

MINUTES
WETLANDS COUNCIL MEETING
Tuesday, March 10, 2020

The Wetlands Council met on Tuesday, March 10, 2020 in Rooms 112, 113 and 114 at the NH Department of Environmental Services, 29 Hazen Drive, Concord, NH.

Attendees:

- Chairman Chip Kimball, Councilors Matthew Bosiak, Lee Carbonneau, Carol Henderson, Michael Klass, Deborah Lievens, Richard Mellor, Russ St. Pierre, Seth Prescott, Wendy Weisiger, and Gretchen Young; Sarah Richos, Council Secretary; Paula Scott, Appeals Clerk; Mary Ann Tilton, Assistant Administrator, Wetlands Bureau; Peter Brunette, Esquire; Matthew McConkey

Absentees:

- Councilor Cloutier

The regular Wetlands Council meeting was called to order at 9:00 a.m. by Chairman Kimball with introductions. Quorum present.

1. **APPROVAL OF MINUTES:** Discussion held. Motion made by Councilor Henderson to approve the February 11, 2020 meeting minutes, as revised. Seconded by Councilor Lievens. Motion passed by Council without dissent.
2. **PUBLIC INPUT:** No public input presented before the Council.
3. **STATUS OF APPEALS:** Paula Scott, Appeals Clerk

I. NEW APPEALS

- **DOCKET NO. 19-18 WtC (PNA) – KREISLER FAMILY II, LLC APPEAL**

Subject: September 6, 2019 Approval of Wetlands permit #2017-03657 issued to David Brewster
Hearing Officer: Not assigned

Status: 11/13/19 received Notice of Appeal. 12/2/19 issued Insufficient Appeal letter. 12/23/19 received Revised Notice of Appeal. 12/24/19 issued Receipt of Revised Appeal letter. 1/17/20 received Appearance of Stephan Nix for the permittee. 2/11/20 Council to accept or decline appeal today. 2/11/20 issued Appeal Accepted letter. 2/13/20 received appearance of Lisa Wade and Maureen Smith for the appellant. 2/21/20 issued Notice of Pre-hearing Conference scheduled for 3/17/20 at 10:00 a.m. 3/2/20 received Assented to Motion to Continue Pre-hearing Conference. 3/5/20 issued letter granting Assented to Motion to Continue PHC and rescheduling it to **April 2, 2020 at 9:00 a.m. in Room 110.**

- **DOCKET NO. 19-19 WtC (PNA) – KREISLER FAMILY II, LLC APPEAL**

Subject: September 6, 2019 Approval of Wetlands permit #2017-03659 issued to David Brewster
Hearing Officer: Not assigned

Status: 11/13/19 received Notice of Appeal. 12/2/19 issued Insufficient Appeal letter. 12/23/19 received Revised Notice of Appeal. 12/24/19 issued Receipt of Revised Appeal letter. 1/17/20 received Appearance of Stephan Nix for the permittee. 2/11/20 Council to accept or decline appeal. 2/11/20 issued Appeal Accepted letter. 2/13/20 received appearance of Lisa Wade and Maureen

Smith for the appellant. 2/21/20 issued Notice of Pre-hearing Conference scheduled for 3/17/20 at 10:00 a.m. 3/2/20 received Assented to Motion to Continue Pre-hearing Conference. 3/5/20 issued letter granting **Assented to Motion to Continue PHC and rescheduling it to April 2, 2020 at 9:00 a.m. in Room 110.**

- **DOCKET NO. 20-01 WtC – RYE CONSERVATION COMMISSION APPEAL**

Subject: December 10, 2019 Approval of Wetlands Permit #2019-03146 issued to Marc Grondahl, Trustee

Hearing Officer: 2/11/20 requested hearing office be assigned. 2/20/20 David Conley appointed by AG.

Status: 1/8/20 received Notice of Appeal. 1/10/20 issued Receipt of Appeal letter. 1/28/20 received Appearance of Timothy Phoenix for the permittee and a Motion for Summary Dismissal. 2/11/20 Council to accept or decline appeal. 2/12/20 issued Ruling on Acceptance of Appeal and Motion to Summarily Dismiss. 2/20/20 issued Notice of **Pre-hearing Conference scheduled for March 17, 2020 at 9:00 a.m. in Room 110.**

- **DOCKET NO. 19-23 WtC – WILLIAM DENLEY APPEAL**

Subject: November 25, 2019 Denial of Shoreland Permit Application, File No. 2019-03502

Hearing Officer:

Status: 12/23/19 received Notice of Appeal. 12/27/19 issued Insufficient Appeal letter. 1/24/20 received Revised Petition for Appeal. 1/29/20 issued receipt of Revised Appeal. 3/10/20 Council to accept or decline appeal.

II. DECISIONS TO BE WRITTEN. FINALIZED. ISSUED.

None.

III. HEARINGS OR PHCs PENDING

- **DOCKET NO. 19-10 WtC – FAY'S BOAT YARD, INC. APPEAL**

Subject: May 24, 2019 denial of Permit by Notification, File No. 2019-1444

Hearing Officer: 9/23/19 David Conley appointed by AG.

Status: 6/24/19 received Notice of Appeal. 6/25/19 issued Insufficient Appeal letter. 7/16/19 received Amended Petition for Appeal. 7/17/19 issued Receipt of Amended Appeal letter. 7/23/19 issued Corrected Receipt of Appeal letter. 9/10/19 Council voted to accept Appeal. 9/10/19 Appeal Accepted letter. 9/23/19 Received Appearance of Joshua Harrison. 9/27/19 Pre-Hearing conference scheduled for 10/21/19 at 10:00 a.m. 10/21/19 Pre-Hearing Order scheduled hearing for 12/10/19 at 9:00 a.m. 11/12/19 received Joint Motion to Extend Dates in Procedural Schedule and for the Hearing. 11/19/19 issued ruling granting Joint Motion to Extend Dates in Procedural Schedule and for the Hearing. Scheduling hearing for 4/14/20 at 9:00 a.m. 2/13/20 received Second Joint Motion to Extend Dates in Procedural Schedule and the Hearing. 2/18/20 issued ruling granting Second Joint Motion to Extend Dates in Procedural Schedule and the Hearing. **Hearing scheduled for June 2, 2020 at 9:00 a.m.**

IV. INACTIVE/STATUS LETTER OR PENDING SETTLEMENT/WITHDRAWAL

- **DOCKET NO. 19-02 WtC – TIMOTHY & JEAN PINEAU AND JEAN PINEAU, TRUSTEE APPEAL**

Subject: December 19, 2018 Amendment to Administrative Order No. 18-020 WD

Hearing Officer: 2/11/19 David Conley was appointed by AG.

Status: 1/11/19 Received Appearance from Regina Nadeau and Petition for Appeal. 1/15/19 issued receipt of Appeal letter. 2/12/19 Council to accept or dismiss Appeal. 2/12/19 Council voted to accept Appeal. 2/19/19 issued Appeal accepted letter. 2/25/19 issued Notice of Pre-Hearing Conference scheduled for 3/18/19 at 10:00 a.m. 2/26/19 received Appearance from Atty. Reimers. 3/1/19 received Appearance from Atty. Aslin. 3/11/19 received Petition to Intervene. 3/18/19 issued Pre-Hearing Order granting Motion to Intervene and scheduling a second Pre-Hearing Conference for 5/8/19 at 8:00 a.m. 4/12/19 issued Notice of Rescheduled Pre-Hearing Conference for 6/11/19 at 8:00 a.m. 6/11/19 issued second Pre-Hearing Order Staying Appeal pending resolution of quiet title and ordering appellant to file status update by 12/16/19. 12/16/2019 Received status update. 12/17/19 issued letter requesting another Status Update by 2/14/20. 2/13/20 received Status Update.

- **DOCKET NO. 19-04 WtC (PNA) – SAGAMORE LANDING ASSOCIATION AND DAVID AND MARGARETE WITHAM APPEAL**

Subject: February 25, 2019 Approval of Wetlands Permit #2018-03677 issued to Joan and Jon Dickinson

Hearing Officer: 6/14/19 David Conley was appointed by AG.

Status: 5/10/19 received Petition for Appeal, Appearance for Lynn Preston and Appearance for Bryanna Devonshire. 5/13/19 issued receipt of Appeal Letter. 5/16/19 received Appearance of John-Mark Turner for the appellants. 5/17/19 received appellant's Updated Service List. 6/7/19 received Appearances from Attys. John Bosen and Bernard Pelech for the permittee. 6/11/19 Council voted to accept Appeal. 6/13/19 issued Appeal Accepted letter. 6/20/19 issued Notice of Pre-Hearing Conference scheduled for 7/24/19 at 9:00 a.m. 7/3/19 received appellant's Request for Information. 7/24/19 issued Pre-Hearing Order Staying the Appeal. 9/24/19 received Joint Status Report. 9/26/19 letter ordering parties to submit updated status report by 11/22/19. 11/22/19 received Joint Status Report. 11/25/19 issued letter re: Joint Status Report and ordering updated Status Report be filed by 2/20/20. 2/21/20 received appellants' Status Report. 2/28/20 issued Letter regarding appellants' Status Report and order an updated Status Report be filed by 8/19/20.

V. MISCELLANEOUS

No items before the Council.

4. NEW BUSINESS:

- **Paula Scott, Appeals Clerk:** Introduced Peter Brunette, Esquire, Legal Coordinator of the NHDES Office of the Commissioner's Legal Unit. Mr. Brunette replaces Peter Demas, Esquire, former Legal Coordinator. Attorney Brunette will be the contact person for the Wetlands Council in Ms. Scott's absence. Discussion held.
- **Mary Ann Tilton, Assistant Administrator, Wetlands Bureau:** Wetlands Bureau update. Handout of final proposal of emergency rule making concerning wetland delineations are not required for shoreline construction projects. Discussion held. Wetlands Bureau Permit by Notice process and conservation commission approval thereof. Discussion held.

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5. **ONGOING BUSINESS:** Wetlands Council Rules. Council working group held meeting in February. Progress made on Council Rules. Discussion held. Council working group to hold second meeting immediately following Wetlands Council meeting. NHDES Wetlands Rules. Discussion held.

6. **NEXT MEETING:** April 14, 2020 at 9:00 a.m.

8. **ADJOURNMENT:** Motion made by Councilor Lievens to adjourn. Seconded by Councilor Carbonneau. Motion passed by Council without dissent. Meeting adjourned at 9:45 a.m.