

MINUTES
WETLANDS COUNCIL MEETING
Tuesday, April 11, 2023

The Wetlands Council met on Tuesday, April 11, 2023 at 9:00 a.m., in Rooms 112, 113, 114 at the NH Department of Environmental Services (NHDES), 29 Hazen Drive, Concord, NH.

Attendees:

Chairman Chip Kimball, Councilors Sandra Crystall, Richard Mellor, Gretchen Young, Lee Carbonneau, Kenneth Rhodes, Matthew Bosiak, Seth Prescott, Jennifer Gilbert, Michael Dionne, Matt Urban; Pamela Monroe, Administrator, Legal Unit, NHDES; Philip Trowbridge, Manager, Land Resources Management (LRM), NHDES; Darlene Forst, Administrator, Wetlands Bureau, NHDES; Mary Ann Tilton, Assistant Administrator, Wetlands Bureau, NHDES; Courtney Lockwood, Esquire, Attorney for LRM, NHDES.

Absentees: None

The regular Wetlands Council meeting was called to order at 9:00 a.m. by Chairman Kimball with introductions. Quorum present. Introduction of new Council member Sandra Crystall.

1. **APPROVAL OF MINUTES:** Motion made by Councilor Urban to approve the February 14, 2023 meeting minutes. Seconded by Councilor Mellor. Motion passed without dissent.
2. **PUBLIC INPUT:** No public input presented before the Council.
3. **STATUS OF APPEALS:**
 - Pamela Monroe, Administrator, Legal Unit, NHDES. Discussion held.
4. **NEW BUSINESS:**
 - Darlene Forst, Administrator, Wetlands Bureau, NHDES; Courtney Lockwood, Esquire, LRM, NHDES
 - Presentation of draft changes to Wetlands Rules Env Wt 300, Env Wt 500, and Env Wt 600. Discussion held. Comments of Council members noted by presenters.
 - HB 2 Legislation
 - Changes to Environmental Council Appeals Process
 - Changes to NHDES organization
 - Elimination of Professional Registration - licenses
 - Additional legislative concerns, if any
Discussion held.
5. **OLD BUSINESS:** No old business presented before the Council.
6. **NEXT MEETING:** Tuesday, May 9, 2023, commencing at 9:00 a.m.
7. **ADJOURNMENT:** Motion made by Councilor Urban to adjourn. Seconded by Councilor Prescott. Motion passed without dissent. Meeting adjourned at 10:39 a.m.

To: Wetlands Council
From: Pamela Monroe, Legal Unit Administrator (*Acting Appeals Clerk*)
Date: April 10, 2023
Re: Appeals Status Report

I. New Appeals

1. Docket No. 23-02 WtC Bedard

Subject: 03/10/2023 Approval of Dredge and Fill Permit 2022-02848

Hearing Officer: Zachary Towle (appointed by AG 04/04/23)

Status:

03/29/23 – Bedard Letter

03/29/23 – NHDES Response to Bedard Letter

04/02/23 – Appeal Bedard

04/02/23 – Bedard Email Requesting Waiver of Rules

04/04/23 – Appointment of Hearing Officer

II. Cases Pending

2. Docket No. 20-08 WtC – Robert and Carolyn Newcomb Appeal

Subject: 4/14/20 Administrative Order No. 2020-009 WD

Remand from NH Supreme Court (08-05-22)

Hearing Officer: Zachary Towle (assigned 08-12-22)

Status:

Hearing to be Scheduled in June 2023 (per the Pre-Hearing Order)- Need to firm up dates for June 13 and 14, adjudicative hearing and book the rooms.

3. 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

Remand from the NH Supreme Court (09-29-22)

Hearing Officer: Zachary Towle (assigned 10-25-22)

Status:

03-09-23 - Order to Clarify Issued

03-20-23 - Appellants' Position Regarding Application of Rules

03-21-23 - Notice of DES' Position Regarding Applicable Rules

Appellants required to file a Supplement to the Notice of Appeal by April 10, 2023

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

Subject: Administrative Order No. 2021-012 WD, issued on 09/20/21

Hearing Officer: Zachary Towle (assigned 09-28-21)

Status:

Stay of Consideration of the Appellants' Motion for Reconsideration Continued to April 15, 2023.

Hearing Continued to May 9, 2023, or until such time as the Wetlands Council can assemble a quorum.

Requested that the Parties advise on the status of the appeal

5. Docket No. 22-10 WtC – Port City Air Leasing, Inc.

Subject: 06/16/22 Approval of Wetlands Permit Application, File Number 2021-03615 issued to Pease Aviation Partners, LLC/Million Air Portsmouth

Hearing Officer: Zachary Towle (assigned 8-23-21)

Status:

01-30-23 – Order Issued Granting Intervenor's Motion for Summary Dismissal

Awaiting H/O ruling

03-01-23 - PCA Motion for Reconsideration and Rehearing

03-07-23 - Intervenor Objection to Motion for Reconsideration.

Order on Motion for Rehearing Pending

6. Docket No. 22-18 WtC – Jenny Lang

Subject: Appeal the Issuance of Permit 2022-02905

Hearing Officer: Zachary Towle (assigned 01-09-23)

Status:

02-09-23 - Order of Dismissal Issued

02-22-23 - Supplemental Notice of Appeal Filed

03-24-23 - Joint Motion to Stay Appeal Filed

Order on Joint Motion to Stay Pending

7. Docket No. 22-19 WtC – 111 Bow St. Condo Assoc.

Subject: Appeal the Issuance of Permit 2021-2150

Hearing Officer: Zachary Towle (assigned 11-30-22)

Status:

02-09-23 – Order of Dismissal Issued

03-20-23 - Reply to Objection to Supplemental Filing

03-20-23 - Motion to Strike and Motion for Order Voiding all Orders

03-21-23 - Intervenor's Opposition to the Motion to Strike

03-21-23 - Reply to Objection to Motion to Strike

03-22-23 - K. Allen Brooks Appearance

8. Docket No. 22-20 WtC – Martha G. Stolzer and Martha G. Stolzer Revocable Trust

Subject: Appeal the issuance of Permit 2022-00118

Hearing Officer: Zachary Towle (assigned 1-18-23)

Status:

01-13-23 - Petition for Appeal Filed

01-13-23 - Appearance of Courtney Herz

02-27-23 - Appearance of Aslin

9. Docket No. 22-21 WtC – Pamela S. Hall and Pamela S. Hall Revocable Trust

Subject: Appeal the issuance of Permit 2022-00118

Hearing Officer: Zachary Towle (assigned 1-18-23)

Status:

01-13-23 - Petition for Appeal Filed

04-04-23 - Appearance Aslin

04-04-23 – Richardson Appearance

04-04-23 – Petition to Intervene filed by 393 New Castle Ave.

10. Docket No. 22-23 WtC City of Laconia

Subject: Appeal of the Issuance of Permit 2022-00636

Hearing Officer: Zachary Towle (assigned 02-10-23)

Status:

03-10-23 – Notice of Pre-Hearing Conference

03-27-23 – Intervenor’s Motion for Summary Dismissal

03-29-23 – Appearance of Joseph Driscoll

04-05-23 – Joint Stay of Appeal

04-06-23 - Order Issued Granting Assented-To Petition to Intervene and Joint Motion to Stay Appeal is stayed until Sept. 1, 2023

IV. Misc.

11. Docket No. 19-04 WtC – 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: Zachary Towle (assigned 08-23-21)

Status:

01-20-23 - Order Issued Granting the Joint Motion to Stay-Appeal Stayed until Further Notice

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

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

12-14-21 H.O Update: Appeal suspended until resolution of proceeding in Belknap County Superior Court

03-09-23 Acting Appeals Clerk Update-The trial has been completed and an Order was issued by the Court. A Motion for Clarification of the Order was subsequently filed and is pending before the Court.

V. Closed

13. Docket No. 22-17 WtC – James Contois

Subject: Appeal the issuance of Permit 2021-0251

Hearing Officer: Zachary Towle (assigned 11-30-22)

Status:

02-07-23 – Order of Dismissal Issued

03-17-23 - Permittee Objection to Motion for Reconsideration

03-21-23 - Order Denying Appellant's Motion for Reconsideration

14. Docket No. 22-03 WtC – Rye Conservation Commission, Appeal

Subject: Appeal the issuance of Permit 2018-01767 (requesting to modify the permit)

Hearing Officer: Zachary Towle (assigned 01-31-22)

Status:

03-21-23 -Order Issued Denying Appellant's Motion for Rehearing