

WATER COUNCIL MEETING

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

December 14, 2011
9:00 a.m.

Members present: Chairman Gilbert, Councilors Butler, Densberger, Hinds, Gosse, Hoyt, Lyons, Rastallis, Rawnsley, and Varotsis

Members absent: Councilor Henderson

Chairman Gilbert called the meeting to order at 9:00 a.m.

1. Approval of Minutes of November 9, 2011 Meeting

- ***Motion made by Councilor Varotsis to approve the minutes, second by Councilor Lyons. Motion passed unanimously. Councilor Gosse abstained.***

2. Status of Appeals

Appeals Clerk, Paula Scott, presented an update on the following appeals:

I. New Appeals

II. Decision and Orders that need to be written, finalized and issued.

III. Hearings or PHCs Pending

Docket No. 07-19 WC – Presby Environmental, Inc.

Re: 7/18/07 Innovative-Alternative Technology Approval, No. 2007-01-0eci/11.

Presiding Officer: David Conley, Esq. assigned by AG on 11/16/11

Status: Decision and Order on Notice of Appeal was issued on 9/28/11. Oct. 27, 11 received Motion for Rehearing and/or Reconsideration of Sept. 28, 2011 Dismissal Order. Council to act on Motion. Council granted a rehearing and schedule it for Jan. 11, 2012 at 9:30 a.m., notice sent Nov. 10, 2011.

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: Hearing is schedule for December 14, 2011 at 10 a.m. per the PHO. Decision on Pending Motions was issued August 1, 2011. September 15, 2011 received Assented-To Motion to Enlarge Time to file written stipulations. Decision on Motion to Enlarge Time was issued on October 25, 2011 and mailed on October 26, 2011. November 28, 2011 is the deadline for filing written stipulations. Nov. 29, 2011 received DES' Witness and Exhibit List and the Exhibits. Dec. 2, 11 received DES' amended Exhibit and Exhibit List and also received Assented-to Motion for Late Entry and Appellant's Witness and Exhibit List and the Exhibits. Hearing is today.

- ***Council Rawnsley made a motion that the Council grant the Assented-to Motion for Late Entry, Appellant's Witness and Exhibit List, second by Councilor Hinds. Motion passed unanimously.***

Docket No. 10-25 WC – Robert Van Dyke and Van Dyke Construction, Inc.

RE: October 25, 2010 Administrative Order No. 10-042 WD

Presiding Officer: Steve Densberger (assigned by AGO).

Recused: Deborah Hinds

Status: A PHC was held on October 26, 2011, appellant will withdraw appeal once finalized settlement agreement is complete. Nov. 18, 2011 received Settlement Agreement from DES. Nov. 23, 2011 received Withdrawal of Appeal from appellant's attorney.

Docket No. 11-08 WC David Riley, et al.

Re: Lake Waukegan Final Operating Level

Presiding Officer: Christopher Rawnsley (confirmed by AGO).

Recused: Carol Henderson

Status: Hearing scheduled for February 8, 2012 at 9 a.m. per PHO, notice given on September 14, 2011. Received 8 Petitions to Intervene for 13 people on September 14, 2011. September 19, 2011 received Partial Objection to 8 Petitions to Intervene. PO issued decision on 23 Petitions to Intervene. Council to act on 8 Petitions to Intervene and Partial Objection. PO to issue decision on Petitions to Intervene. Nov. 16, 2011 received Assented-to Motion for a Continuance. Decision for 8 Petitioners to Intervene and decision on Motion for Continuance were issued on Nov. 28, 2011. New Hearing date is April 11, 2012 at 9 a.m., notice given in Decision dated Nov. 28, 2011.

IV. Inactive/Status Letter or Pending Settlement/Withdrawal**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: Received status report from appellant on 8/4/11. Received status report from DES on 8/10/11. PO issued Order on Request to Continue Stay on 10/7/11. The Stay is in effect until at least 30 days after NHDES has rendered a final decision on Alteration of Terrain Permit Application AoT 110809-097.

Docket No. 11-05 WC – Town of Hooksett and Hooksett Sewer Commission

RE: 3/21/11 Administrative Order, Administrative Order No. 11-010 WD

Presiding Officer: Not Assigned

Recused: Christopher Rawnsley

Status: On May 11, 2011 the Council voted unanimously to accept appeal. No action required until requested by the parties. Sent Status request October 18, 2011, asking for a response by Nov. 9, 2011. Received status from the Town of Hooksett on Nov. 9, 2011. Both the Town and DES request that the Council continue to delay taking action on the Notice of Appeal.

FYI**Docket No.07-17 WC Ross Realty Trust and Tippee Canoe Campground**

Re; 07-17-07 Administrative Order No. 07-024 WD

Presiding Officer:

Status: Appeal received 8/15/07. At Sept. 12, 2007 meeting Council denies the request for hearing. No record of that denial ever being issued. According to the DES Program, the AO has been released and the work done. There is a question about this appeal as to whether was withdrawn when they appealed to the Wetlands Council. Appeals clerk is trying to make

contact with appellant's attorney for more information. The attorney for Ross Realty was contacted and the clerk was informed that he is no longer the appellant's attorney but would make contact with them to review and get back to the clerk.

3. Other Business

Chairman Gilbert

Water Sustainability Commission – met yesterday and heard from speakers regarding climate change and watershed science with a great deal of discussion. There will have to be adaptability built into the strategic framework as the rates of climate change are unsure. There needs to be more input as to what questions need to be asked, to focus research on the most critical decisions to be made. There is also a need to create a better flow/channel of information. We are already seeing climate change occurring and there will be more large events.

November Council Chairs Meeting – met with the Commissioner Burack working on standardizing rules of administrative procedure so there is one set of rules for all councils to make work more organized. Annual reports were brought up and Chairman Gilbert has begun to work on the Water Council annual report.

The Council Chairs were informed there is now a hearing officer from the Attorney General's office for all the councils. Attorney Dave Conley, here for the Water Council meeting, was introduced and he shared his background.

4. Legislative Update

Director Stewart

The LSRs being tracked are the same as last month. They are now being converted to actual bills which will be reviewed in January. We are tracking about 24-25 bills regarding water.

Director Stewart was called to testify in the Subcommittee on Water and Power for the Senate in Washington D.C. last week regarding water sustainability from a water supply perspective in New Hampshire. He shared what he reported to the committee.

Chairman Gilbert noted HB 1218 has been introduced and is to limit ability to receive money from federal government.

3. Other Business Continued.....

Original Draft Decision of Lake Sunapee along with the final draft was discussed. The goal was to have the Council get a sense of what the target is when writing these orders.

5. Next Meeting

January 11, 2012 at 9 a.m. with a hearing for Presby Environmental at 9:30 a.m.

6. Adjournment

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

Meeting was adjourned at 9:44 a.m.