

## WATER COUNCIL MEETING

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

January 11, 2017  
9:00 a.m.

**Members present:** Councilors: Beurivage, Boisvert, Butler, Clark, Gegas, Hardy, Henderson, Joubert, O'Brien and Tremblay

**Members absent:** Chairman Gilbert, Councilors: Hinds and Rawnsley

Also present was Carolyn Guerdet, Council Clerk and Peter Demas, Legal Unit

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

### **1. Approval of Minutes of the November 9, 2016 Meeting**

- ***Councilor Butler made a motion to approve the November 9, 2016 minutes, second by Councilor Henderson. Motion passed unanimously.***

### **2. Status of Appeals**

Peter Demas, presented an update on the following appeals:

#### **I. New Appeals**

##### **Docket No. 16-19 WC Patricia Rodrigues and John Corduff Appeal**

Re: 8/31/16 approval of after-the-fact Alteration of Terrain Permit No. AoT-1154 issued to Gretchen Fowler, Trustee of the George R. Graves Revocable Trust

Hearing Officer: Has not been assigned

Status: October 3, 2016 received Notice of Appeal. 10/10/16 issued receipt of Appeal letter. Appeal initially appeared to be untimely. Based on information subsequently received, Appeal may be timely. At the November 9, 2016, meeting, Council to decide if Appeal is timely or untimely. If the Council determines that the Appeal was timely filed, it is likely that an Insufficient Appeal letter will have to be sent. A motion was made and passed to consider the Appeal timely filed on November 9, 2016. 11/9/16 issued insufficient Appeal letter. December 9, 2016 received revised Appeal. 12/21/16 issued receipt of revised Appeal letter. Council to accept or decline Appeal at January 11, 2017 meeting.

- ***Councilor Butler made a motion to accept the Appeal, second by Councilor Joubert. Motion passed unanimously.***

##### **Docket No. 16-23 WC – City of Rochester, NH Appeal**

Subject: 12/19/16 Notice of Violation for PWS#2001010

Hearing Officer: Not assigned

Status: December 23, 2016 received Notice of Appeal. January 4, 2017 issued receipt of Appeal letter. Council to determine whether the Appeal is within the Council's jurisdiction.

- ***Councilor Henderson made a motion to table pending a consultation with the Council's attorney on relevance of jurisdiction in this case, second by Councilor Clark. Motion passed unanimously.***

The insufficiency will be handled separately. The clerk's office will send the letter upon the decision of jurisdiction.

Peter Demas will contact Atty. Buonamano to be here at the February meeting.

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

### **Dockets No. 12-01 WC – David Sundman, et al.**

Re: 12/19/11 Alteration of Terrain Permit No. AoT-0353 for Dalton Valley Drag

Hearing Officer: David Conley assigned on 2/9/12

Status: Received appeal that appears to be timely on January 18, 2012. Issued receipt of appeal letter on January 20, 2012. Council accepted the appeal Feb. 8, 2012, notice was issued Feb.9, 2012. (See Sept. 2015 minutes for full list of filings.) September 9, 2015 received Motion to Compel. 9/16/15 received Objection to Motion to Compel. 9/16/15 received Appellants' and State's Witness and Exhibit Lists. 9/17/15 issued order on Motion to Compel. 9/17/15 received Appellant's Assented-To Motion to Compel Responses to Discovery Requests. 9/21/15 received Intervenor's Witness and Exhibit List. 9/24/15 received Request that Assented-To Motion to Compel Responses be taken up at PHC. October 14, 2015 issued Pre-Hearing Order with hearing scheduled for Feb. 10, 2016 at 9 a.m. 10/22/15 received Site Visit Report and Second Amended Notice of Appeal. December 23, 2015 received Appellants' Amended Witness and Exhibit Lists. January 4, 2016 received State's Amended Witness and Exhibit List. February 10<sup>th</sup> and 11<sup>th</sup>, 2016 the Hearing and Deliberations were held. Decision to be issued within 90 days (5/11/16). June 8, 2016 issued Decision and Order remanding Notice of Appeal. July 8, 2016 received State's Motion for Reconsideration. 7/13/16 Council voted to table Motion for Reconsideration until their September meeting. 7/14/16 received Objection to Motion for Reconsideration. September 14, 2016 Council denied Motion for Reconsideration. Hearing Officer to issue decision. October 24, 2016 received withdrawal of counsel of Marcia Brown. November 14, 2016 issued Decision and Order denying State's Motion for Reconsideration. Docket now closed.

## III. Hearings or PHCs Pending

### **Docket No. 16-10 WC (PNA) – Town of Lincoln Appeal**

Re: 5/20/16 Administrative Order No. 16-012 WD

Hearing Officer: David Conley assigned on 7/18/16

Status: June 17, 2016 received Notice of Appeal. 6/20/16 issued receipt of Appeal letter. Council accepted the appeal at their July 13, 2016 meeting. 7/13/16 issued Appeal accepted letter. 7/29/16 received Appearance from Attorney General. December 14, 2016 issued Notice of Pre-Hearing Conference scheduled for January 23, 2017 at 11:30 a.m.

### **Docket No. 16-16 WC Suzanne Fournier, et al. Appeal**

Re: 08/22/16 approval of Alteration of Terrain Permit No. AoT-1149 issued to the Town of Milford

Hearing Officer: Has not been assigned

Recused: Councilor Henderson

Status: September 8, 2016 received Notice of Appeal. October 10, 2016 receipt of Appeal letter. Council accepted the Appeal at their November 9, 2016 meeting. November 9, 2016 issued Appeal accepted letter. December 12, 2016 issued Notice of Pre-hearing Conference scheduled for January 23, 2017 at 10:30 a.m.

## IV. Inactive/Status Letter or Pending Settlement/Withdrawal

### **3. New Business**

a. Review of RMPP Rules, Tracie Sales, Rivers/Lakes Program Manager  
There are currently 18 designated rivers in NH covering approximately 1000 miles of NH rivers. Env-Wq1800 governs the process of nominating rivers into the program. This is a re-adoption with amendments to align rules to RSA 483 changes, clarify definitions, and changes to the point system.

Questions were addressed. The Rules Hearing is this Friday, January 13<sup>th</sup>, at 11:30 a.m. Comment period is open until January 20, 2017.

b. Discussion of Instream Flow Wayne Ives and Ted Diers, Watershed Bureau  
The instream flow program is part of the rivers program. The instream flow program is really about how to make sure we have enough water resources for people and animals. It is looking at how we interact with our river systems in a way that recognizes the dynamic nature of flow. This looks at how little is too little? Also separate normally low from what abnormally low is. Then how to manage, under those conditions, so that there is enough water to go around.

Benefits of instream flow protection. – 1. Protects fish and other aquatic life 2. Provides water for people 3. Levels the playing fields for all users. 4. Integrates management of lakes and rivers. 5. incorporates public outreach 6. Scientific and river-specific.

The pilot project included Lamprey and Souhegan Rivers and Pawtuckaway Lake.

Questions were addressed.

c. Env-Wq1500 Alteration of Terrain Rules Ridgely Mauck, Alteration of Terrain Bureau  
Ridge distributed the Alteration of Terrain Rulemaking Notice that summarizes the amendments and changes and he then reviewed the changes. The Alteration of Terrain Bureau protects surface water quality and ground water quality by regulating significant alteration of terrain. This is for projects that impact 100,000 sq. ft. or more or smaller projects that are in the protected shoreland. The most re-adoption was in 2009. This is basically a re-adoption of existing rules with a few definitions, a few changes and clarification.

Questions were addressed.

d. Legislative Update  
Director Forbes gave an update to the LSRs and Bills now before the legislature that are of interest to the Water Council.

A farewell party for DES Commissioner Tom Burack will be held on Tuesday, January 24<sup>th</sup>, and all are invited.

➤ ***Councilor Beurivage made a motion to send a letter of thanks to Commissioner Burack for his 10 years of service and appreciation for his work over that period of time, second by Councilor Henderson. Motion passed unanimously.***

Councilor Henderson reminded fellow Council members to please fill out the Financial Disclosure and return to the Secretary of State.

### **5. Next Meeting**

February 15, 2017 at 9 a.m. (Correct date is February 8, 2017.)

6. **Adjournment**

- ***Councilor Boisvert made a motion for adjournment, second by Councilor Butler. Motion passed unanimously.***

Meeting adjourned at 11:20 a.m.