

WETLANDS COUNCIL

MINUTES

August 8, 2006

The Wetlands Council met on Tuesday, August 8, 2006 at the Department of Environmental Services, 29 Hazen Dr., Concord, NH

Attendees: Brian Fowler, Chair; Lawrence E. Morse, Vice-Chairman; Thomas G. Chrisenton; John S. Cobb; William M. Dannehy; Camilla Lockwood; Daniel Lynch; Paul Goodwin; Seth S. Prescott; Jack Rudman; and Thomas Sloan

Michael Sclafani, Council Appeals Clerk
Marie Loskamp, Acting Council Clerk

Absentees: Sharon Champagne
Russ St. Pierre

The meeting was called to order by Chairman Brian Fowler on August 8, 2006 at 9:08 am.

1. **Approval of Minutes of June 13, 2006 Meeting**

A motion was made by Councilor Cobb and seconded by Councilor Prescott to accept the minutes of June 13, 2006 as presented. It was unanimously voted.

2. Chairman Fowler requested that we move Anthony Blenkinsop, Esq. NH DoJ/Attorney General's Office from Item 6 to Item 2.

A motion was made by Councilor Chrisenton and seconded by Councilor Goodwin for an Attorney/Client meeting after declaratory meeting and the vote was unanimous.

All but council members were asked to leave the meeting.

3. **Status of Appeals**

Michael Sclafani, Appeals Clerk, distributed an Appeals Status Report dated August 8, 2006 and reviewed the report with council members.

- Docket No. 02-16 WtC – Donald S. Thompson – WB#2002-01019
This appealed had been stayed for a long time pending action. On June 21, 2006 the appellant withdrew appeal. Appeal is now closed.
- Docket No. 04-21 WtC – Lake Shore Realty Trust – WB#2001-01294
On June 13 the appellant filed an Assented-to Motion to Continue for an additional 90 days. On June 22, 2006 the council issued a Decision and Order to

grant Motion to Continue. No action was needed or taken by the Council and the appeal is stayed until September 22nd.

- Docket No. 05-04 WtC – Philip and Georgette Smith – WB#2000-00914
The appeal hearing is scheduled for September 12, 2006 at 10:00 am. No action was needed or taken by the Council.
- Docket No. 05-24 WtC Evelyn, Geno and Francesca Marconi – WB#2004-02046
On June 22nd the appeal hearing notice was distributed, and the appeal hearing is scheduled for October 10, 2006 at 10:00 am. No action was needed or taken by the Council.
- Docket No. 06-01 WtC Sumac Corp. and Grey Rocks Land Trust – WB#2005-00558
On June 13, 2006 the Council convened the appeal hearing. Following the close of the hearing and after deliberation the Council voted 8 to 1 to deny the appeal. On June 30, 2006 a written Decision and Order to Deny the appeal was issued and the parties had until July 20, 2006 to file for reconsideration. On July 21, 2006 the appellant filed a motion for reconsideration. The motion by Council Rules was not timely filed. The motion was delivered to and signed for by the Department of Health and Human Services Lab at 4:40 pm on July 20th and forwarded to the Council the following morning. On July 21, 2006 the Appellant filed a motion to deem motion for reconsideration timely filed. On July 26, 2006 the applicant filed an objection to the motion for reconsideration as well as an objection to motion to deem the motion for reconsideration timely filed. On July 31, 2006 the appellant filed an affidavit of John Tuttobene. The action needed to be put forth by the council today is to first grant or deny the motion to deem the motion for reconsideration timely filed and then to grant or deny the motion for reconsideration.

A motion was made by Councilor Lockwood to deny the motion to deem motion for reconsideration timely filed pursuant to the council rules seconded by Councilor Sloan, the vote was 10 ayes and 1 nay, motion carried.

A motion was made by Councilor Lockwood to deny the motion for reconsideration due to lack of timely filing, seconded by Councilor Sloan and the vote was unanimous.

- Docket No. 06-02 WtC – Bodanza, et. al. – WB#2002-02483
On June 13 the applicant filed an objection to the motion to adjust the record and to the motion to continue. DES filed an assented-to motion to supplement the record. On July 7, 2006 the council issued a written decision and order to grant the motion to supplement the record. The council also issued a written decision in order to deny the motion to adjust the record and the motion to continue. On July 27th the applicants filed a hearing outline memorandum and on July 28th the appellant filed a hearing outline memorandum. On August 4, 2006 Collis Adams who had appeared on behalf of DES withdrew his appearance and Mary Ann Tilton

filed an appearance replacing Collis Adams. Action needed by the Council today is to hear the appeal which will be convened today once this meeting is over.

- Docket No. 06-03 WtC – Donald & Mary Larson – WB#2005-02387

On June 22nd a rescheduled PHC notice was distributed which was at the appellant's request and scheduled for July 24th. On July 16th the appellant filed an assented-to motion to continue for 60 days. On July 14th the Council issued a decision in order to grant that motion to continue. If necessary the PHC will be scheduled for a later date after September 24, 2006. No action was needed or taken by the Council.

- Docket No. 06-05 WtC – Joseph Winn / Winn Family Trust – WB#2005-02562

- On June 13th at the last Council Meeting the Council voted to accept the appeal. On June 22nd the appeal accepted and PHC scheduled letter was distributed with the PHC scheduled for July 24th. The certified record was due on or before July 7th. On June 26th DES did file the certified record with the Council so it is available for Council's review. On June 30th Mary Ann Tilton filed an appearance on behalf of DES and Attorney Greg Smith filed an appearance on behalf of the applicant. July 24th the PHC was cancelled due to a conflict in the Hearing Officer's schedule and on August 1st a new PHC notice scheduling the PHC for August 22, 2006 was distributed. No action was needed or taken by the Council.

- Docket No. 06-06 WtC – West Alton Marina – WB#2005-00049

On June 13th the Council voted to accept this appeal. On June 22nd an appeal accepted and a PHC scheduled notice was distributed. PHC was scheduled for July 24th. The certified record was due on or before July 7th. On June 26th DES filed certified record with the Council and it is available for review at this time. On July 24th Attorney K. Allen Brooks from the Attorney General's Office filed an appearance on behalf of DES. That same day the PHC was cancelled due to a conflict in the Hearing Officer's Schedule. On August 1st the PHC notice was distributed rescheduling the PHC for August 22nd. No action was needed or taken by the Council.

- Docket No. 06-09 WtC – Christopher and Christine Collins – WB#2005-02857

This is a new appeal that is in your packet. It is a timely filed appeal and was filed by hand on the 29th day. On July 27th a receipt of appeal letter was distributed. In accordance with Env-WtC 204.03 the Council will vote to accept or dismiss the appeal at the September 12th business meeting. No action was needed or taken by the Council.

- Docket No. 06-10 WtC – Ralph and Virginia Sanborn – WB#2006-00325

This is a new appeal that was distributed to each of the Councilors today. It was timely filed on July 27th by hand which is the 30th day. August 1st a receipt of appeal was distributed. In accordance with Env-WtC 204.03 the Council will vote to accept or dismiss the appeal at the September 12th business meeting. No action was needed or taken by the Council.

4. Rules: Revisions to Env-Wt 501.02 and Env-Wt 801 through Env-Wt 807 Wetland Compensatory Mitigation In-lieu Fee Funds.

Lori Sommer of the Wetlands Bureau gave an update on this legislation that was signed by the Governor on June 19th. They are actively working on building rules. Carla McManus was added to the staff to incorporate the whole in-lieu fee process into the existing Chapter 800.

Carla McManus stated the affective date of the Statute was August 18, 2006. Under law they have 3 months to put rules into affect. The schedule is to have the rules to the Council before the next meeting. The Council will have a month to review and submit comments before the October meeting. The plan is to submit the rules to JLCAR in November with the affective date of November 17th which is the deadline. Once interim rules are in place then we will work on formal rules that will take 3 to 8 months to complete. Interim rules are only in affect until May, 2007.

Lori stated that part of the rules involves setting up a site selection committee which is an 8 member committee. One of their charges is to help with putting together selection criteria, how to rank and select projects to be funded by the In-lieu fee fund. They have met once and will meet again in the coming weeks.

5. Old Business

None.

6. Next Meeting

September 12, 2006

7. Adjournment

A motion was made by Councilor Chrisenton, seconded by Councilor Sloan and was unanimously voted to adjourn.

The meeting adjourned at approximately 11:20 a.m.