

MINUTES
WETLANDS COUNCIL MEETING
Tuesday, August 11, 2020

The Wetlands Council met on Tuesday, August 11, 2020, at 9:30 a.m. via Zoom.

Attendees:

- Chairman Chip Kimball, Councilors Matthew Bosiak, Jeff Cloutier, Lee Carbonneau, Carol Henderson, Michael Klass, Deborah Lievens, Richard Mellor, Seth Prescott, Matt Urban, and Wendy Weisiger; Sarah Richos, Council Secretary; Paula Scott, Appeals Clerk; Rene Pelletier, Assistant Director, Water Division, NH Department of Environmental Services; Mary Ann Tilton, Assistant Administrator, Wetlands Bureau, NH Department of Environmental Services; Jeffrey Blecharczyk, Compliance Supervisor, Wetlands Bureau, NH Department of Environmental Services; Carol Newcomb, member of the public

Absentees:

- Councilor Gretchen Young

The regular Wetlands Council meeting was called to order at 9:30 a.m. by Chairman Kimball with introductions. Quorum present. Chairman Kimball read the Governor's Emergency Order. Chairman Kimball introduce Matt Urban as a new Council member. Councilor Urban represents the NH Department of Transportation. Former member of the Council, Russell St. Pierre, retired.

1. **APPROVAL OF MINUTES:** Discussion held. Motion made by Councilor Lievens to approve the June 9, 2020 meeting minutes. Seconded by Councilor Henderson. Councilors Bosiak, Cloutier and Klass abstained. Motion passed 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. 20-08 WtC – ROBERT AND CAROLYN NEWCOMB APPEAL**

Subject: April 14, 2020 Administrative Order No. 2020-009 WD

Hearing Officer: Not assigned

Status: 5/13/20 received PNA and Notice of Appeal. 5/14/20 received Department Response to PNA. 5/15/20 issued Insufficient Appeal letter. 5/27/20 issued Receipt of Revised Appeal. 8/11/20 Council to accept or decline appeal. 8/11/20 Motion made by Councilor Henderson to accept appeal. Seconded by Councilor Mellor. Motion passed without dissent.

II. DECISIONS TO BE WRITTEN, FINALIZED, ISSUED.

- **DOCKET NO. 17-16 WtC – CORR**

Subject:

Hearing Officer: Not assigned

Status: May, 2020, the Supreme Court made a ruling to issue a remand order and vacate the administrative order. Discussion held to issue remand order, as edited by attorney. Motion made by Councilor Lievens to issue remand order. Second by Councilor Mellor. Motion passed without dissent.

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: David Conley appointed by AG on 9/23/19.

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 6/9/20 at 9:00 a.m. 3/24/20 received Parties’ Third Joint Motion to Extend Dates in Procedural Schedule and the Hearing. 3/26/20 issued letter granting Parties Third Joint Motion to Extend Dates in Procedural Schedule and the Hearing. **The hearing is scheduled for August 11, 2020.** 6/17/20 issued Notice of Structuring conference scheduled for July 21st at 9 a.m. via GoToMeeting platform. 7/13/20 received NHDES’ Witness and Exhibit List. 7/15/20 received Notice of Withdrawal of Appeal. Docket closed.

- **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: David Conley appointed by AG on 2/20/20

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 4/2/20 at 9:00 a.m. in Room 110. 3/10/20 received Appearance of Mary Ann Tilton. 3/23/20 issued Notice of PHC being postponed due to Covid-19. 5/27/20 issued Notice of Pre-hearing Teleconference scheduled for 6/24/20 at 10 a.m. 6/26/20 issued 6/24/20 Pre-hearing Order scheduling hearing for October 13th at 9:00 a.m. 7/16/20 received Appellant’s Motion to Dismiss Without Prejudice. 7/21/20 issued letter granting appellant’s Motion.

- **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: David Conley appointed by AG on 2/20/20

WETLANDS COUNCIL MEETING MINUTES

August 11, 2020

PAGE 3 OF 5

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 4/2/20 at 9:00 a.m. in Room 110. 3/10/20 received Appearance of Mary Ann Tilton. 3/23/20 issued Notice of PHC being postponed due to Covid-19. 5/27/20 issued Notice of Pre-hearing Teleconference scheduled for 6/24/20 at 10:00 a.m. 6/26/20 issued 6/24/20 Pre-hearing Order scheduling hearing for October 13th at 9:00 a.m. 7/16/20 received Appellant's Motion to Dismiss Without Prejudice. 7/21/20 issued letter granting appellant's Motion to Dismiss Without Prejudice.

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

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

Hearing Officer: Dave Connelly appointed by AG on 3/17/20

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. 3/11/20 issued Appeal Accept letter. 6/1/20 issued Notice of Pre-hearing Teleconference scheduled for 6/29/20 at 11:00 a.m. 6/30/20 issued 6/29/20 Pre-hearing Order scheduling hearing for November 10th at 9:00 a.m. 7/14/20 received Appearance of Mary Ann Tilton for the Department.

- **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: David Conley appointed by AG on 2/20/20.

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. 3/10/20 received Appearance of Mary Ann Tilton. 3/12/20 received Appearance from Amy Manzelli, Motion to Continue and Objection to Motion to Continue. 3/16/20 issued ruling granting Motion to Continue and rescheduling PHC for 4/2/20 at 10:30 a.m. 3/20/20 received Appearance of Monica Kieser for the permittee. 3/23/20 issued Notice of PHC being postponed due to Covid-19. 6/1/20 issued Notice of Pre-hearing Teleconference scheduled for 6/29/20 at 10:00 a.m. 6/29/20 received Appearance of Kelsey Peterson for the Appellant. 6/30/20 issued 6/29/20 Pre-hearing Order scheduling hearing for September 8, 2020 at 9:00 a.m. 7/21/20 issued Notice of Structuring Teleconference scheduled for August 6, 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: David Conley was appointed by AG on 2/11/19.

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

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. 3/10/20 received Appearance of Mary Ann Tilton.

V. MISCELLANEOUS

No items before the Council.

4. NEW BUSINESS:

- **Mary Ann Tilton, Assistant Administrator, Wetlands Bureau:**
 - Wetlands Bureau update

5. ONGOING BUSINESS:

- Discussion held regarding Docket No. 17-16 WtC - Corr
- Council Rules working group: follow-up discussion held regarding March 10, 2020 meeting. Paula Scott, Council Appeals Clerk to prepare updated draft of Rules for Chairman Kimball's review. Upon Chairman Kimball's review, the Rules will be sent to all council members for their review.

WETLANDS COUNCIL MEETING MINUTES

August 11, 2020

PAGE 5 OF 5

- Discussion held regarding Wetlands Council application for appeal form.
- Discussion held regarding receipt of hearing documents by each Council members.

6. **NEXT MEETING:** September 8, 2020 at 8:00 a.m.

8. **ADJOURNMENT:** Motion made by Councilor Lievens to adjourn. Seconded by Councilor Mellor. Motion passed by Council without dissent. Meeting adjourned at 10:50 a.m.