

WATER COUNCIL MEETING

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

June 12, 2019
8:30 a.m.

Members present: Chairman Gilbert Councilors: Beaurivage, Butler, Gegas, Geisser, Henderson, Joubert, O'Brien, Spaulding, Rawnsley and Tremblay

Members absent: Councilors Boisvert and Hardy

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

Chairman Gilbert called the meeting to order at 8:32 a.m.

1. Approval of Minutes of the April 10, 2019 Meeting

- ***Councilor Tremblay made a motion to accept the April 10, 2019 minutes, second by Councilor Rawnsley. Motion passed unanimously with Councilors Beaurivage and Henderson abstaining.***

2. Status of Appeals

I. New Appeals

Docket No. 19-07 WC – Charles Hildreth and Suzanne Fournier Appeal

Subject: 04/22/19 Approval of AoT-1588 permit issued to Frank Burpee

Hearing Officer: Not assigned

Status: May 21, 2019 received Notice of Appeal. 5/23/19 issued Receipt of Appeal letter. Council to accept or decline appeal today (6/12/19).

- ***Councilor Tremblay made motion to accept the Appeal, second by Councilor O'Brien. Councilor Henderson recused herself. Discussion was held. Motion passed unanimously.***

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

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. 5/16/17 received Assented-To Motion to Consolidate (Docket No. 17-06 WC and Docket No. 17-07 WC). Hearing is scheduled for April 10, 2019 at 9 a.m. January 11, 2019 received Assented-To Motion to Postpone 3rd Pre-hearing Conference. 1/16/19 issued letter granting Assented-To Motion to Postpone 3rd PHC and rescheduled it for February 11, 2019 at 9 a.m. 2/11/19 issued 3rd Pre-Hearing Order. February 13, 2019 received Withdrawal of Atty. Maloney and Appearance of Atty. Aslin. March 21, 2019

received Assented-To Motion to Postpone Deadline for Filing of Witness and Exhibit Lists and Written Motions. #/22/19 issued Ruling granting Assented-To Motion to Postpone Deadline for Filing of Witness and Exhibit Lists and Written Motions. 3/22/19 received Appearance of Heather Neville for the Department. 3/29/19 received DES', Town of Hampton and North Hampton water Commission's Witness and Exhibit Lists and a Motion to Recuse/Disqualify Certain Members of the Water Council. April 1, 2019 received Respondent's Witness and Exhibit Lists and the Town of Hampton's amended Witness list. 4/8/19 received North Hampton Water Commission replacement Witness and Exhibit List. 4/10/19 Hearing was held and continued to May 8th. 4/24/19 received Town of Hampton's Motion to Continue May 8th Hearing Date. 4/24/19 received State's Objection to Town of Hampton's Emergency Motion for Discovery and issued letter continuing Hearing to June 12th at 9 a.m. 4/25/19 issued letter ruling denying Town of Hampton's Emergency Motion for Discovery. 4/26/19 received Department's Renewed Motion to Dismiss North Hampton Water Commission and Wiggin Way/Winterberry Homeowners' Association's Joinder to State's Renewed Motion to Dismiss. 4/30/19 received Joint Objection to Renewed Motion to Dismiss North Hampton Water Commission. May 6, 2019 received Reply to Objection to Renewed Motion to Dismiss and Motion to Strike. 5/7/19 received Reply to Request for Additional Hearing Days. 5/13/19 received Joint Response to State's Reply to Objection to Renewed Motion to Dismiss and Motion to Strike. 5/20/19 issued Decision and Order denying State's Renewed Motion to Dismiss North Hampton Water Commission Appeal. Continued Hearing is this morning at 9 a.m.

Docket No. 18-09 WC Rae-Ann Melacon and Suzanne Fournier Appeal

Re: June 18, 2018 approval of Alteration of Terrain Permit No. AoT-1437 issued to Leighton A. White, Inc.

Hearing Officer: David Conley, Esq., assigned on 9/17/18

Recusals: Councilor Henderson

Status: July 5, 2018 received Notice of Appeal. 7/16/18 issued receipt of Appeal letter. 7/20/18 received Appearance of Biron Bedard and Motion to Intervene. 7/24/18 received Appearance of Christopher Aslin for the department. Council accepted Appeal September 12, 2018. 9/13/18 issued Appeal accepted letter. 9/20/18 issued Notice of Pre-hearing Conference scheduled for October 22, 2018 at 1 p.m. 9/20/18 received Appearance of Attorneys Michael Schowalter and Richard Head for the Appellants. October 2, 2018 received Assented to Motion to Continue Pre-hearing Conference. 10/4/18 issued letter granting Motion to Continue PHC and rescheduling it for November 7th at 9 a.m. November 7, 2018 issued Pre-hearing Order scheduling hearing for May 8, 2019 at 9 a.m. April 5, 2019 received Permittee's Witness and Exhibit List. 4/8/19 received State and Appellants' Witness and Exhibit Lists. 4/12/19 issued Notice of Rescheduled Hearing from May 8th to August 14, 2019 at 9 a.m. 4/19/19 rec'd State's Assented-To Motion to Extend Motions Deadlines. 4/24/19 issued letter ruling granting Assented-To Motion to Extend Motions Deadlines. 4/24/19 received Motion to Continue Hearing. 4/30/19 issued ruling granting Motion to Continue Hearing. Hearing is rescheduled to September 11, 2019 at 9 a.m.

IV. Inactive/Status Letter or Pending Settlement/Withdrawal

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. May 21, 2018 received agreement to Hold in Abeyance and issued Pre-hearing Order. September 17, 2018 received Status Report. February 13, 2019 received Withdrawal of Atty. Maloney and Appearance of Atty. Brooks for the department.

3. New Business

Director O'Donovan and Assistant Director Pelletier shared legislative update. Budget was discussed. Money has been added to the DES budget in regards to the audit findings to resolve issues. Water Division had 40 bills which were reviewed.

Director O'Donovan noted an effort has been made to help private wells with the arsenic contamination. Through the WIC program filtered water pitchers will be distributed. The goal is to get pregnant women off the arsenic contaminated water.

4. Old Business

Recent decision by the Supreme Court reversed the Town of Lincoln decision made by the Council.

5. Next Meeting

July 10, 2019 with the hearing to continue if necessary.

6. Adjournment

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

Meeting was adjourned at 9:01 a.m.

WATER COUNCIL

HEARING MINUTES

June 12, 2019

The Water Council met for the Continued Hearing of
Docket No. 17-06 WC – Town of Hampton, NH, North Hampton Water Commission and Town of North Hampton
Appeal

Wednesday, June 12, 2019 in Rooms 112, 113, & 114
at the Department of Environmental Services, 29 Hazen Drive, Concord, NH

Attendees: Chairman John Gilbert, Councilors: Mike Butler, Bill Gegas, Richard Geisser, Dave Joubert, Tom O'Brien, Chris Rawnsley, Gary Spaulding and Michele Tremblay

Also present was: Paula Scott, Appeals Clerk

The Hearing was called to order by Hearings Officer David Conley at 9:20 a.m.

The Hearing adjourned at 4:30 p.m.

Continued the Hearing to July 15, 2019 at 8:30 a.m. at the Department of Environmental Services, 29 Hazen Drive, Concord, NH in Rooms 110, 111 & 112.

