WtC - Kevin Price d/b/a Ossipee Lake Marina

Subject: 12/9/08 Administrative Order

Presiding Officer: Larry Morse

Status: PHC scheduled for 6/16/10 at 9:00 a.m.

Docket No.: 09-20 WtC - Dana Belletete

Subject: 3/26/09 Request for Reconsideration Denial, Wetlands File No. 2009-00366

Presiding Officer: Dennis Lydon

Status: PHC held. 30-day stay granted. Parties agreed that if this is not resolved in 30-days, that a hearing will be scheduled (no 2nd PHC).

Docket No.: 09-21 WtC - John Penaskovic

Subject: 4/17/09 Administrative Order, Administrative Order No. 09-041 WD

Presiding Officer: Chip Kimball

Status: PHC was scheduled for 5/11/10, but the parties were discussing an approvable plan. Send request for status?

Docket No.: 09-22 WtC - John Penaskovic

Subject: 4/17/09 Administrative Order, Administrative Order No. 09-040 WD

Presiding Officer: Chip Kimball

Status: PHC was scheduled for 5/11/10, but the parties were discussing an approvable plan. Send request for status?

Docket No.: 9-25 WtC - Town of Hooksett

Subject: 5/11/09 Wetlands and Non-Site Specific Permit, Permit No. 2008-02016

Presiding Officer: Chip Kimball
Recused: Larry Morse
Status: PHC is scheduled for 6/23/10 at 9:00 a.m.

Docket No. 09-33 WtC – Norman and Patricia Bureau

Subject: 11/4/08 Administrative Order No. 08-044 WD - Alteration of Terrain at 5 Christopher Road & 6 Steep St., in Merrimack
Presiding Officer: Larry Morse
Status: A hearing is scheduled for 8/10/10 at 10:00 a.m.

Docket No. 09-30 WtC – Philips Exeter Academy

Subject: 6/26/09 Decision on Reconsideration for Proposed Parking Area at Main Street School in Exeter. Wetlands Bureau Dredge and Fill Permit #2008-00233
Presiding Officer: Dennis Lydon
Status: A hearing is scheduled for today at 10:00 a.m.

Docket No. 09-31 WtC – Donald Prudhomme

Subject: 8/7/09 Application Denial, Wetlands File No. 2009-01412
Presiding Officer: Larry Ballin
Status: PHC is scheduled for 6/24/10 at 3:00 p.m.

Docket No. 09-32 WtC – Patricia Prudhomme

Subject: 8/7/09 Application Denial, Wetlands File No. 2009-01412
Presiding Officer: Larry Ballin
Status: PHC is scheduled for 6/24/10 at 3:00 p.m.

Docket No. 09-36 WtC – Brendan and Dana Keegan

Subject: Administrative Order No. 09-22 WD dated April 6, 2009
Presiding Officer: David Thompson
Status: Council accepted the appeal on 2/9/10. A PHC will be scheduled for 6/24/10 at 2 p.m.

Docket No.: 09-37 WtC – Ossipee Bluffs Association

Subject: 10/22/09 Decision on Reconsideration, Wetlands File No. 200-02822
Presiding Officer: Larry Morse
Status: PHC scheduled for 6/16/10 at 12:00 p.m.

Docket No. 09-44 WtC – Thomas and Joan DiPace

Subject: 10/13/09 Administrative Order No. 09-082 WD
Presiding Officer: Not Assigned
Status: PHC is scheduled for 6/23/10 at 11:00 a.m.

Docket No. 10-02 WtC – Grappones Appeal

Subject: 12/21/09 Ellakona Realty, LLC's Shoreline Impact Permit No. 2009-02802
Presiding Officer: David Thompson
Status: Appeal withdrawn.

Docket No. 10-03 WtC – Richard and Donna Mills Appeal

Subject: 1/5/10 Decision on Reconsideration, Wetlands File No. 2009-01534
Presiding Officer: Dennis Lydon
Status: PHC is scheduled for 6/23/10 at 1:00 p.m.

Docket No. 10-04 WtC – Thomas J. Murray Appeal

Subject: 12/28/09 Denial of Application, Wetlands File No. 2007-00187
Presiding Officer: Larry Morse
Status: PHC is scheduled for 7/21/10 at 11:00 a.m.

Docket No. 10-05 WtC – William and Sue Conaty Appeal

Subject: 1/5/10 Reconsideration Denial, Wetlands File No. 2009-00233
Presiding Officer: Chip Kimball
Status: A PHC is scheduled for 6/23/10 at 11:00 a.m.

IV. Previously pending cases.

Docket No.: 06-11 WtC - Dennis Proulx

Subject: 07/13/06 Decision on Reconsideration Denial, Wetlands File No. 2006-00769
Presiding Officer: Larry Morse
Status: On 6/3/10, Council received an Assented-To Motion to Dismiss. Grant or Deny Assented-To Motion to Dismiss. Council granted the Motion to Dismiss.

Docket No.: 08-03 WtC - David Johnson – Johngis Realty LLC

Subject: 12/04/07 Decision on Reconsideration, Wetlands File No. 2006-00700
Presiding Officer: Dennis Lydon
Status: A request for status was sent on 5/20/10 for the parties to respond by the 6/8/10 Council meeting. The parties have not responded.

Docket No.: 08-04 WtC - Porter Trust

Subject: 12/12/07 Decision on Reconsideration, Wetlands File No. 2006-02705
Presiding Officer: Chip Kimball
Status: A request for status was sent on 5/20/10 for the parties to respond by the 6/8/10 Council meeting. A response is attached.

Docket No.: 08-13 WtC - Jeffrey Costura

Subject: 1/25/08 Decision on Reconsideration, Wetlands File No. 2007-01416
Presiding Officer: Dennis Lydon
Status: The parties are negotiating settlement. A request for a status update will be sent for the parties to respond by the next Council meeting.

Docket No. 08-35 WtC (formerly Docket No. 08-19 WC) - Frank Faticanti

Subject: Waiver Application Pursuant to RSA 483-B
Presiding Officer: Chip Kimball
Status: A request for status was sent on 5/20/10 for the parties to respond by the 6/8/10 Council meeting. A response is attached. The appeal was Summarily Dismissed.

Docket No.: 08-53 WtC - Vintage Trust c/o Enthusiasts, Inc.

Subject: 8/7/08 Decision on Reconsideration Denial, Wetlands File No. 2006-01506
Presiding Officer: Dennis Lydon
Status: The parties are negotiating settlement. A request for a status update will be sent for the parties to respond by the next Council meeting.

Docket No.: 08-55 WtC - Tracy Middleton Revocable Trust of 1992

Subject: 9/12/08 Reconsideration Denial, Wetlands File No. 2002-2087
Presiding Officer: David Thompson

Status: The parties are negotiating settlement. A request for a status update will be sent for the parties to respond by the next Council meeting.

Docket No.: 09-07 WtC - Lake Sunapee Protective Association (LSPA)

Subject: 1/7/09 Shoreland Impact Permit issued by DES to the NH Fish and Game for the Wild Goose Site in Newbury.

Presiding Officer: Larry Morse

Recused: Larry Ballin and Carol Henderson

Status: A PHC is scheduled for 6/16/10 at 2:00 p.m.

Docket No.: 09-08 WtC - Town of Newbury

Subject: 1/7/09 Shoreland Impact Permit issued by DES to the NH Fish and Game for the Wild Goose Site in Newbury.

Presiding Officer: Larry Morse

Recused: Larry Ballin and Carol Henderson

Status: A PHC is scheduled for 6/16/10 at 2:00 p.m.

Docket No.: 09-09 WtC - Christopher and Sally Norton

Subject: 01/09/09 Reconsideration Denial, Wetlands File No. 2008-01265

Presiding Officer: Larry Morse

Status: PHC was held on 3/17/10 at 9:00 a.m. A 90-days continuance was granted by the presiding officer while the parties negotiate settlement.

Docket No.: 09-35 WtC – Town of Newbury

Subject: 9/18/09 Decision on Reconsideration, Wetlands File No. 2008-02781

Presiding Officer: Larry Morse

Recused: Larry Ballin and Carol Henderson

Status: A PHC is scheduled for 6/16/10 at 2:00 p.m.

Docket No. 10-07 WtC – Pomeroy Limited Partnership

Subject: 3/3/10 Application Denial, Wetlands File No. 2009-02747

Presiding Officer: Not Assigned

Status: Appeal withdrawn on 5/21/10.

V. Misc.

3/31/09 Request for Declaratory Ruling filed by Mr. Goodwin

Mr. Goodwin sent an e-mail to the clerk on 12/8/09 requesting status.

6. Old Business:

7. **Next Meeting** – Next meeting will be July 13, 2010 with a hearing.

8. Adjournment

- ***Councilor Sloan made a motion to adjourn, second by Councilor Lydon. Motion passed unanimously.***

Meeting adjourned at 10:35 a.m.