

WATER COUNCIL MEETING

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

September 9, 2009
9:00 a.m.

Members present: Vice Chairman Christie, Councilors Butler, Cowan, Czysz, Dupee, Harrington, Henderson, Lyons, Rastallis, and Varotsis

Members absent: Chairman Bridges, Councilors Barnard, Barrett, Densberger, Phillips, and Rawnsley

Vice Chairman Christie called the meeting to order at 9:02 a.m.

- ***Councilor Varotsis made a motion to go into Executive Session, second by Councilor Butler. Motion passed unanimously.***

9:15 A.M. Non meeting with counsel ended and the council took no action during the meeting with counsel.

1. Approval of Minutes of July 8, 2009 Meeting

- ***A motion was made by Councilor Varotsis to accept the minutes of July 8, 2009, second by Councilor Cowan. The Council unanimously voted to approve this motion, with Councilor Dupee abstaining from the vote.***

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. New appeals.

None at this time.

II. Previously pending cases.

Docket No. 04-05 WC - Freudenburg-NOK General Partnership

RE: AO WD 04-001

Presiding Officer: Ray Cowan

Status: Need to reschedule PHC.

Docket No. 04-18 WC - Thaddeus Dymon

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

Presiding Officer: Ray Cowan

Status: Need to reschedule PHC.

Docket No. 04-19 WC - Town of Newport

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

Presiding Officer: Ray Cowan

Status: Need to reschedule PHC.

Docket No. 08-27 WC - Moody Point Company

RE: 5/19/08 Administrative Order No. 08-027 WD

Presiding Officer: Nancy Christie

Status: Need to reschedule PHC.

Docket No. 08-29 WC - Silver Lake

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

Presiding Officer: Stephen Densberger

Status: A hearing was scheduled for today. A Motion to Continue was filed by Atty. Donahue on 8/25/09, which Councilor Densberger granted. The hearing has been rescheduled for 2/10/10. Time TBA.

Docket No. 08-54 WC - Loretta Simonds

RE: 8/8/08 Decision on Request for Reconsideration

Presiding Officer: Christopher Rawnsley

Status: A PHC was held on 6/29/09. A hearing is scheduled for 10/14/09 at 10 a.m.

Docket Nos. 08-57 & 08-59 WC - Eric W. Waleryszak, Brian T. and Adela J. Griset Appeal

RE: Notice and Decision on the Determination of Lake Level issued by DES on 9/29/08

Presiding Officer: Christopher Rawnsley

Status: A PHC was held on 6/29/09. On 8/11/09, Motion to Dismiss Under Env-WC 203.02 for Failure to Provide Clear & Concise Statement of Relief Sought and Motion to Dismiss for Lack of Standing Under Rule Env-WC 203.02(A)(6) filed by Atty. Licata. On 8/13/09, Motion to Amend Appeal of Notice of Decision on Determination of Lake Level 9/29/08 filed by Mr. Griset. On 8/21/09, Objection to Motion to Dismiss for Lack of Standing was filed by Mr. Griset. On 8/31/09, a Reply to State's Objection to Appellant Griset's Motion to Amend Appeal on Notice of Decision on Determination was filed by Mr. Griset. A hearing is currently scheduled for 12/9/09 at 10 a.m.

Action: Council will need to grant/deny the Motion to Dismiss filed by Atty. Licata. Council will need to grant/deny Motion to Amend the Appeal of Notice of Decision on Determination of Lake Level 9/29/09 filed by Mr. Griset.

- ***Councilor Varotsis made a motion to table until the Hearing Officer is present at the next meeting to accept or deny the motions, second by Councilor Henderson. Motion passed unanimously with Councilor Cowan abstaining.***

Docket No. 08-61 WC - Norman and Patricia Bureau

RE: 11/4/08 Administrative Order No. 08-044 WD - Alteration of Terrain at 5 Christopher Road & 6 Steep St., in Merrimack

Presiding Officer: Joel Harrington

Status: A PHC was held on 6/29/09. A hearing is scheduled for today at 10:00 a.m.

Vice Chair Christie recused herself at this time and Councilor Butler took the chair.

Docket No. 09-05 WC - North Country Alliance for Balanced Change (Dalton Valley Drag)

RE: 12/12/08 Alteration of Terrain Permit WPS 8289 for Dalton Valley Drag

Presiding Officer: Christopher Rawnsley

Status: A PHC was held on 7/28/09 at 9:00 a.m. The hearing has been scheduled for 1/13/10. Time TBA.

Councilors Henderson, Lyons, and Christie recused themselves from the following appeal.

Docket No. 09-24 WC – Lake Sunapee Protective Association

RE: 4/16/09 Alteration of Terrain Permit WPS-8382

Presiding Officer: Stephen Densberger

Status: On 7/28/09, Motion to Set Hearing Date and Witness List filed by Atty. Mulholland.

On 8/11/09, Appearance filed by Atty. Roth on behalf of DES. On 8/20/09, Partially Assented-To Petition to Intervene filed by Atty. Mayer. On 8/3/09, LSPA's Objection to the New Hampshire Fish and Game Department's Motion to Set Hearing Date and Witness List filed by Atty. Smith (please see attached).

Action: Grant/Deny Motion to Set Hearing Date and Witness List filed by Atty. Mulholland.

Grant/Deny Partially Assented-To Petition to Intervene filed by Atty. Mayer.

- ***Councilor Cowan made a motion to table these motions until the presiding officer is present, second by Councilor Varotsis. Discussion. After discussion, Councilors Cowan and Varotsis withdrew their motion.***
- ***Councilor Harrington made a motion to grant Partially Assented-To Petition to Intervene, second by Councilor Cowan. Motion passed unanimously.***
- ***Councilor Cowan made a motion to table setting the hearing date until the next meeting or when the presiding officer is present, second by Councilor Varotsis. Motion passed unanimously.***

Vice Chairman Christie again takes the chair.

Docket No. 09-14 WC - Andrew and Karen Goldstein

RE: 3/17/09 Administrative Order No. 09-006 WD

Presiding Officer: Mike Butler

Status: A PHC is scheduled for 9/29/09 at 2 p.m.

Docket No. 09-26 WC – Town of Gilford Conservation Commission

RE: 5/19/09 Approval of Alteration of Terrain Permit WPS-8399

Presiding Officer: Not Assigned.

Status: Appeal received on 6/10/09. Council denied the appeal on 7/8/09. On 8/7/09, Motion for Reconsideration was filed insufficiently (Appellant did not file the correct number of copies). Should be complete by the next meeting.

Docket No. 09-27 WC – Homes for a Life Time, LLC

RE: 5/28/09 Denial of Alteration of Terrain Permit Application No. 081231025

Presiding Officer: Jim Varotsis

Status: Appeal received on 6/25/09 and accepted at the July 2009 meeting. Need to schedule PHC.

Docket No. 09-28 WC – Granite Meadows

RE: 5/22/09 Denial of Alteration of Terrain Permit Application No. 081224-11

Status: Appeal received on 6/22/09. Appeal received insufficiently. A letter was sent to the appellant on 7/1/09. A sufficient appeal has not been filed. Now off the council's docket.

3. **Env- Dw 1200 - Privately Owned Redistribution Systems Rules**

Bob Mann and Holly Green, Drinking Water Ground Water Bureau

Initial proposed rules were reviewed, questions answered, and approval vote will be asked for in October.

4. **Env – Dw 715 Disinfectant/Disinfection By-Products Rules**

Bob Mann and Holly Green, Drinking Water Ground Water Bureau

Proposed rules had been sent out to the Council. Discussion was held.

- ***Councilor Lyons made a motion to accept the amendment to these rules, second by Councilor Butler. Motion passed unanimously.***

Env – Dw 716 Filtration, Disinfection, and Waste Recycling Rules

Bob Mann and Holly Green, Drinking Water Ground Water Bureau

Proposed rules had been sent out to the Council. Discussion was held. The Council requested that they be notified when these go to public hearing.

- ***Councilor Czyz made a motion to adopt the amendment to these rules, second by Councilor Butler. Motion passed unanimously.***

5. **Env – Dw 800 Public Notification by Public Water Systems Rule**

Postponed until the October meeting.

6. **Env – Dw 1002 Amendments to Water Supply Land Protection Grants**

Holly Green, Drinking Water Ground Water Bureau

RSA 486-A was amended and the proposed amendments make the necessary legislative changes. Decision will be made at October meeting.

7. **Other Business** - Councilors agreed that Pre-Hearing Conferences be worked through more quickly. Amy was asked to meet with the Council's attorney for counsel.

8. **Next Meeting**

Next meeting is October 14, 2009.

NOTE: There will be no meeting in November.

9. **Adjournment**

- ***Councilor Varotsis made a motion to adjourn, second by Councilor Harrington. Motion passed unanimously.***

Meeting was adjourned at 10:17 a.m.