

MINUTES
WETLANDS COUNCIL MEETING
Tuesday, December 14, 2021

The Wetlands Council met on Tuesday, December 14, 2021 at 9:01 a.m., in Room 208C at the NH Department of Environmental Services (NHDES), 29 Hazen Drive, Concord, NH.

Attendees:

Chairman Chip Kimball, Councilors Lee Carbonneau, Deborah Lievens, Richard Mellor, Wendy Weisiger, Gretchen Young, Matthew Bosiak, Seth Prescott, Carol Henderson, Matt Urban; Sarah Richos, Council Clerk; Phil Trowbridge, Manager, LRM, NHDES; Darlene Forst, Administrator, Wetlands Bureau, LRM, NHDES; Mary Ann Tilton, Assistant Administrator, Wetlands Bureau, LRM, NHDES; Pamela Monroe, Legal Unit Administrator, Legal Unit NHDES; Jaime Martinez, Legal Coordinator, Legal Unit, NHDES; Neil Olson, Wetlands Bureau Data Analyst, LRM, NHDES

Absentees:

Councilor Michael Klass

The regular Wetlands Council meeting was called to order at 9:01 a.m. by Chairman Kimball with introductions. Quorum present.

1. **APPROVAL OF MINUTES:** Motion made by Councilor Henderson to approve the November 9, 2021 meeting minutes. Seconded by Councilor Mellor. Motion was amended to correct information in Section I of the November 9, 2021 minutes regarding acceptance of appeals. Docket No. 21-09 was accepted on November 9, 2021, not Docket No. 21-10. Amended motion passed without dissent.
2. **PUBLIC INPUT:** No public input presented before the Council.
3. **STATUS OF APPEALS:** Jaime Martinez, Legal Coordinator, NHDES Legal Unit
 - See attached Status Report on Pending Appeals provided by acting Appeal Clerk Jaime Martinez.
 - Docket No. 21-10 WtC – Wentworth by the Sea County Club Limited Partnership Appeal
12/14/21 Motion made by Councilor Lievens to accept the appeal. Seconded by Councilor Weisiger; Councilor Carbonneau abstained. Motion passed without dissent.
 - Chairman Kimball suggested a letter be sent to all appellants stating the new rules are now in effect.
4. **NEW BUSINESS:**
 - Phil Trowbridge introduced Darlene Forst as the new Administrator for the Wetlands Bureau, LRM, NHDES. Discussion held.
 - Neil Olson, Wetlands Bureau Data Analyst gave a presentation of the National Wetland Inventory Plus. Discussion held.
5. **OLD BUSINESS:**
 - Wetland Council rules approved by JLCAR on November 18, 2021. Motion made by Councilor Mellor to approve and adopt the new rules. Seconded by Councilor Lievens. Motion passed without dissent. Chairman Kimball signed the letter to David Alukonis, Director of Office of Legislative Services, stating the Wetlands Council official adoption of the new Rules, Ec-Wet 100-200 Definitions, Organization, and Public Information; Procedural Rules.
 - Councilor Carol Henderson attended her last Wetlands Council meeting.
6. **NEXT MEETING:** Tuesday, January 11, 2022 at 9:00 a.m.
7. **ADJOURNMENT:** Motion made by Councilor Lievens to adjourn. Seconded by Councilor Henderson. Motion passed without dissent. Meeting adjourned at 10:23 a.m.

To: Wetlands Council
From: Jaime Martinez, Legal Coordinator
Re: Status Report on Pending Appeals
Date: December 14, 2021

I. New Appeals

Docket No. 21-12 WtC - Thomas DiPace, Appeal

12/06/21 Received Notice of Appeal
12/06/21 Issued Receipt of Appeal Letter
12/07/21 Issued Insufficient Appeal Letter

Docket No. 21-11 WtC – Todd and Tanya McIntire, Appeal

11/19/21 Received Notice of Appeal
12/02/21 Issued Receipt of Appeal Letter
12/03/21 Rcvd. Appearance of Philip Hastings for Lake Ave. Realty
12/03/21 Rcvd. Motion for Summary Dismissal
12/13/21 Rcvd. Receipt of Appearance (McIntire)
12/13/21 Rcvd. Response to Motion for Summary Dismissal

Docket No. 21-10 WtC – Wentworth by the Sea Country Club Limited Partnership, Appeal

10/22/21 Received Notice of Appeal
10/22/21 Rcvd. Appearance of John Cronin (Cronin, Bisson, and Zalinsky, P.C.)
10/25/21 Issued Receipt of Appeal Letter
10/26/21 Issued an Updated Receipt of Appeal Letter
10/28/21 Received Letter Designating Zachary Towle as Hearing Officer

12/14/21 Council Member Lee Carbonneau, NH Association of Natural Resources Scientists recused herself from this Appeal; Council accepted the Appeal; Acting Appeals Clerk will issue Appeal Acceptance letter.

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

III. Hearings or PHCs Pending

Docket No. 21-07 WtC – David Birchenough and Darrelle Lang Appeal

Subject: 2/19/21 Administrative Order No. 21-004 WD
Hearing Officer: 5/11/21 Requested Hearing Officer be appointed.
Status: 3/22/21 rec'd Notice of Appeal. 3/23/21 issued Insufficient Appeal letter. 3/24/21 rec'd Revised Notice of Appeal. 3/29/21 issued Receipt of Revised Appeal letter. Council to accept or decline appeal today, May 11, 2021. 5/11/21 issued Appeal Accepted letter. 5/12/21 rec'd Appearance of Jason Reimers for the Appellant's. 6/22/21 rec'd Appearance of Kerry Barnsley for the department. 8/26/21 Letter received (dated 8/23) from AGO designating Zachary Towle as Hearing Officer.

11/29/21 Issued Notice of Prehearing Conference (scheduled for 01/11/22)

Docket No. 21-09 WtC – Margot L. Thompson and Edward P. Thompson Appeal

9/17/21 Received Notice of Appeal
9/20/21 Issued Receipt of Appeal Letter
9/29/21 Received Letter (dated 09/28) from AGO designating Zachary Towle as Hearing Officer

11/12/21 Issued Appeal Accepted Letter
11/18/21 Rcvd. Appearance of Christopher Aslin
11/19/21 Rcvd. Revised and Corrected Appearance of Christopher Aslin
11/29/21 Issued Notice of Pre-Hearing Conference (scheduled for Jan. 18)

IV. Inactive/Status Letter or Pending Settlement/Withdrawal

Docket No. 19-02 WtC – Timothy & Jean Pineau and Jean Pineau, Trustee Appeal

Subject: 12/19/18 Amendment to Administrative Order No. 18-020 WD

Hearing Officer: David Conley (appointed by AG 2/14/19)

Status: 1/11/19 rec'd Appearance from Regina Nadeau and Petition for Appeal. 1/15/19 issued receipt of appeal letter. Council to accept or dismiss appeal at today's meeting (2/12/19). 2/19/19 issued Appeal Accepted letter. 2/25/19 issued Notice of Pre-hearing Conference scheduled for 3/18/19 at 10 a.m. 2/26/19 rec'd Appearance from Jason Reimers. 3/1/19 rec'd Appearance from Christopher Aslin. 3/11/19 rec'd Petition to Intervene. 3/18/19 issued Pre-hearing Order granting Motion to Intervene and scheduling a second Pre-hearing Conference for May 8, 2019 at 8 a.m. 4/12/19 issued Notice of Rescheduled Pre-hearing Conference to June 11, 2019 at 8:00 a.m. 6/11/19 issued 2nd Pre-hearing Order staying appeal pending resolution of quiet title and ordering Appellant to file status update by Dec. 16, 2019. 12/16/19 rec'd Status update. 12/17/19 issued letter requesting another Status Update by Feb. 14, 2020. 2/13/20 rec'd Status Update. 11/12/20 issued Request for Status Report. 11/19/20 rec'd Status Report from Appellants. 6/10/21 issued Request for Status Update. 6/29/21 rec'd Status Update. 8/26/21 Letter received (dated 8/23) from AGO designating Zachary Towle as Hearing Officer.

Nothing new to report

12/14/21 Wetlands Council requested an update from the Appellant.

Docket No. 19-04 WtC (PNA) – Sagamore Landing Association and David and Margaret Witham Appeal

Subject: 02/25/19 Approval of Wetlands Permit #2018-03677 issued to Joan and Jon Dickinson

Hearing Officer: David Conley (appointed by AG 6/14/19)

Status: 5/10/19 rec'd Petition for Appeal, Appearance for Lynn Preston and Appearance for Bryanna Devonshire. 5/13/19 issued receipt of appeal letter. 5/16/19 rec'd Appearance of John-Mark Turner for the appellants. 5/17/19 rec'd Appellant's Updated Service List. 6/7/19 rec'd Appearances from Attorney John Bosen and Bernard Pelech for the permittee. Council to accept or decline appeal today (6/11/19). 6/13/19 issued Appeal Accepted letter. 6/20/19 issued Notice of Pre-hearing Conference scheduled for July 24th at 9 a.m. 7/3/19 rec'd appellant's Request for Information. 7/24/19 issued Pre-hearing Order staying the appeal. 9/24/19 rec'd Joint Status Report. 9/26/19 issued letter ordering parties to submit an updated status report by Nov. 22, 2019. 11/22/19 rec'd Joint Status Report. 11/25/19 issued letter re Joint Status Report and ordering an updated Status Report be filed by Feb. 20, 2020. 2/21/20 rec'd Appellants' Status Report. 2/28/20 issued Letter re Appellants' Status Report and order an updated Status Report be filed by Aug. 19, 2020. 3/10/20 rec'd Appearance of Mary Ann Tilton. 8/18/20 rec'd Joint Status Report. 6/10/21 issued Request for Status Update. 6/11/21 rec'd Appellants' Status Report. 6/24/21 rec'd Permittee's Status Report. 8/26/21 Letter received (dated 8/23) from AGO designating Zachary Towle as Hearing Officer.

Nothing new to report

12/14/21 Wetlands Council requested an update from the Appellant.

V. Misc.

07/29/2021—Docket No. 20-08 WtC, Appeal of Robert Newcomb & a., Order received from the N.H. Supreme Court, requesting copy of certified record to be submitted on or before September 27, 2021.

09/27/2021 Delivered the Certified Record to the N.H. Supreme Court.

Docket No. 21-06 WtC – Clinton and Cynthia Johnson Appeal

Subject: 2/9/21 Approval of Wetlands Permit Application, File Number 2020-01023 issued to Parker Realty Trust

Hearing Officer: Not assigned

Status: 3/9/21 rec'd Notice of Appeal. 3/11/21 issued Insufficient Appeal letter. 3/25/21 rec'd Revised Notice of Appeal. 3/29/21 issued Receipt of Revised Notice of Appeal. 4/2/21 rec'd Motion to Intervene. Council to accept or decline appeal today, May 11, 2021. Appeal still appears to be insufficient; Env-WtC 203.01 (e), send complete copy to each person listed on the copy list of the permit. 5/11/21 issued Ruling denying Acceptance of Appeal. 5/19/21 rec'd Motion to Reconsider. 5/25/21 issued Ruling Provisionally Granting the Motion to Intervene. 6/2/21 rec'd Request Denial of Motion to Reconsider. 6/4/21 rec'd Objection to Motion to Intervene.

6/16/21 issued Final Ruling on Motion to Intervene and Ruling denying Motion to Reconsider.

7/16/21 Appeal by Petition under RSA 541:6 and N.H. Sup. Ct R. 10 filed with NH Supreme Court

9/14/21-Received Notice from the Supreme Court that the Motion to Dismiss was Denied and the Appeal was Accepted.

10/04/21-Received N.H. Supreme Court Order for Case No. 2021-0313, Appeal of Clinton Johnson & a., requesting a copy of certified record to be submitted on or before December 3, 2021

11/18/21 Delivered the Certified Record to the NH Supreme Court