

WETLANDS COUNCIL

MINUTES

June 14, 2011

The Wetlands Council met on Tuesday, June 14, 2011 in Rooms 112, 113, & 114 at the Department of Environmental Services, 29 Hazen Drive, Concord, NH

Attendees: Chairman Chip Kimball, Councilors: Larry Ballin, Ryan Crosbie, Larry Morse, Seth Prescott, Russ St. Pierre, Thomas Sloan and David Thompson. Dari Sassan arrived at 9 a.m.

Absentees: Councilors: Sharon Champagne and Carol Henderson

Also present were: Peter Demas, DES Legal Coordinator, Rebecca Swanwick, Intern, and Carolyn Guerdet, Council Clerk.

The regular Wetlands Council meeting was called to order by Chairman Kimball at 8:13 a.m. with introductions and a quorum present.

1. Approval of Minutes

- *Councilor Ballin made a motion to approve the May 10, 2011 minutes, second by Councilor Thompson. Motion passed unanimously.*

2. Wetlands Bureau Update

None given this month.

3. Review of Proposed Legislation

SB 19 – the prime wetlands bill has been retained and will be worked on this summer or early fall.

4. Status of Appeals

Peter Demas, DES Legal Coordinator

I. New Appeals

Docket No. 11-03 WtC – Joseph and Patricia DeVelis

Subject: 1/25/11 Administrative Order No. 11-002 WD

Presiding Officer: Ryan Crosbie (assigned by AGO on May 2, 2011)

Status: Council accepted the appeal on April 12, 2011. A Pre-Hearing Conference(PHC) needs to be scheduled.

Docket No. 11-06 WtC – John and Sharon Graham

Subject: April 11, 2011 Appeal of Administrative Order 11-014 WD

Presiding Officer: Not Yet Requested

Status: New Appeal. Council to decide whether to accept or deny appeal at July 12 meeting.

Docket No. 11-07 WtC – Clinton and Cynthia Johnson

Presiding Officer: Not Yet Requested

Status: New Appeal. Council to decide whether to accept or deny appeal at July 12 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. 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 (assigned by AGO)
Recused: Larry Ballin, Carol Henderson
Status/Action: Hearings were held on October 12, 2010; October 26, 2010; November 9, 2010; and December 14, 2010. Deliberations were held on March 8, 2011 and April 12, 2011. Decision and order to be prepared.

III. Hearings or PHCs scheduled.

Docket No. 08-04 WtC - Porter Trust

Subject: 12/12/07 Decision on Reconsideration, Wetlands File No. 2006-02705
Presiding Officer: Chip Kimball (assigned by AGO on January 5, 2011)
Status: On May 31, 2011, Petitioner filed Motion to continue and Motion to Update and Clarify Previous Motions. Council to deliberate and rule on motions today at 9 a.m.

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 (assigned by AGO on October 27, 2010)
Recused: Larry Morse
Status: A hearing is scheduled for August 23, 2011 at 9:00 a.m. It does not appear that notice has been issued prior to the June 14, 2011 mtg. Notice will be issued.

Docket No. 09-35 WtC – Town of Newbury

Subject: 9/18/09 Decision on Reconsideration, Wetlands File No. 2008-02781
Presiding Officer: Larry Morse (assigned by AGO)
Recused: Larry Ballin, Carol Henderson
Status/Action: Hearings were held on October 12, 2010; October 26, 2010; November 9, 2010; and December 14, 2010. Deliberations were held on March 8, 2011 and April 12, 2011. Deliberations will continue today at 10 a.m.

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

Subject: Administrative Order No. 09-22 WD dated April 6, 2009
Presiding Officer: Dave Thompson
Status: A PHC was scheduled for April 27, 2011 at 12:00 p.m. No indication as to whether PHC occurred. Notes in file reference a 60-day stay, but there is no order granting stay. Settlement discussion ongoing but appears to have stalled because petitioner is waiting on information from the program.

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

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

Presiding Officer: Chip Kimball (assigned by AGO on October 27, 2010)

Status/Action: A PHC was held on January 26, 2011. A hearing was scheduled for May 24, 2011, but postponed by the Presiding Officer(PO) for administrative reasons. A hearing is scheduled for September 13, 2011 at 9:00 a.m. Regular business meeting will begin at 8 a.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 (assigned by AGO on January 26, 2011)

Status: PHC was held on February 23, 2011 at 9:00 a.m. Hearing scheduled for July 12, 2011 at 10:00 a.m. The hearing date was established by Pre-Hearing Order(PHO). Notice does not appear to be an issue.

Docket No. 10-08 WtC – Robert Reich

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

Presiding Officer: Chip Kimball (assigned by AGO on January 26, 2011)

Status: PHC was held on February 23, 2011 at 10:30 a.m. A hearing was scheduled for June 14, 2011 at 10:00 a.m. PO granted Assented-to Motion to continue. New date not yet set.

Seth Prescott arrives at 8:31 a.m.

Docket No. 10-10 WtC – Donald Lee

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

Presiding Officer: Chip Kimball (assigned by AGO on January 26, 2011)

Status: The PO has requested that a PHC be scheduled for July 27, 2011. Notice thereof must issue.

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

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

Presiding Officer: Chip Kimball (assigned by AGO on January 26, 2011)

Status: A PHC was held on February 23, 2011. A hearing is scheduled for June 28, 2011 at 8:00 a.m. The hearing date was established by 2/23/11 PHO. Notice does not appear to be an issue.

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

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

Presiding Officer: Chip Kimball (assigned by AGO on January 26, 2011)

Status: The PO has requested that a PHC be scheduled for July 27, 2011. Notice thereof must issue.

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

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

Presiding Officer: Ryan Crosbie

Status: A hearing is scheduled for July 26, 2011 at 9 a.m. The hearing date was established by 3/30/11 PHO. Notice does not appear to be an issue.

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 (assigned by AGO on January 26, 2011)

Status: The PO has requested that a PHC be scheduled for August 31, 2011. Notice thereof must issue.

Docket No. 10-19 WtC – Grouse Point Club

Subject: Decision on Reconsideration Denial, Wetlands File No. 2010-00808
Presiding Officer: Chip Kimball (assigned by AGO on January 26, 2011)
Status: A hearing is scheduled for August 9, 2011 at 10 a.m. The hearing date was established in the 3/30/11 PHO. Notice does not appear to be an issue.

Docket No. 10-20 WtC – Robert Pinato

Subject: August 19, 2010 Administrative Order, Administrative Order No. 10-025 WD
Presiding Officer: Ryan Crosbie
Status: A PHC was held on June 3, 2011. A hearing is scheduled for October 25, 2011 at 9:00 a.m. Due notice thereof was given by PHO distributed at the PHC.

Docket No. 10-24 WtC – Sunset Ranch Camp, Inc.

Subject: Standard Dredge and Fill Permit, Wetlands File No. 2010-00764
Presiding Officer: Ryan Crosbie
Status: A hearing is scheduled for July 26, 2011 at 9 a.m. The hearing date was established by 3/30/11 PHO. Notice does not appear to be an issue.

Docket No. 10-23 WtC – Charles and Patricia Sem

Subject: Administrative Order No. 10-033 WD dated September 21, 2010
Presiding Officer: Ryan Crosbie
Status: A PHC has been set for July 20, 2011 at 9 a.m. Notice thereof must issue. A letter will be sent to the appellants to fulfill the requirements for appeals before the PHC.

IV. Previously pending cases.

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 (assigned by AGO)
Recused: Larry Morse
Status: The PHO has requested that a PHC be scheduled for July 27, 2011. Notice thereof must issue.

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 appellant said negotiation discussion occurred 6-8 months ago but hasn't heard anything back from the Wetlands Bureau. The appellant has requested another PHC. A PHC will be scheduled for July 20, 2011. Notice thereof must be issued.

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

Subject: 9/12/08 Reconsideration Denial, Wetlands File No. 2002-2087
Presiding Officer: Chip Kimball
Recused: Larry Morse
Status: A PHC scheduled for July 27, 2011. Notice thereof must be issued.

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

Subject: 12/9/08 Administrative Order
Presiding Officer: Larry Morse (assigned by AGO on October 27, 2010)
Status: The appeal has been tentatively withdrawn, by letter dated March 7, 2011, pending completion of a settlement agreement between the parties.

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~~ Chip Kimball (assigned by AGO on October 27, 2010)

Status: The parties filed an Assented-to Motion to Continue the July 12, 2011 hearing. Motion to be ruled upon today. PO granted Assented-to Motion to Continue. A letter is to be sent.

V. Inactive/Status Letter or Pending Settlement/Withdrawal.

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: Report of former clerk: Appellant wants a PHC scheduled. Appellant claims to have submitted a second appeal, which was not received by the clerk. Appellant will provide proof that an appeal is received and once it is submitted and forwarded to the Council; if approved, schedule both at the same time for a PHC. A PHC was scheduled for July 27, 2011. Notice there of must issue.

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 July 1, 2010 is complete. Status request letter w/ Sept. 2011 response to issue.

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 July 1, 2010 is complete. Status request letter w/ Sept. 2100 response to issue.

Docket No. 10-05 WtC – Steven and Mary Pruchansky

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

Presiding Officer: Chip Kimball (assigned by AGO on January 26, 2011.)

Status: A PHC was held on February 23, 2011. The permit has been issued and the agent will withdraw the appeal once a settlement agreement is completed.

V. Misc.

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

Councilor Morse to finish.

Peter stated if there is something that needs to be included on this list or corrections please contact him.

Councilor Morse announced he will be resigning the council after the Lake Sunapee deliberations are concluded. He will complete the assignments he has. His replacement has been chosen and his name will be submitted to the Governor's office when he officially resigns.

5. Old Business -

The letter has been sent to the NHACC representative. There has been no word received. Councilor Ray Burton has expressed concern that vacancies on the Council have not been filled.

6. **New Business** - Deliberations held on Porter Trust Appeal and Town of Newbury.

7. **Next Meeting** –

A Hearing on WtC 10-12 Provencal One Family Trust will be held June 28, 2011 at 8 a.m.

Next regular meeting will be Tuesday, July 12, 2011 beginning at 9 a.m. with the Richard and Donna Mills Appeal at 10 a.m.

8. **Adjournment**

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

Meeting adjourned at 9:50 a.m.

