

**MINUTES**  
**WETLANDS COUNCIL MEETING**  
**Tuesday, November 10, 2020**

The Wetlands Council met on Tuesday, November 10, 2020, at 9:00 a.m. via WebEx.

**Attendees:**

- Chairman Chip Kimball, Councilors Matthew Bosiak, Jeff Cloutier, Lee Carbonneau, Carol Henderson, Michael Klass, Deborah Lievens, Richard Mellor, Seth Prescott, Matt Urban, Wendy Weisiger, and Gretchen Young; Carolyn Guerdet, Council Secretary; Paula Scott, Appeals Clerk; Tom O'Donovan, Director and Rene Pelletier, Assistant Director, Water Division, NH Department of Environmental Services; Mary Ann Tilton, Assistant Administrator, Wetlands Bureau, NH Department of Environmental Services; and Lori Sommer, Wetland Mitigation Coordinator, Wetlands Bureau, NH Department of Environmental Services.

**Absentees:**

- None

The regular Wetlands Council meeting was called to order at 9:00 a.m. by Chairman Kimball with introductions. Quorum present. Chairman Kimball read the Governor's Emergency Order.

1. **APPROVAL OF MINUTES:** Motion made by Councilor Lievens to approve the August 11, 2020 meeting minutes as corrected. Seconded by Councilor Henderson. 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**

**II. DECISIONS TO BE WRITTEN, FINALIZED, ISSUED.**

**III. HEARINGS OR PHCs PENDING**

- **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 10<sup>th</sup> at 9:00 a.m. 7/14/20 received Appearance of Mary Ann Tilton for the Department. 10/28/20 received Appearance of Allen Brooks for DES. 11/2/20 issued Remote Hearing Notice with time change and hearing access information. 11/5/20 received Motion to

Continue. 11/6/20 issued letter granting Motion to Continue and rescheduling remote Hearing to January 12, 2021 at 10 a.m. and updating filing deadlines.

- **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. 8/18/20 received Permittee's Witness and Exhibit List. 8/21/20 received Assented-to Motion to Continue Deadlines and Hearing. 8/26/20 issued Letter Granting Assented to Motion to Continue Deadlines and Hearing; rescheduled Hearing for October 13, 2020 at 9 a.m. 9/28/20 received Withdrawal of Appeal. Docket Closed.

- **DOCKET NO. 20-08 WtC – ROBERT AND CAROLYN NEWCOMB APPEAL**

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

**Hearing Officer:** David Conley appointed by AG on 9/2/20.

**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. 8/12/20 issued Appeal Accepted letter. 9/8/20 issued Notice of Pre-hearing Teleconference scheduled for October 7<sup>th</sup> at 9 a.m. 9/23/20 received Appearance of Joshua Harrison for the Department. 10/9/20 issued 10/7/20 Pre-hearing Order scheduling remote Hearing for December 8<sup>th</sup> at 9:30 a.m. 11/4/20 received Appearances for John Cronin and Daniel Muller for the respondent and Assented-to Motion to Continue Deadlines. 11/9/20 issued letter granting Assented-to Motion to continue deadlines and reschedule remote Hearing to February 9, 2021 at 10 a.m. and updating filing deadlines.

#### **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. 8/18/20 received Joint Status Report.

#### **V. MISCELLANEOUS**

No items before the Council.

#### **4. NEW BUSINESS:**

- **Lori Sommer, Mitigation Supervisor, Wetlands Bureau:**

- ARM Fund for 2020

Lori reported thirty pre-proposals were submitted and reviewed by NHDES, the Committee, and the Corps, and feedback was provided. Eighteen full application submittals were received August 31, 2020. The Upper Connecticut River service area did not receive any applications. The members of the Site Selection Committee, representatives from the Corps, US Environmental Protection Agency, and NHDES staff visited the sites on September 22, 25, 29, October 1, 6, and 8. On October 22, 2020 the Committee and federal agency representatives

convened to evaluate and rank the applications and recommended funding amounts for 16 projects. The recommendations of the Committee's decisions and funding amounts are listed below.

Lori presented each of the projects below. Discussion was held and questions answered.

**Androscoggin Service Area (Available Funding \$761,668)**

1. Mahoosuc Land Trust Inc. for Project Name: Shelburne Riverland Acquisition
  - ***Councilor Lievens made a motion to fully fund the Mahoosuc Land Trust \$761,688 for acquisition of parcels located in Shelburne. Conservation restrictions will be held by LCHIP. The management plan relative to access to islands should be provided to the SSC for review once developed. Second by Councilor Mellor. Motion passed with Chairman Kimball calling a roll call vote. All ayes with one abstention from Councilor Weisiger.***

**Saco River Service Area (Available Funding \$71,631)**

1. Trust for Public Land Project Name for the Dundee Community Forest (\$71,631)
  - ***Councilor Lievens made a motion to fully fund the Trust for Public Land \$71,631 to acquire the "Tin Mountain Tracts" in fee and protect them by conveying a conservation easement to the State of New Hampshire Division of Forests and Lands and the restricted fee interest to the Upper Saco Valley Land Trust. Second by Councilor Mellor. Motion passed with Chairman Kimball calling a roll call vote. All ayes with one abstention from Councilor Weisiger.***

**Pemigewasset-Winnepesaukee River Service Area (Available funding \$225,563)**

1. Campton Conservation Commission for the West Branch Brook Forest, 9-1-1 (\$62,500)
  - ***Councilor Lievens made a motion to full fund the Campton Conservation Commission request of \$62,500 and provide an additional amount of \$13,063 for the purchase of the West Branch Brook Forest parcel 9-1-1 with conservation restrictions held by the Pemi-Baker Land Trust. Second by Councilor Mellor. Motion passed with Chairman Kimball calling a roll call vote. All ayes with one abstention from Councilor Weisiger.***
2. Grafton Co. Conservation District for the Beebe River Aquatic Habitat Restoration Project (\$150,000)
  - ***Councilor Lievens made a motion to fully fund the Grafton County Conservation District \$150,000 to improve habitat connectivity within the Beebe River Watershed by replacing a deficient stream crossing on Ryan Brook and completely remove a second crossing at Eastern Corner Road. The final design shall be approved by the NHDES Wetlands Bureau and ARM committee to ensure full aquatic organism passage and***

***stream simulation follows the NH Stream Crossing Guidelines. Second by Councilor Mellor. Motion passed with Chairman Kimball calling a roll call vote. All ayes with one abstention from Councilor Weisiger.***

**Salmon Falls-Piscataqua River Service Area (Available funding \$900,548)**

1. Southeast Land Trust of New Hampshire for the Leighton Forest (\$400,000)
  - ***Councilor Lievens made a motion to fully fund Southeast Land Trust of NH \$400,000 to purchase 407.5 acres of the Leighton Forest with a conservation easement to be held by the Town of Barrington and Town of Strafford. Second by Councilor Mellor. Motion passed with Chairman Kimball calling a roll call vote. All ayes with one abstention from Councilor Weisiger.***
  
2. Moose Mountain Regional Greenways for Teneriffe Mountain (\$275,000)
  - ***Councilor Lievens made a motion to fully fund Moose Mountain Greenways \$275,000 to permanently protect the 242-acre Teneriffe Mountain parcel in Milton with a conservation easement held by SELT. Restoration includes removal of two stream crossings to be replaced by small wooden plank bridges. Second by Councilor Mellor. Motion passed with Chairman Kimball calling a roll call vote. All ayes with one abstention from Councilor Weisiger.***
  
3. Society for the Protection of NH Forests for the Clay Brook Forest (\$40,000)
  - ***Councilor Lievens made a motion to fully fund SPNHF \$40,000 to purchase a conservation easement on the 30-acre Clay Brook parcel in Hampton Falls. Second by Councilor Mellor. Motion passed with Chairman Kimball calling a roll call vote. All ayes with two abstentions, Chairman Kimball and Councilor Weisiger.***
  
4. Bear-Paw Regional Greenways for Barnes Conservation Easement (\$74,000)
  - ***Councilor Lievens made a motion to fully fund Bear-Paw Regional Greenways \$74,000 to purchase a conservation easement on the Barnes property in Strafford. Second by Councilor Mellor. Motion passed with Chairman Kimball calling a roll call vote. All ayes with one abstention from Councilor Weisiger.***

**Merrimack River Service Area (Available funding (\$511,378)**

1. Piscataquog Land Conservancy for Burnes Conservation Easement (\$73,000)
  - ***Councilor Lievens made a motion to fully fund the Piscataquog Land Conservancy \$73,000 to purchase a conservation easement on the approximately 37-acre Burnes property in Goffstown. Second by Councilor Mellor. Motion passed with Chairman Kimball calling a roll call vote. All ayes with one abstention from Councilor Weisiger.***

2. Society for the Protection of NH Forests for Stillhouse Forest Addition (\$125,000)

- ***Councilor Lievens made a motion to fully fund SPNHF \$125,000 to purchase the 76-acre Stillhouse Forest Addition in Northfield with conservation restrictions to be held by LCHIP. Second by Councilor Mellor. Motion passed with Chairman Kimball calling a roll call vote. All ayes with one abstention from Councilor Weisiger.***

3. Northeast Wilderness Trust for Steel Addition to Binney Hill Wilderness Preserve (\$30,000)

- ***Councilor Lievens made a motion to fully fund Northeast Wilderness Trust \$30,000 to purchase the 15-acre Steel property in New Ipswich with the conservation restrictions to be held by the Town. Second by Councilor Mellor. Motion passed with Chairman Kimball calling a roll call vote. Majority of ayes with one nay from Chairman Kimball and one abstention from Councilor Weisiger.***

10 a.m. Councilor Henderson leaves the meeting.

4. Merrimack County Conservation District for Harmony Lane/Rocky Pond Outlet Culvert Replacement Project (\$260,000)

- ***Councilor Lievens made a motion to partially fund the Merrimack County Conservation District \$164,660 to replace the degraded Harmony Lane culverts with a bridge, with the final design to be approved by the NHDES Wetlands Bureau and ARM committee to ensure full aquatic organism passage and stream simulation following the NH Stream Crossing Guidelines. Second by Councilor Mellor. Motion passed with Chairman Kimball calling a roll call vote. Motion passed with abstentions from Councilor Prescott and Councilor Weisiger.***

**Lower Connecticut River Service Area (Available funding (\$374,781))**

1. Town of Walpole for Houghton Brook Connectivity Restoration Project (\$250,000)

- ***Councilor Lievens made a motion to fully fund the Town of Walpole \$250,000 to replace the deficient crossing on Houghton Brook with the final design to be approved by the NHDES Wetlands Bureau and ARM committee to ensure full aquatic organism passage and stream simulation following the NH Stream Crossing Guidelines. Second by Councilor Mellor. Motion passed with Chairman Kimball calling a roll call vote. All ayes with one abstention from Councilor Weisiger.***

**Contoocook River Service Area (Available funding \$367,805)**

1. Ausbon Sargent Land Preservation Trust for Warner River Headwaters (\$175,000)

- ***Councilor Lievens made a motion to fully fund Ausbon Sargent Land Preservation Trust \$175,000 to purchase the 86-acre parcel in Newbury with the conservation easement held by the Town of Newbury. Second by Councilor Mellor. Motion passed with Chairman Kimball calling a roll call vote. All ayes with one abstention from Councilor Weisiger.***

2. Town of Warner for Ballard Brook Connectivity Restoration Project (135,000)

- ***Councilor Lievens made a motion to fully fund the Town of Warner \$135,000 and approve an additional \$30,000 to replace the deficient crossing on Ballard Brook with a 16' embedded box culvert, with the final design to be approved by the NHDES Wetlands Bureau and ARM committee to ensure full aquatic organism passage and stream simulation following the NH Stream Crossing Guidelines. The \$24,000 requested in the budget shall be used for installation, and not culvert monitoring, as***
- ***that task will be done by NHDES. Second by Councilor Mellor. Motion passed with Chairman Kimball calling a roll call vote. All ayes with one abstention from Councilor Weisiger.***

**Middle Connecticut River Service Area (Available funding \$111,685)**

1. Trout Unlimited – National for Child's Brook Stream Crossing Restoration Project (\$111,500)

- ***Councilor Lievens made a motion to fully fund Trout Unlimited – National \$111,500 to replace the deficient crossing on Child's Brook with the final design to be approved by the NHDES Wetlands Bureau and ARM committee to ensure full aquatic organism passage and stream simulation following the NH Stream Crossing Guidelines. Second by Councilor Mellor. Motion passed with Chairman Kimball calling a roll call vote. All ayes with one abstention from Councilor Weisiger.***

10:40 Councilor Henderson returns to the meeting.

5. **OLD BUSINESS:**

- Mary Ann Tilton, Wetlands Bureau Asst. Administrator  
Mary Ann reported on the staffing and compliance work being done in the Wetlands Bureau.
- Council Rules – Status Report  
Chairman Kimball gave an update on the rules. There is a new council attorney, M. Haley, who the chairman will have review the changes made. He will send out the draft to members for comments. He is discussing DES clerical support for the properly formatted final rules preparation with new Department attorney, Pam Monroe,

6. **NEXT MEETING:** December 8, 2020 at 9:00 a.m.

WETLANDS COUNCIL MEETING MINUTES

November 10, 2020

PAGE 8 OF 8

**7. ADJOURNMENT:** Motion made by Councilor Lievens to adjourn. Seconded by Councilor Mellor. Motion passed by Council without dissent. Meeting adjourned at 11:04 a.m.