

WETLANDS COUNCIL

MINUTES

October 14, 2008

The Wetlands Council met on Tuesday, October 14, 2008 in room 112 at the Department of Environmental Services, 29 Hazen Drive, Concord, NH

Attendees: Chairman Lawrence E. Morse, Vice Chair John S. Cobb, Carol Henderson, Chip Kimball, Dennis Lydon, Thomas Sloan, Dari Sassan, Russ St. Pierre and David Thompson

Absentees: Sharon Champagne, Paul Dionne, and Seth Prescott

Also present were: Amy Samson, Council Appeals Clerk, and Carolyn Guerdet, Council Clerk.

The meeting was called to order by Chairman Morse at 9:30 with a quorum present. The new representative from Fish and Game, Carol Henderson, was introduced.

1. Approval of Minutes of September 9, 2008 Council Meeting

A motion was made by Councilor Cobb to accept the September 9, 2008 minutes as printed, second by Councilor Kimball. Motion was passed unanimously.

Councilors Sloan and Lydon join the meeting.

2. Wetlands Bureau Update

Collis Adams, Wetlands Bureau Administrator, reported that even with the current economic situation that the bureau is very busy. Many applications are requesting expedited reviews. Application numbers are down by a third, with the decreases being notifications and smaller projects.

Staffing Vacancies:

Secretary, waiver will need to be requested

Environmentalist II, interviews are just being completed.

2 Shoreland Positions: Env III, Shoreland Compliance and Env III Shoreland Permitting

The fee account is stable.

The Composite Annual Wetlands Report was mailed out with the packets. Questions will be addressed at the next meeting. It was decided that the quarterly reports prepared for the Legislature will be distributed to the Wetlands Council.

Stream Crossing work group has finished their work and is in the process of reviewing all the comments received. It will probably be a month at least before starting the formal rule making

process and begin the public hearings. They are also looking at stream mitigation rules now. This will probably require some legislation changes.

Chairman Morse reported the Shoreland Rules were signed by him on September 16th and final rule making has been filed. The public hearing date has not been set.

3. Review of Council Rules

Chairman Morse stated that they have been filed in the final rulemaking process. A public hearing is scheduled for these rules at the next Wetlands Council meeting on October 28, 2008.

4. Status Report -

Amy Samson, Council Clerk, reviewed the following:

New appeals to accept or deny:

- Docket No. 08-52 WtC Michael & Karen Miles: WB#2008-00037
Appeal timely received on August 26, 2008.

Motion to accept the appeal made by Councilor Kimball, second by Councilor Sloan. Motion passed unanimously.

Councilor Thompson presiding as Hearing Officer.

- Docket No. 08-53 WtC Vintage Trust c/o Enthusiasts, Inc.: WB#2006-01506
Appeal timely received on September 5, 2008.

Motion to accept the appeal made by Councilor Sloan, second by Councilor Lydon. Motion passed unanimously.

Councilor Lydon presiding as Hearing Officer.

Cases awaiting Council action:

- Docket No. 07-02 WtC – Town of Barrington: WB#2004-02817
The Decision has been finalized and was sent out Sept 8, 2008. A Motion for Rehearing was filed by Garrison Place Real Estate Investment Trust and DES. Chairman Morse recused himself from this appeal. The meeting was turned over to Councilor Sloan.

Councilor Kimball made a motion to table the motion, second by Councilor Lydon. Motion passed unanimously with Chairman Morse recused from vote.

The motion is tabled until the October 28, 2008 meeting for further objections to the motions to be filed, rule 205.1(d).

Meeting is then returned to Chairman Morse.

- Docket No. 07-10 WtC – Renate Ranniger WB #2004-01185
Council has denied the appeal. Decision was issued on September 4, 2008.

Councilor Cobb made a motion to deny the Reconsideration, second by Councilor Kimball. Discussion. Councilor Cobb, in agreement with Councilor Kimball, withdrew the motion.

Councilor Kimball made a motion to deny the Reconsideration, second by Councilor Thompson. Discussion. Motion passed with 6 yes, 1 no and 1 abstention.

Appeals transferred from the Water Council to the Wetlands Council. PHCs scheduled:

- Docket No. 08-33 WtC (Formerly Docket No. 08-06 WC) Marlene & Jerry Schultz Appeal
A PHC will be scheduled for November 21, 2008 at 8 AM with Councilor Thompson presiding as Hearing Officer.
- Docket No. 08-34 WtC (Formerly Docket No. 08-15 WC) Ronald E. Gocht Appeal
A PHC will be scheduled for November 4, 2008 at 8 AM with Chairman Morse presiding as Hearing Officer.
- Docket No. 08-35 WtC (Formerly Docket No. 08-19 WC) Frank Faticanti Appeal
A Pre-Hearing Conference has been scheduled for November 8, 2008 at 8 AM. Presiding Officer is Chip Kimball.
- Docket No. 08-36 WtC (Formerly Docket No. 08-21 WC) Susan A. Youseff Appeal
A Pre-Hearing Conference has been scheduled for November 3, 2008 at 9:30 AM. Presiding Officer is Chip Kimball.
- Docket No. 08-37 WtC (Formerly Docket No. 08-25 WC) Kenneth R. Ivester Appeal
A Pre-Hearing Conference has been scheduled for November 3, 2008 at 11 AM. Presiding Officer is Chip Kimball.

Decisions that need to be written/finalized and issued:

- Docket No. 04-21 WtC – Lake Shore Realty & Trust c/o Robert E. Gayner WB #2001-01294
The Decision is to Attorney Blenkinsop for review.
- Docket No. 06-12 WtC – Bodanza et al Appeal WB #2002-02483
The Decision is to Attorney Blenkinsop for review.
- Docket No. 07-09 WtC – Derry Conservation Commission WB #2006-00773
Attorney Blenkinsop is finalizing for the Council.
- Docket No. 07-23 WtC – Steve Bragg: WB #2006-01494
A Pre-Hearing Conference needs to be scheduled.
- Docket No. 07-24 WtC – Town of Holderness Conservation Commission WB #2006-02635
Decision has been drafted.
- Docket No. 08-02 WtC – William D. Hughes Appeal: WB #2007-01174
Attorney Blenkinsop is working on finalizing the Decision.

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- Docket No. 08-05 WtC – Rick Belanger Appeal: WB #2007-01624
Attorney Blenkinsop is working on finalizing the Decision.
- Docket No. 08-12 WtC – Bill K. Lau Appeal: WB #2007-00398
Council has dismissed the appeal. Decision has been drafted and will be forwarded to Chairman Morse for review.
- Docket No. 08-38 WtC – Pickman & Sons Development Co. Appeal WB #2007-01160
The appeal was denied on August 12, 2008 as it was not timely filed.

Hearings or Pre-Hearing Conferences scheduled:

- Docket No. 06-11 WtC – Dennis Proulx : WB #2006-00769
Pre-Hearing Conference scheduled for November 4, 2008 at 9:30 AM. Presiding Officer is Chairman Morse.
- Docket No. 06-16 WtC – Shane Forest: WB #1999-01294
A Pre-Hearing Conference is scheduled for November 4, 2008 at 11 AM with Chairman Morse presiding as Hearing Officer.
- Docket No. 07-06 WtC – Patricia Woolson: WB #2006-02796
A Hearing has been scheduled for October 28, 2008 at 10 AM. Presiding Officer is Chairman Morse.
- Docket No. 07-07 WtC – Wendy McCarthy: WB #2006-02581
Pre-Hearing Conference to be scheduled . Presiding Officer is Chairman Morse.
- Docket No. 07-27 WtC – Robert Bourgeois: WB # 2007-00473
Pre-Hearing Conference scheduled for November 4, 2008 at 1 PM. Presiding Officer is Chairman Morse.
- Docket No. 07-28 WtC – Concord Country Club: WB #2005-00474
A Pre-Hearing Conference is scheduled for November 4, 2008 at 2:30 PM with Chairman Morse presiding as Hearing Officer.
- Docket No. 07-30 WtC – Thomas & Kellie Greer Appeal: WB #2006-00460
Pre-Hearing Conference needs to be rescheduled. Presiding Officer is Councilor Lydon.
- Docket No. 08-01 WtC – Town of Newington Conservation Commission: WB #2007-0829-01
Pre-Hearing Conference needs to be scheduled. Presiding Officer is Chairman Morse.
- Docket No. 08-03 WtC – David Johnson-Johnqis Realty LLC Appeal: WB #2006-00700
Pre-Hearing Conference needs to be scheduled. Presiding Officer is Councilor Lydon.
- Docket No. 08-04 WtC – Porter Trust Appeal: WB #2006-02705
Pre-Hearing Conference is scheduled for November 3, 2008 at 1 PM. Presiding Officer is Councilor Kimball

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- Docket No. 08-07 WtC – Joseph and Rose Marino Appeal: WB #2007-00926
Pre-Hearing Conference needs to be rescheduled. Presiding Officer is Chairman Morse.
- Docket No. 08-09 WtC – John Goode, et al Appeal: WB #2007-00933
Pre-Hearing Conference needs to be rescheduled. Presiding Officer is Councilor Lydon.
- Docket No. 08-13 WtC – Jeffrey Costura Appeal: WB #2007-01416
Pre-Hearing Conference need to be rescheduled. Presiding Officer is Councilor Lydon.
- Docket No. 08-16 WtC Jumanna Stark Appeal WB #2007-00473
Pre-Hearing Conference needs to be rescheduled. Presiding Officer is Councilor Lydon.
- Docket No. 08-24 WtC – 127 Water Street Realty Inc. WB #2007-01794
Pre-Hearing Conference is scheduled for November 3, 2008 at 2:30 PM. Presiding Officer is Councilor Kimball
- Docket No. 08-28 WtC – James and Kim Gever Appeal WB #2008-00035
Pre-Hearing Conference is scheduled for November 21, 2008 at 9:30 AM. Presiding Officer is Councilor Thompson.
- Docket No. 08-31 WtC – Michele Walker Appeal WB #2007-02435
Pre-Hearing Conference is scheduled for November 21, 2008 at 11 AM. Presiding Officer is Councilor Thompson.
- Docket No. 08-32 WtC – William J. Wilson Appeal WB #2007-02744
Pre-Hearing Conference is scheduled for November 21, 2008 at 1 PM. Presiding Officer is Councilor Thompson.

No Action Required; previously pending cases.

- Docket No. 07-01 WtC – Robert & Betty Howland: WB #2006-01654
The parties are discussing a possible resolution. Presiding Officer is Chairman Morse.
- Docket No. 07-14 WtC – Courtney Galuzzo: WB #2007-00291
The appellant will be withdrawing the appeal. with Chairman Morse presiding as Hearing Officer.

5. **Meeting with Commissioner Burack**

Commissioner Tom Burack shared the new Strategic Plan for DES that has been developed and the Wetlands Program Improvement Initiative. Vince Perelli, Prevention Planning & Assistance Unit, and Rene Pelletier, Assistant Director Water Division, also joined the commissioner for the presentation. This new plan will is for 2008-2012. There was then a question and answer time and sharing of ideas.

6. **Other Business**

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7. **Old Business**

Chairman Morse will ask Attorney Blenkinsop to attend the next meeting to address the issue of the rule changes.

8. **Next Meeting** - October 28, 2008 with Public Hearing of the Rules. There will probably be no meeting in November.

9. **Adjournment** -

Councilor Sloan made a motion to adjourn, second by Councilor Lydon. Motion was passed unanimously.

Meeting was adjourned at 12:15 PM.