

## WATER COUNCIL MEETING

Dept. of Environmental Services  
29 Hazen Dr., Concord, N.H.

March 11, 2009  
9:00 a.m.

**Members present:** Vice Chairman Christie, Councilors Barnard, Butler, Czysz, Densberger, Dupee, Harrington, Henderson, Lyons, Phillips, Rawnsley

**Members absent:** Chairman Bridges, Councilors Barrett, Cowan, Rastallis, and Varotsis

Vice Chairman Christie called the meeting to order at 9:03 a.m. New Council member Bruce Barnard was introduced representing the Granite State Designers and Installers.

### 1. Approval of Minutes of January 14, 2009 Meeting

***A motion was made by Councilor Densberger to accept the minutes of January 14, 2009, second by Councilor Butler. The Council unanimously voted to approve this motion with 2 abstentions.***

### 2. Status of Appeals

Amy Samson, Appeals Clerk, presented an update on a number of appeals and requested Council action on several, as noted below.

#### I. Cases awaiting Council action.

Docket Number: 04-05 WC  
Appellant: Freudenburg-NOK General Partnership  
Subject of Appeal: AO WD 04-001  
Presiding Officer: Ray Cowan  
Status: Attorney Lazo requested an indefinite stay. At the October 8, 2008 Council meeting, the Council requested to allow the Stay until February '09.

***Councilor Densberger made a motion to continue to table this until the April meeting, second by Councilor Rawnsley. Motion passed unanimously.***

Docket Number: 08-27 WC  
Appellant: Moody Point Company  
Subject of Appeal: May 19, 2008 Administrative Order No. 08-027 WD  
Presiding Officer: Nancy Christie  
Status:

June 18, 2008, Notice of Appeal Received.

September 24, 2008, A Joint Motion to Continue and Stay the Administrative Order was received.

October 17, 2008, Moody Point Community Association filed a Petition to Intervene.

October 22, 2008, Moody Point Company filed an Objection to Petition to Intervene of Moody Point Community Association.

October 30, 2008, A Reply to Objection of Moody Point Company to Petition to Intervene was received by Moody Point Community Association.

December 10, 2008, Council voted to accept the *Joint Motion to Continue and Stay the Administrative Order* until its February meeting.

March 4, 2009, Atty. Mulholland requested a hearing being scheduled.

March 9, 2009, Atty. Gardner filed a Petition to Intervene.

***Motion made by Councilor Densberger to grant the Motion to Intervene by the Moody Point Community Association, second by Councilor Butler. Discussion held. Motion denied on a vote of 1 aye and 9 nays.***

***Motion made by Councilor Rawnsley to accept both Petitions to Intervene with the stipulation that the interveners combine their presentations according to RSA 541-A 32 to speed and ease the proceedings, seconded by Councilor Barnard. Motion passed unanimously.***

Docket Number: 08-61 WC  
Appellant: Norman and Patricia Bureau  
Subject of Appeal: November 4, 2008 Administrative Order No. 08-044 WD  
Alteration of Terrain at 5 Christopher Road & 6 Steep Street in Merrimack  
Presiding Officer: Joel Harrington  
Status: December 3, 2008, Notice of Appeal Received (Insufficient).  
January 12, 2009, Appellant submitted a sufficient appeal.

***Motion made by Councilor Densberger to accept the appeal, seconded by Councilor Henderson. Motion passed unanimously.***

Vice Chairman Christie recused herself from the following appeal. Councilor Densberger sits as Chair.

Docket Number: 09-05 WC  
Appellant: No. Country Alliance for Balanced Choices (Dalton Valley Drag) Appeal  
Subject of Appeal: December 12, 2008 Alteration of Terrain Permit WPS 8289 for Dalton Valley Drag  
Presiding Officer: Christopher Rawnsley  
Status: January 15, 2009, Notice of Appeal Received.

***Motion made by Councilor Butler to accept the appeal, seconded by Councilor Rawnsley. Motion passed unanimously with 2 abstentions by Councilors.***

*Note to Council: North Country Alliance for Balanced Choices (North Country ABC) changed their name to North Country Alliance for Balanced Change (will still be North Country ABC). The appellant's representative will be sending a letter to the Council informing them of the change.*

## **II. Previously pending cases.**

Docket Number: 04-18 WC  
Appellant: Thaddeus Dymon  
Subject of Appeal: Denial of a Request for Waiver of Env-Ws 386.56(h)(12), (14), (18)  
Presiding Officer: Ray Cowan

Status: See status below for background information. A PHC is scheduled for April 30, 2009 at 10:00 a.m.

Docket Number: 04-19 WC

Appellant: Town of Newport

Subject of Appeal: Denial of a Request for Waiver of Env-Ws 386.56(h)(12), (14), (18)

Presiding Officer: Ray Cowan

Status: A PHC was scheduled for November 21, 2008 at 10:00 a.m. However, Mr. Dymon was unable to attend. Atty. Fulton (representing Town of Newport) explained they're still waiting to hear from Superior Court with regards to paying Mr. Dymon damages for the property that was taken by the Town. Superior Court has not scheduled the hearing as of January 14, 2009 and Atty. Fulton is hoping it is scheduled soon. A PHC is scheduled for April 30, 2009 at 10:00 a.m.

Docket Number: 07-11 WC

Appellant: William and Melissa Brouck

Subject of Appeal: AO WD 07-005

Presiding Officer: James Vartosis

Status: Atty. Brooks will file a *Motion to Summarily Dismiss*. Once received, a copy will be distributed to the Council to review at the next meeting.

Docket Number: 08-29 WC

Appellant: Silver Lake

Subject of Appeal: Notice of Determination of Natural Mean High Water Mark Evaluation dated 5/29/08

Presiding Officer: Stephen Densberger

Status: PHC scheduled for 4/23/09 @ 1:00 p.m.

Docket Number: 08-30 WC

Appellant: David Hoyt d/b/a Al Hoyt & Sons, Inc.

Subject of Appeal: June 2, 2008 Alteration of Terrain Permit Application No. 040809-02

Presiding Officer: James Varotsis

Status: A hearing is scheduled for April 8, 2009 at 10:00 a.m.

Docket Number: 08-54 WC

Appellant: Loretta Simonds

Subject of Appeal: August 8, 2008 Decision on Request for Reconsideration

Presiding Officer: Christopher Rawnsley

Status: A hearing is scheduled for May 13, 2009 at 10:00 a.m.

Docket Number: 08-57 & 08-59 WC

Appellant: Eric W. Waleryszak, Brian T. and Adela J. Griset Appeal

Subject of Appeal: Notice and Decision on the Determination of Lake Level issued by DES on September 29, 2008.

Presiding Officer: Christopher Rawnsley

Status: A PHC is scheduled for April 20, 2009 at 9:00 a.m.

### **3. Rules**

Readopt with Amendment Env-Wq 1306.01 – Amy Smagula presented the 4 rule amendments proposed.

***Councilor Rawnsley made a motion to readopt the amendments as presented, Councilor Densberger seconded the motion. Motion passed with a majority vote, 9 to 1.***

Interim Amendments to Env-Wq 500 (Clean Water SRF) - Gretchen Hamel reviewed the amendments made for the anticipated stimulus package. The proposed rules are the initial changes that would 1) readopt the interim rules as a regular rules 2) readopt some interim rules with minor amendments for clarity 3) revisions to clarify inclusion of 319 and 320 projects.

***Councilor Rawnsley moved to table the rules with the amendments until the April meeting, second by Councilor Butler. Motion failed.***

***Councilor Barnard made a motion to accept the interim rules with amendments as presented, second by Councilor Densberger. Motion carried with a 7 ayes and 4 nays.***

### **4. Presentation**

Harry Stewart, Director, gave an overview of how the Department of Environmental Services is handling the stimulus package.

Paul Susca, Drinking Water Ground Water Bureau, gave an update on the state water plan process, developed by the Water Resources Committee. They have developed a reference document concerning the water resources in the state – *The New Hampshire Water Resources Primer*.

### **5. Legislative Update** – Harry Stewart

Director Stewart gave an over view of the water related bills that being watched by the Water Division.

### **6. Other Business**

Vice Chairman Christie had the Councilors introduce themselves for the new council member. She also noted that Joel Harrington was named among the “40 Under 40 Award”.

Councilor Butler also noted that George Neill of the Wastewater Bureau will be retiring in June and wanted to wish him the best of luck.

### **7. Next Meeting**

The next meeting is scheduled for April 8, 2009.

### **8. Adjournment**

***A motion was made by Councilor Densberger to adjourn. The motion was seconded by Councilor Butler and unanimously approved.***

***Meeting was adjourned at 10:10 AM.***