

WATER COUNCIL MEETING

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

May 9, 2018
9:00 a.m.

Members present: Chairman Gilbert, Councilors: Boisvert, Butler, Gegas, Hardy, Henderson, O'Brien, Rawnsley and Tremblay

Members absent: Councilors: Beurivage, Clark, and Joubert,

Also present was Carolyn Guerdet, Council Clerk and Paula Scott, Appeals Clerk

Chairman Gilbert called the meeting to order at 9:03 a.m.

1. Approval of Minutes of the April 11, 2018 Meeting

- ***Councilor Tremblay made a motion to accept the April 11, 2018 minutes, second by Councilor Henderson. Motion passed unanimously with Councilor Rawnsley abstaining.***

2. Status of Appeals

I. New Appeals

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

Docket No. 17-14 WC Suzanne Fournier et at. Appeal

Re: 09/18/17 approval of Alteration of Terrain Permit N. AoT-1313 issued to the Town of Milford
Hearing Officer: David Conley, Esq., assigned on 11/16/17

Recused: Carol Henderson

Status: October 18, 2017 received Notice of Appeal. 10/19/17 issued Receipt of Appeal letter. 10/31/17 received Motion to Intervene from Town of Milford. November 7, 2017 received Appearance from Atty. Christopher Aslin for the Department. Council accepted Appeal 11/8/17 and Appeal accepted letter issued. 11/21/17 issued Notice of Pre-hearing Conference scheduled for December 11, 2017 at 1 p.m. 11/27/17 received Assented-To Motion to Continue PHC. 11/29/17 issued letter granting Assented-To Motion to Continue PHC to December 19th at 9 a.m. December 19, 2017 issued Pre-hearing Order scheduling hearing for March 14, 2018 at 9 a.m. The Appeal will possibly take 2 days. Council decided the 2nd day will be April 11th. February 14, 2018 received State's and Appellants' Witness and Exhibit Lists. March 7, 2018 received Appellants' Motion to Amend Their Exhibit List. 3/9/18 received Appellants' Statement to Clarify the Record. March 14, 2018 Hearing was held and continued to April 6, 2018 at 9 a.m. April 5, 2018 received Appearance from Atty. Biron Bedard for the Town of Milford. The Continued Hearing was held on April 6, 2018 with Deliberations scheduled for 4/11/18 at 9 a.m. 4/10/18 received Post-Hearing filings as requested by the Hearing Officer. 4/11/18 deliberations were held. Decision to be issued within 90 days.

III. Hearings or PHCs Pending

Docket No. 17-06 WC – Town of Hampton, NH, North Hampton Water Commission and Town of North Hampton Appeal

Subject: 03/29/17 Administrative Order No. 17-006 WD issued to Wiggin Way home Owners Association AND Aquarion Water Company of NH, Inc.

Hearing Officer: David Conley, Esq., assigned on 5/17/17

Recused member: Councilor Boisvert

Status: April 28, 2017 received Notice of Appeal. May 1, 2017 issued receipt of Appeal letter. Council accepted the appeal at the May 10, 2017 meeting. 5/11/17 issued Appeal accepted letter. 5/16/17 received Assented-To Motion to Consolidate (Docket No. 17-06 WC and Docket No. 17-07 WC). 5/17/17 received Appearance from Atty. Marcia Brown. 5/18/17 received Motion to Intervene. 5/25/17 issued ruling Granting Motion to Consolidate and Motion to Intervene. 5/25/17 issued Notice of Pre-hearing Conference scheduled for June 12, 2017 at 9:30 a.m. 5/29/17 received State's request to Continue Pre-hearing Conference. 6/7/17 issued letter granting request and rescheduling PHC for July 24, 2017 at 9 a.m. 6/13/17 received Request to Continue PHC. 6/15/17 issued letter granting Request to Continue and rescheduling the PHC for Aug. 14, 2017 at 10 a.m. 6/19/17 received Appearance of Attorney Jason Reimers and Assented-To Petition to Intervene. 6/22/17 issued letter granting Petition to Intervene. August 24, 2017 received Parties agreed to Procedural Schedule and Request to Modify PHO. 8/25/17 issued letter granting request. September 8, 2017 received Withdrawal of Appearance from Atty. Christopher Aslin and received Appearance from Atty. Mary Maloney. November 1, 2017 received Assented-to Motion for Extension. 11/8/17 issued ruling granting Assented-To Motion for Extension. December 15, 2017 received State's Motion to Dismiss. January 29, 2018 received Town of North Hampton and North Hampton Water Commission Withdrawal of Appeal. 1/31/18 received Withdrawal of Attorney Stephen Bennett and North Hampton Water Commission's Motion to Reinstate Appeal. February 9, 2018 issued letter granting Motion to Reinstate Appeal regarding North Hampton Water Commission. 2/9/18 received Town of Hampton's Objection to State's Motion to Dismiss. 2/14/18 received Wiggin Way/ Winterberry Home Owners Association's Joinder to State's Motion to Dismiss and received Appearance for Atty. Timothy Harned for the N. Hampton Water Commission and their Objection to State's Motion to Dismiss. 2/28/18 received State's Reply to Town of Hampton's Objection to State's Motion to Dismiss. March 5, 2018 received Surreply in Support of Objection to State's Motion to Dismiss.

Docket No. 18-04 WC – Town of Hampton, NH Appeal

Re: 1/17/18 Administrative Order No. 18-001 WD

Hearing Officer: David Conley, Esq., assigned on 4/10/18

Status: February 16, 2018 received Notice of Appeal. 2/21/18 issued receipt of Appeal letter. March 7, 2018 received Appearance from Atty. Maloney. Council accepted appeal on March 14, 2018. April 5, 2018 issued Appeal accepted letter. 4/13/18 issued Pre-hearing Conference notice for May 21, 2018 at 10 a.m.

IV. Inactive/Status Letter or Pending Settlement/Withdrawal

3. New Business

b. Chairman Gilbert began a discussion of the issued of interaction between DES and NH Fish and Game and the need for clarity of expectations with regard to input to AoT permits for endangered species. Guidance is to be given to Wetlands. There is a need for a standard to minimize impacts vs. no adverse. There seems to be a lack of clarity. Director Forbes noted it has been in discussion with bureau, legal unit and AG office. The intent of the rules is to make a

modification as distributed, Env-Wq 1503.19 Criteria for Issuance of AoT Permits. Conversations with Fish and Game are to be held to move forward.

Get most recent MOA to Council members between Fish and Game and Wetlands Bureau.

a. Env-DW 800 Public Notification by Public Water Systems

Holly Green and Leah McKenna, Drinking Water Ground Water Bureau

Leah noted these are requirements that public drinking water systems must comply with.

Owner/Operator replaced with "O/O" and this replaced 'system' in the rules. Holly gave a handout of clarification changes since the rules were distributed. Change was encouraged by the EPA without having to change it statutorily. No substantive changes, just more clarifying. Questions were addressed from the Council members and discussion was held.

4. Old Business

Director Forbes gave a status on the Legislative activity. Committee of Conferences are being formed now. SB 450 is being tracked along with bills developing standards. Pertinent legislation was discussed.

Chairman Gilbert acknowledged that Director Forbes will be leaving in June and gave his appreciation for his work and help with the Water Council.

5. Next Meeting

The summer schedule was discussed. June and July meetings will be at 9 a.m. The Council will not meet in August.

6. Adjournment

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

Meeting was adjourned at 9:56 a.m.