

WETLANDS COUNCIL

MINUTES

October 12, 2010

The Wetlands Council met on Tuesday, October 12, 2010 in rooms 112, 113, & 114 at the Department of Environmental Services, 29 Hazen Drive, Concord, NH

Attendees: Chairman Chip Kimball, Sharon Champagne, Ryan Crosbie, Lawrence Morse, Russ St. Pierre, Seth Prescott, and David Thompson

Absentees: Larry Ballin, Paul Dionne, Carol Henderson, Dari Sassan, and Thomas Sloan

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

The regular Wetlands Council meeting was called to order by Chairman Kimball at 8:05 with introductions and a quorum present.

1. **Approval of Minutes**

- ***Motion made by Councilor Thompson to approve the September 14, 2010 minutes as corrected, second by Councilor Morse. Motion passed unanimously.***

3. **Wetlands Bureau Report**

Collis Adams, Wetlands Bureau Administrator

Staffing and accounts have remained stable. LSRs are just beginning to start for the new session. The Land Resources Management Program(LRMP) has been working on a process to streamline and expedite the application completeness review portion. The support staff from each of the LRMP programs has formed the Application Review Completeness(ARC) team to cross train entering the applications into the database. Before it is put into practice, the Attorney General's office will review the process.

4. **ARM Fund Report**

Lori Sommer, Wetlands Bureau Mitigation Coordinator

Connecticut River to Ashuelot River from Vernon Dam to Millers River Watershed

Funds available are \$183,000.

A. Project Proponent: The Nature Conservancy

Project Title: Brown Farm Wetland Protection & Enhancement Project, Swanzey

Site visit was September 21st. Amount requested was \$94,533.

B. Project Proponent: Monadnock Conservancy

Project Title: Colony Property, Chesterfield

Site visit was September 21st. Amount requested was \$132,900.

There was a question and answer time for each of the proposals.

- ***Councilor Prescott made a motion to approve the Brown Farm project, second by Councilor Thompson. Motion passed unanimously.***
- ***Councilor Thompson made a motion to approve the Colony Project with the addition of the language 'based on the final timber company management plan', inserted after the 250' no-cut buffer, second by Councilor Champagne. Motion passed unanimously.***

Lori then outlined the future Requests for Proposals that will be reviewed. The Pemigewasset Watershed is next with the committee going out on the 26th to view the 2 proposals that have been submitted. There is \$140,000 in that account. She will be back with recommendations on November 9th. The Salmon Falls/Piscataquog River Watershed has \$1, 596,000 available and there are 11 applications. Site visits will occur November 9th and 10th with recommendations for the council on December 14th. It was requested that the paper copies be sent out before the meeting.

2. Status of Appeals

Amy Sampson, Appeals Clerk, reviewed the following:

I. New Appeals

Docket No. 10-17 WtC – Sunset Ranch Camp, Inc.

Subject: Decision on Shoreland Permit Application, Wetlands File No. 2010-00690

Presiding Officer: Not Assigned.

Status: Council needs to vote to accept or dismiss.

- ***Councilor Morse made a motion to direct the clerk to request from the appellant proof of the date that this was sent, as it looks to be received after the 30 days, and also to provide the DES Decision on which the appeal is based, second by Councilor Thompson. Motion passed unanimously.***

Docket No. 10-18 WtC – MRAC LLC and Merchants Plaza, LLC

Subject: Application of NH Dept. of Transportation, Wetlands File No. 2010-00224

Presiding Officer: Chip Kimball

Status: Council needs to vote to accept or dismiss.

- ***Councilor Crosbie made a motion to accept the appeal, second by Councilor Prescott. Motion passed unanimously.***

Chairman Kimball will set the Pre-Hearing Conference(PHC) as soon as possible and then request legal memorandum from both parties as to the set of rules that apply and to be used.

Docket No. 10-19 WtC – Grouse Point Club

Subject: Decision on Reconsideration Denial, Wetlands File No. 2010-00808

Presiding Officer: Dave Thompson

Status: Council needs to vote to accept or dismiss the appeal.

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

Docket No. 10-20 WtC – Robert Pinato

Subject: August 19, 2010 Administrative Order, Administrative Order No. 10-025 WD
Presiding Officer: Not Assigned
Status: Council needs to vote to accept or dismiss at the November 9, 2010 Council meeting.

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

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: Council granted the Assented-To Motion to Dismiss. A decision and order needs to be finalized.

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: PHC was held on 6/23/10 at 11:00 a.m. A hearing was held on 8/10/10. Decision and Order to be voted upon.

- ***Councilor Thompson made a motion to adopt the Decision and Order, second by Councilor Prescott. Motion passed unanimously.***

Docket No. 10-11 WtC – Thomas and Margaret Ettinger

Subject: 5/7/10 Shoreland Impact Permit No. 2009-02747
Presiding Officer: Chip Kimball
Status: Decision and Order to be voted upon.

- ***Councilor St. Pierre made a motion to adopt the Decision and Order, second by Councilor Thompson. Motion passed unanimously.***

III. Hearings or PHCs 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 is scheduled for October 27, 2010 at 2 p.m. and a hearing is scheduled for February 11, 2011 at 10:00 a.m.

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 hearing is scheduled for January 11, 2011 at 10:00 a.m.

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

Subject: 12/9/08 Administrative Order
Presiding Officer: Larry Morse
Status: A hearing is scheduled for November 9, 2010 at 10 a.m.

Docket No. 09-07 WtC – and 09-08 WtC Lake Sunapee Protective Association (LSPA) and 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, Carol Henderson

Status: A hearing is scheduled for today.

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: A hearing is scheduled for November 23, 2010 at 10:00 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 December 14, 2010 at 10 a.m.

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, Carol Henderson

Status: A hearing is scheduled for today.

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

Subject: 10/13/09 Administrative Order No. 09-082 WD

Presiding Officer: Chip Kimball

Status: PHC is scheduled for October 27, 2010 at 12:00 p.m.

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

Subject: 1/5/10 Decision on Reconsideration, Wetlands File No. 2009-01534

Presiding Officer: Chip Kimball

Status: PHC is scheduled for October 27, 2010 at 10:30 a.m.

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

Subject: 12/28/09 Denial of Application, Wetlands File No. 2007-00187

Presiding Officer: Chip Kimball

Status: A 2nd PHC is scheduled for October 27, 2010 at 9:00 a.m.

Docket No. 10-08 WtC – Robert Reich

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

Presiding Officer: Chip Kimball

Status: A PHC is scheduled for October 27, 2010 at 12:00 p.m.

Docket No. 10-10 WtC – Donald Lee

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

Presiding Officer: Chip Kimball

Status: A PHC is scheduled for October 27, 2010 at 1:30 p.m.

Docket No. 10-12 WtC – Provencal One Family Trust

Subject: 6/4/10 Administrative Order No. 10-013 WD

Presiding Officer: Chip Kimball

Status: A PHC is scheduled for October 27, 2010 at 10:30 a.m. A Motion to Intervene was filed by Mr. Simpkins of the Department of Resources and Economic Development on October 11, 2010. Grant or Deny Motion to Intervene.

- ***Councilor Morse made a motion to accept the Motion to Intervene, second by Councilor Thompson. Motion passed unanimously.***

Docket No. 10-14 WtC – Akwa Marina Yacht Club

Subject: 6/11/10 Decision on Reconsideration, Wetlands File No. 2009-01047

Presiding Officer: Larry Ballin

Status: Council accepted the appeal on September 14, 2010. A PHC is scheduled for December 29, 2010 at 9:00 a.m.

Docket No. 10-15 WtC – Steven and Mary Pruchansky

Subject: 6/10/10 Decision on Reconsideration, Wetlands File No. 2009-023600

Presiding Officer: Chip Kimball

Status: Council accepted the appeal on September 14, 2010. A PHC is scheduled for December 29, 2010 at 9:00 a.m.

IV. Previously pending cases.

Docket No. 08-01 WtC – Newington Conservation Commission

Subject: December 3, 2007 Declining to terminate the processing of Alteration of Terrain permit application for property within the boundaries of the Pease Development Authority. Wetlands File No. 2007-0829-01

Presiding Officer: Chip Kimball

Status: October 4, 2010, a Motion for Rehearing was filed. An objection to the Motion for Rehearing has not been filed.

Docket No. 08-13 WtC - Jeffrey Costura

Subject: 1/25/08 Decision on Reconsideration, Wetlands File No. 2007-01416

Presiding Officer: Dennis Lydon

Status: This has been settled; expecting withdrawal from appellant.

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: Ryan Crosbie

Status: The parties are still negotiating a settlement. Another PHC to be scheduled.

In the interest of time and as there is no action to be taken on the balance of the cases below, it was decided that the council members read them on their own.

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 still negotiating a settlement. Possibly schedule another PHC.

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: This has been settled; expecting withdrawal from appellant.

Docket No. 09-20 WtC - Dana Belletete

Subject: 3/26/09 Request for Reconsideration Denial, Wetlands File No. 2009-00366
Presiding Officer: Chip Kimball
Status: The parties are still negotiating a settlement. Schedule another PHC?

Docket No. 09-21 WtC - John Penaskovic

Subject: 4/17/09 Administrative Order, Administrative Order No. 09-041 WD
Presiding Officer: Chip Kimball
Recused: Larry Morse
Status: Appeal has been stayed until the agreement of 7/1/10 is complete.

Docket No. 09-22 WtC - John Penaskovic

Subject: 4/17/09 Administrative Order, Administrative Order No. 09-040 WD
Presiding Officer: Chip Kimball
Recused: Larry Morse
Status: Appeal has been stayed until the agreement of 7/1/10 is complete.

Docket No. 09-31 WtC – Donald Prudhomme

Subject: 8/7/09 Application Denial, Wetlands File No. 2009-01412
Presiding Officer: Larry Ballin
Status: Appeal has been withdrawn

Docket No. 09-32 WtC – Patricia Prudhomme

Subject: 8/7/09 Application Denial, Wetlands File No. 2009-01412
Presiding Officer: Larry Ballin
Status: Appeal has been withdrawn

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: A status request was sent requesting a response by the November 9, 2010 Council meeting.

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.

5. **Old Business** -

6. **New Business** -

7. **Next Meeting** – Next meeting will include a hearing on November 9, 2010.

8. **Adjournment**

- ***Councilor Morse made a motion to adjourn, second by Councilor Thompson. Motion passed unanimously.***

Meeting adjourned at 8:55 a.m.

