



LAKES MANAGEMENT ADVISORY COMMITTEE
NH Lakes Management and Protection Program

New Hampshire Department of Environmental Services
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LMAC MEETING MINUTES
October 3, 2012
DES Conference Rooms 213-214
9:00 am – 11:00 am

Members present

Dennis Pavlicek, Vice Chair
John Cooley
Lt. Tim Dunleavy
Mark Hemmerlein
Jim Morash
David Packard
Eric Orff
David Rousseau
Susan Slack
Dick Smith

Representing

Municipal Officials
Conservation Community
Commissioner Rep, DOS
Commissioner Rep., DOT
Tourism Industry
NH Lakes Association
Fish & Game Commission
Commissioner, Dept. of Agr., Markets & Food
Director Rep, Office of Energy & Planning
Fishing Interests

Term

August 1, 2015 V
September 19, 2013 V
Indefinite NV
Indefinite NV
August 1, 2013 V
August 1, 2015 V
August 22, 2012 V
Indefinite NV
Indefinite NV
November 17, 2013 V

Members not present

Wendell Berry, Chair
Jim Haney, Ph.D.
John Irwin
Jeff King
Fred Murphy
Bob Spoerl
Vacant
Vacant
Vacant

NH Business and Industry Assn
Scientific Community, UNH
NH Marine Dealers Association
Exec. Dir. Rep, F & G
Planning Boards
Commissioner Rep. DRED
State Conservation Committee
NH Association of Realtors
NH Assn. of Conservation Commissions

July 8, 2013 V
August 22, 2013 V
August 22, 2014 V
Indefinite NV
August 1, 2014 V
Indefinite NV
V
V
V

Staff Present

Jacquie Colburn Rivers and Lakes Program
Carolyn Guerdet Administrative Assistant, WD
Wayne Ives Instream Flow Program
Tracie Sales Rivers and Lakes Program

Guest

Tom O'Brien NH Lakes Association

The Meeting Was Called to Order

Vice Chairman Pavlicek called the meeting to order at 9:07 a.m. and welcomed all those present. Committee members introduced themselves.

I. Introductions/Minutes/Committee Business

- 1) Acceptance of March LMAC Meeting Minutes
 - **Jim Morash made the motion to accept the minutes as presented, second by John Cooley. Motion passed unanimously.**
- 2) Acceptance of June LMAC Meeting Minutes
 - **David Packard made the motion to accept the minutes as presented, second by John Cooley. Motion passed unanimously.**
- 3) Acceptance of Joint March LMAC/RMAC Meeting Minutes
 - **David Packard made the motion to accept the minutes as presented, second by John Cooley. Motion passed unanimously.**

- 4) Member Update: There are 3 voting member vacancies, including:
- State Conservation Committee - Don Kent has taken a new position in DC. Jacquie is working with the State Committee to find a replacement.
 - NH Association of Realtors - Bo Quackenbos' term has expired and he is not seeking reappointment. Jacquie is checking with Tom Duffy, a realtor from the Pawtuckaway Lake area regarding his interest as a potential LMAC member.
 - NH Assoc. of Conservation Commissions – Jacquie is working with the Association to find a replacement for Diane Hanley.
 - NH Fish & Game Commission - Eric Orff will stay on until a replacement is named by the Commission.

II. Update regarding LMPP Activities

1) Budget Impacts Summary Spreadsheet – Jacquie Colburn

Jacquie reviewed the spreadsheet that tracks the program activities and deliverables, noting that many activities are now “on hold”. The budget submitted this fall for the next biennium maintains program funding at the current level. Discussion ensued as to what the Lakes Committee can/should do. The voting committee members concurred that they could/should advocate on behalf of the program.

It was suggested to meet with RMAC to discuss the value and need of these programs.

2) Instream Flow Program – Wayne Ives

Wayne provided updates regarding the 2 ongoing pilot projects on the Lamprey and Souhegan Rivers and the LMAC/RMAC Instream Flow Subcommittee.

Two pilot projects are nearly complete – Lamprey River and Souhegan River.

- There are two components to the program: 1) Develop protected instream flows to support aquatic life, and 2) Develop a Water Management Plan.
- Water management plan consists of 3 parts: conservation (e.g. infrastructure leak prevention) first. Then management of uses (e.g. reduced outdoor watering). Only after several days or weeks of low-flow – releases from dams.
- Water released from dams is for the ecology of the river NOT downstream users.
- The ISF Program hopes to wrap up the management plans and begin implementation and evaluation in 2013.
- Wayne has posted the Lamprey River Management Plan DRAFT Response to Comments
- The DES Dam Bureau is conducting a Lake Level Investigation to modify the winter drawdown at Pawtuckaway Lake.
- DES conducted a Pawtuckaway Lake test release pulse of 12-15 cfs September 4-6, 2012 to determine what, if any, impact it would have on the water level of the lake.
- DES hosted a Pawtuckaway Lake Science Roundtable on September 28, 2012 in an effort to bring representatives of PLIA, state agencies and academia together to discuss the health of Pawtuckaway Lake.

LMAC/RMAC Instream Flow Subcommittee

To date, the subcommittee has met on three occasions:

- May 9, 2012: Questions proposed
 1. Defining the subset of artificial lake level changes that may affect water quality (chemical and/or biological)?
 2. Limits to artificial lake level changes when they impact downstream water quality values?
 3. What are the appropriate conditions to use lake level management to improve downstream water quality?
- June 4, 2012: Goal, criteria and process proposed
 1. Goal: avoid costly site-specific evaluations
 2. Criteria: *De Minimus* thresholds appropriate
 3. Process: DES (WQSAC) to finish water level fluctuation guidance based on screening criteria and enhance instream flow component
- July 20, 2012: Revise criteria and process
 1. WMB revised the lake fluctuation guidance
 2. No *de minimis* lake level changes, instead stay within natural ranges of variation
 3. Evaluation relative to protection goals

Instream Flow Program - Next Steps

- Specific to Pawtuckaway (Lamprey River ISF):
 - Fall release and winter phosphorus study
 - Pawtuckaway Human/Recreation Roundtable & Public Meeting – late October or early November
 - Completion of the Lake Level Investigation
- Specific to LMAC and RMAC ISF Subcommittee:
 - DES is developing comprehensive lakes and rivers recommendations for the ISF subcommittee
 - LMAC/RMAC Subcommittee meeting – November
 - Present subcommittee’s proposed recommendations at Joint RMAC/LMAC meeting - December
- Specific to the ISF Program:
 - Meet with SB 330 Legislative ISF Study Committee
 - Revise legislation to extend the date of the legislative review of the implementation period
 - Complete the Water Management Plan(s)
 - Present to Commissioner for adoption
 - Implementation of the plan (pilot will be reviewed by DES, public and Legislature)

3) Lake Classification Scheme – requested by Chairman Berry. This item will be on the agenda in December.

IV. Shoreland Water Quality Protection Act (SWQPA)

1) The Act at One Year – Darlene Forst

Darlene provided the committee with an overview of the changes that have been made to the Act since the Legislature amended the Comprehensive Shoreland Protection Act (CSPA) and renamed it the Surface Water Quality Protection Act in 2011.

Some of the Changes

- Decks can no longer be added to pre-existing non-conforming structures, but the changes create issues with the conversion of decks to living space. HB 1484 contains language restoring the ability to add decks to pre-existing non-conforming structures, but conversion of decks within the 50 ft setback is prohibited.
- SB 344 impacts vegetated buffers in state parks – the Commissioner of DRED may order vegetation on lands or properties owned by, leased to, or otherwise under the control of DRED within the protected shoreland to be cut when overgrowth of vegetation impairs law enforcement activities and endangers public safety. If such cutting will exceed that which is allowed under subparagraph (iv), the Commissioner of DRED shall provide written notification to the department of environmental services identifying the areas to be cut and an explanation of the need for the cutting at least 2 weeks prior to the undertaking.

Good things...

- There is still Shoreland Protection...
- Permit by Notification is working and providing better reporting of small projects, low rejection rates and less public frustration (= more staff time for important things)

Immediate Concerns

- Economics and staffing
 - Fee-based revenue is 30 – 40 % behind prior years, while administrative costs are up.
 - Outreach almost entirely shutdown in order to maintain compliance staffing levels.
 - Perception of need for state consultation or sign off, especially by municipalities and for tree cutting.
- Waterfront Buffer effectiveness has been reduced with the new scoring system and the use of “groundcover” rather than “natural groundcover.”
 - The New Scoring - In order for trees to be removed, at least 50 points worth of trees, saplings, shrubs, and groundcover must remain within each 50 foot x 50 foot grid segment.

Tree Diameter:

- 1-3” = 1 pt
- >3-6” = 5 pts
- >6-12” = 10 pts
- >12-24” = 15 pts
- >24” = 25 pts

Shrubs and Ground Cover:

- 4 sq ft of shrub area = 1 pt
- 50 sq ft of ground cover = 1pt

- Groundcover - VII. "Ground cover" means any herbaceous plant which normally grows to a mature height of 4 feet or less. RSA 483-B:9 Minimum Shoreland Protection Standards.(V) (a)(2)(D)(i) specifies points for groundcover.
- Natural Groundcover - X-b. "Natural ground cover" means any herbaceous plant or any woody seedling or shrub generally less than 3 feet in height. Natural ground cover shall not include lawns, landscaped areas, gardens, invasive species as listed...
- Between 50 feet and 150 feet from the reference line, 25% of the area must remain in an "unaltered state." While lawn is not considered toward that 25%, "unaltered state" means vegetation is allowed to grow without cutting, limbing, trimming, pruning, mowing, or other similar activities except as needed for plant health, normal maintenance, and renewal (RSA 483-B:4, XXIV-b). Landscaped areas can count toward "unaltered area."
- Enforcement responsiveness and effectiveness has been reduced.
 - Restricted ability to enter property prevents any real level of responsiveness.
 - Complaints of activities having immediate detrimental effect must be referred to local Code Enforcement for rapid response.
 - Evidence disappears while we complete the notification process.
 - Fines are ¼ of what they were previously.

Future Concerns

- Adequacy of vegetated buffers.
- Filling to raise grades and divert run-off, resulting in complaints from recipient landowners.
- Anti-government sentiment...

Shoreland Advisory Committee (SAC) is charged with advising the Commissioner with recommendations pertaining to the SWQPA. It is hoped that a representative of the SAC will speak at the next joint meeting of the LMAC and RMAC.

2) NH Rivers Council Focus Groups – Jacquie Colburn

Jacquie reported that the Rivers Council hosted 4 meetings over the summer to solicit input and feedback from the river community; the information received will be given to the Shoreland Advisory Committee.

3) NH Lakes Association Update – Tom O'Brien

Tom reported that the NH Lakes Association did outreach but feedback suggested that experience with the new regulations was insufficient to make recommendations. The Lakes Association is planning to coordinate action with the Rivers Council.

III. **Squam Lakes Recreation Management Decision System Project – Tracie Sales**

LMAC participation in the web-based survey – Tracie did a tutorial on how to complete the survey. The committee was encouraged to complete it for more comprehensive participation. The survey will be closed as of Columbus Day.

V. **Other Business & Updates/Action Items Review/Member Comments**

- 1) 2012 National Lakes Assessment (NLA) – Jacquie reminded the committee that DES no longer conducts lake trophic surveys on our lakes. The NLA was first conducted in 2007 with 50 lakes surveyed in NH. EPA is working cooperatively with the states to undertake these surveys nationwide. The NLA is repeated every 5 years and in 2012 13 lakes were surveyed.
- 2) Lakes & Rivers Instream Flows Subcommittee
The subcommittee will meet sometime in November. They plan to bring a recommendation(s) forward at the joint LMAC and RMAC meeting in December.
- 3) Next Meeting – December 2012 – Joint meeting with the RMAC
Proposed for Monday, December 17th. (*Later rescheduled for December 18th*)
- 4) Member Comments/Updates
This will be scheduled earlier on the agenda for the next meeting.
Powerpoint presentations from today will be available on the LMAC Blog.

The meeting adjourned at 11:10 a.m.